

As Amended by House Committee

Session of 2014

Substitute for HOUSE BILL No. 2473

By Committee on Federal and State Affairs

2-13

1 AN ACT concerning weapons; relating to the regulation and possession of
2 firearms and knives; amending K.S.A. 2013 Supp. 12-16,124, 12-
3 16,134, 12-4516, 12-4516a, 21-6301, 21-6304, 22-2512, 32-1047, 75-
4 7c04 and 75-7c20 and repealing the existing sections; also repealing
5 K.S.A. 2013 Supp. 21-6307 and 75-7c12.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) No city or county shall expend any funds derived
9 from the proceeds of any tax levied by such city or county or any political
10 subdivision thereof, for the purpose of implementing, administering or
11 otherwise operating a firearms buyback program.

12 (b) For purposes of this section:

13 (1) "Firearm" shall have the same meaning as that term is defined in
14 K.S.A. 2013 Supp. 21-5111, and amendments thereto.

15 (2) "Firearms buyback program" means any program wherein
16 individuals are offered the opportunity to gift, sell or otherwise transfer
17 ownership of such individual's firearm to a city or county.

18 New Sec. 2. (a) No employee of a municipality shall be required to
19 disclose to such person's employer the fact that such employee possesses a
20 valid license to carry a concealed handgun. No employee shall be
21 terminated, demoted, disciplined or otherwise discriminated against due to
22 such employee's refusal to disclose the fact that the employee possesses a
23 valid license to carry a concealed handgun. No municipality shall create or
24 maintain a record of an employee's possession of a valid license to carry a
25 concealed handgun, or that an employee has disclosed the fact that such
26 employee possesses a valid license to carry a concealed handgun. Any
27 such record created and maintained by a municipality on or before June
28 30, 2014, shall be destroyed by such municipality on or before July 31,
29 2014.

30 (b) For purposes of this section, the term "municipality" has the same
31 meaning as that term is defined in K.S.A. 75-6102, and amendments
32 thereto.

33 (c) This section shall be a part of and supplemental to the personal
34 and family protection act.

35 New Sec. 3. (a) No municipality shall be liable for any wrongful act
36 or omission relating to the actions of any person carrying a firearm,

1 including employees of such municipality, concerning acts or omissions
2 regarding such firearm.

3 (b) For purposes of this section, the term "municipality" has the same
4 meaning as that term is defined in K.S.A. 75-6102, and amendments
5 thereto.

6 New Sec. 4. (a) Provided that the building is conspicuously posted in
7 accordance with rules and regulations adopted by the attorney general as a
8 building where carrying an unconcealed firearm is prohibited, it shall be
9 unlawful to carry an unconcealed firearm into such building.

10 (b) Nothing in this section shall be construed to prohibit a law
11 enforcement officer, as defined in K.S.A. 22-2202, and amendments
12 thereto, from acting within the scope of such officer's duties.

13 (c) It shall be a violation of this section to carry an unconcealed
14 firearm if the building is posted in accordance with rules and regulations
15 adopted by the attorney general pursuant to subsection (d). Any person
16 who violates this section shall not be subject to a criminal penalty but may
17 be subject to denial to such premises or removal from such premises.

18 (d) (1) The attorney general shall adopt rules and regulations
19 prescribing the location, content, size and other characteristics of signs to
20 be posted on a building where carrying an unconcealed firearm is
21 prohibited pursuant to subsection (a). Such regulations shall prescribe, at a
22 minimum, that:

23 (A) The signs be posted at all exterior entrances to the prohibited
24 buildings;

25 (B) the signs be posted at eye level of adults using the entrance and
26 not more than 12 inches to the right or left of such entrance;

27 (C) the signs not be obstructed or altered in any way;

28 (D) signs which become illegible for any reason be immediately
29 replaced; and

30 (E) except as provided in paragraph (2), signs shall include the
31 following, which shall be printed in large, conspicuous print: "The open
32 carrying of firearms in this building is prohibited."

33 (2) Such rules and regulations shall provide that the same signage
34 used to prohibit the carrying of concealed handguns under K.S.A. 75-7c01
35 et seq., and amendments thereto, may be used to also prohibit the carrying
36 of unconcealed firearms.

37 New Sec. 5. ~~(a) Notwithstanding any of the provisions of K.S.A. 75-~~
38 ~~7c01 et seq., and amendments thereto, it shall be lawful for an individual,~~
39 ~~whether or not such individual possesses a valid license to carry a~~
40 ~~concealed handgun, to possess, store, carry or transport a loaded handgun~~
41 ~~in a motor vehicle, provided, such individual is not prohibited from~~
42 ~~possessing a firearm by federal or state law.~~

43 (b) ~~The provisions of this section shall be part of and supplemental to~~

1 the personal and family protection act.

2 New Sec. 6. (a) Except as otherwise provided in this section, a person
3 under the influence of alcohol or an illegally used controlled substance, to
4 such a degree as to render such person incapable of safely operating a
5 firearm, who knowingly possesses or carries a loaded firearm on or about
6 such person or within such person's immediate access and control while in
7 a vehicle, commits a class A nonperson misdemeanor.

8 (b) This section shall not apply to any of the following:

9 (1) A person who possesses or carries a firearm while in such person's
10 own dwelling or place of business or on land owned or possessed by such
11 person; or

12 (2) the transitory possession or use of a firearm during an act
13 committed in self-defense or in defense of another person or any other act
14 committed if legally justified or excused, provided such possession or use
15 lasts no longer than is immediately necessary.

16 (c) An officer shall have probable cause to believe that the person
17 used or attempted to use a firearm under the influence of alcohol or drugs,
18 or both, if the firearm was operated by the person in such a manner as to
19 have caused the death of, or serious injury to, another person. In such
20 event, one or more tests of the person's blood, breath, urine or other bodily
21 substance to determine the presence of alcohol, drugs, or both, may be
22 made pursuant to a search warrant issued under the authority of K.S.A. 22-
23 2502, and amendments thereto, or without a search warrant under the
24 authority of K.S.A. 22-2501, and amendments thereto. As used in this
25 section, the term "serious injury" shall be defined in accordance with
26 K.S.A. 8-1001, and amendments thereto.

27 (d) The test or tests shall be administered in the manner provided for
28 administration of tests for alcohol or drugs pursuant to K.S.A. 8-1001, and
29 amendments thereto. Notwithstanding any provisions of K.S.A. 8-1001,
30 and amendments thereto, to the contrary, any testing to determine
31 impairment shall be through the voluntary consent of the person to be
32 tested, or as prescribed in subsection (c), and no person shall be deemed to
33 have consented to such testing solely by the use or attempted use of a
34 firearm.

35 (e) In any criminal prosecution for carrying a firearm while under the
36 influence of alcohol or drugs, or both, evidence of the concentration of
37 alcohol or drugs in the defendant's blood, urine, breath or other bodily
38 substance may be admitted and shall give rise to the following:

39 (1) If the alcohol concentration is less than .08, that fact may be
40 considered with other competent evidence to determine if the defendant
41 was under the influence of alcohol, or both alcohol and drugs as it applies
42 in subsection (a).

43 (2) If the alcohol concentration is .08 or more, it shall be prima facie

1 evidence that the defendant was under the influence of alcohol as it applies
2 in subsection (a).

3 ~~(3) If there was present in the defendant's bodily substance any~~
4 ~~narcotic, hypnotic, somnifacient, stimulating or other drug which has the~~
5 ~~capacity to render the defendant incapacitated, that fact may be considered~~
6 ~~to determine if the defendant was under the influence of drugs, or both~~
7 ~~alcohol and drugs as it applies in subsection (a).~~

8 ~~(f) The provisions of subsection (b) shall not be construed as limiting~~
9 ~~the introduction of any other competent evidence bearing upon the~~
10 ~~question of whether or not the defendant was under the influence of~~
11 ~~alcohol or drugs, or both.~~

12 ~~(g) Nothing in this section shall be construed to limit the admissibility~~
13 ~~at any trial of alcohol or drug concentration testing results obtained~~
14 ~~pursuant to a search warrant or voluntary testing, but no person shall be~~
15 ~~deemed to have implied consent to mandatory testing by carrying a~~
16 ~~firearm, or by obtaining a license to carry a concealed handgun pursuant to~~
17 ~~K.S.A. 2013 Supp. 75-7e01 et seq., and amendments thereto.~~

18 ~~(h) Upon the request of any person submitting to testing under~~
19 ~~subsection (e), a report of the results of the testing shall be made available~~
20 ~~to such person.~~

21 ~~(i) The provisions of K.S.A. 8-1023 and 8-1024, and amendments~~
22 ~~thereto, shall be applicable and followed during any administration or~~
23 ~~enforcement of this section.~~

24 ~~(j) If a person who holds a valid license to carry a concealed handgun~~
25 ~~issued pursuant to K.S.A. 2013 Supp. 75-7e01 et seq., and amendments~~
26 ~~thereto, is subject to subsection (e) and refuses to submit to and complete~~
27 ~~any test of breath, blood or urine requested by a law enforcement officer,~~
28 ~~such person's license to carry a concealed handgun shall be revoked for a~~
29 ~~minimum of one year for a first offense and three years for a second or~~
30 ~~subsequent offense.~~

31 ~~(k) If a person who holds a valid license to carry a concealed handgun~~
32 ~~issued pursuant to K.S.A. 2013 Supp. 75-7e01 et seq., and amendments~~
33 ~~thereto, submits to and completes the test or tests pursuant to this section,~~
34 ~~and the test results show an alcohol concentration of .08 or greater or show~~
35 ~~the presence of a drug or drugs which render the person incapable of safely~~
36 ~~handling a firearm, such person's license to carry a concealed handgun~~
37 ~~shall be revoked for a minimum of one year for a first offense and three~~
38 ~~years for a second or subsequent offense.~~

39 **New Sec. 5. (a) Possession of a firearm under the influence is**
40 **knowingly possessing or carrying a loaded firearm on or about such**
41 **person, or within such person's immediate access and control while in**
42 **a vehicle, while under the influence of alcohol or drugs, or both, to**
43 **such a degree as to render such person incapable of safely operating a**

1 **firearm.**

2 **(b) Possession of a firearm under the influence is a class A**
3 **nonperson misdemeanor.**

4 **(c) This section shall not apply to:**

5 **(1) A person who possesses or carries a firearm while in such**
6 **person's own dwelling or place of business or on land owned or**
7 **possessed by such person; or**

8 **(2) the transitory possession or use of a firearm during an act**
9 **committed in self-defense or in defense of another person or any other**
10 **act committed if legally justified or excused, provided such possession**
11 **or use lasts no longer than is immediately necessary.**

12 **(d) If probable cause exists for a law enforcement officer to**
13 **believe a person is in possession of a firearm under the influence of**
14 **alcohol or drugs, or both, such law enforcement officer shall request**
15 **such person submit to one or more tests of the person's blood, breath,**
16 **urine or other bodily substance to determine the presence of alcohol or**
17 **drugs. The selection of the test or tests shall be made by the officer.**

18 **(e) (1) If a law enforcement officer requests a person to submit to**
19 **a test of blood under this section, the withdrawal of blood at the**
20 **direction of the officer may be performed only by:**

21 **(A) A person licensed to practice medicine and surgery, licensed**
22 **as a physician's assistant, or a person acting under the direction of any**
23 **such licensed person;**

24 **(B) a registered nurse or a licensed practical nurse;**

25 **(C) any qualified medical technician, including, but not limited**
26 **to, an emergency medical technician-intermediate, mobile intensive**
27 **care technician, an emergency medical technician-**
28 **intermediate/defibrillator, an advanced emergency medical technician**
29 **or a paramedic, as those terms are defined in K.S.A. 65-6112, and**
30 **amendments thereto, authorized by medical protocol; or**

31 **(D) a phlebotomist.**

32 **(2) A law enforcement officer may direct a medical professional**
33 **described in this subsection to draw a sample of blood from a person if**
34 **the person has given consent or upon meeting the requirements of**
35 **subsection (d).**

36 **(3) When so directed by a law enforcement officer through a**
37 **written statement, the medical professional shall withdraw the sample**
38 **as soon as practical and shall deliver the sample to the law**
39 **enforcement officer or another law enforcement officer as directed by**
40 **the requesting law enforcement officer as soon as practical, provided**
41 **the collection of the sample does not jeopardize the person's life, cause**
42 **serious injury to the person or seriously impede the person's medical**
43 **assessment, care or treatment. The medical professional authorized**

1 herein to withdraw the blood and the medical care facility where the
2 blood is drawn may act on good faith that the requirements have been
3 met for directing the withdrawing of blood once presented with the
4 written statement provided for under this subsection. The medical
5 professional shall not require the person to sign any additional consent
6 or waiver form. In such a case, the person authorized to withdraw
7 blood and the medical care facility shall not be liable in any action
8 alleging lack of consent or lack of informed consent.

9 (4) Such sample or samples shall be an independent sample and
10 not be a portion of a sample collected for medical purposes. The
11 person collecting the blood sample shall complete the collection
12 portion of a document provided by law enforcement.

13 (5) If a sample is to be taken under authority of a search warrant,
14 and the person must be restrained to collect the sample pursuant to
15 this section, law enforcement shall be responsible for applying any
16 such restraint utilizing acceptable law enforcement restraint practices.
17 The restraint shall be effective in controlling the person in a manner
18 not to jeopardize the person's safety or that of the medical
19 professional or attending medical or health care staff during the
20 drawing of the sample and without interfering with medical
21 treatment.

22 (6) A law enforcement officer may request a urine sample upon
23 meeting the requirements of subsection (d).

24 (7) If a law enforcement officer requests a person to submit to a
25 test of urine under this section, the collection of the urine sample shall
26 be supervised by:

27 (A) A person licensed to practice medicine and surgery, licensed
28 as a physician's assistant, or a person acting under the direction of any
29 such licensed person;

30 (B) a registered nurse or a licensed practical nurse; or

31 (C) a law enforcement officer of the same sex as the person being
32 tested.

33 The collection of the urine sample shall be conducted out of the
34 view of any person other than the persons supervising the collection of
35 the sample and the person being tested, unless the right to privacy is
36 waived by the person being tested. When possible, the supervising
37 person shall be a law enforcement officer. The results of qualitative
38 testing for drug presence shall be admissible in evidence and questions
39 of accuracy or reliability shall go to the weight rather than the
40 admissibility of the evidence. If the person is medically unable to
41 provide a urine sample in such manner due to the injuries or
42 treatment of the injuries, the same authorization and procedure as
43 used for the collection of blood in paragraphs (2) and (3) shall apply to

1 the collection of a urine sample.

2 (8) The person performing or assisting in the performance of any
3 such test and the law enforcement officer requesting any such test who
4 is acting in accordance with this section shall not be liable in any civil
5 and criminal proceeding involving the action.

6 (f) (1) The person's refusal shall be admissible in evidence against
7 the person at any trial on a charge arising out of possession of a
8 firearm under the influence of alcohol or drugs, or both.

9 (2) Failure of a person to provide an adequate breath sample or
10 samples as directed shall constitute a refusal unless the person shows
11 that the failure was due to physical inability caused by a medical
12 condition unrelated to any ingested alcohol or drugs.

13 (3) In any criminal prosecution for a violation of this section, if
14 the court finds that a person refused to submit to testing when
15 requested pursuant to this section, the county or district attorney,
16 upon petition to the court, may recover on behalf of the state, in
17 addition to the criminal penalties provided in this section, a civil
18 penalty not exceeding \$1,000 for each violation.

19 (g) If a person who holds a valid license to carry a concealed
20 handgun issued pursuant to K.S.A. 2013 Supp. 75-7c01 et seq., and
21 amendments thereto, is convicted of a violation of this section, such
22 person's license to carry a concealed handgun shall be revoked for a
23 minimum of one year for a first offense and three years for a second or
24 subsequent offense.

25 (h) In any criminal prosecution for possession of a firearm under
26 the influence of alcohol or drugs, or both, evidence of the
27 concentration of alcohol or drugs in the defendant's blood, urine,
28 breath or other bodily substance may be admitted and shall give rise
29 to the following:

30 (1) If the alcohol concentration is less than .08, that fact may be
31 considered with other competent evidence to determine if the
32 defendant was under the influence of alcohol or drugs, or both.

33 (2) If the alcohol concentration is .08 or more, it shall be prima
34 facie evidence that the defendant was under the influence of alcohol.

35 (3) If there was present in the defendant's bodily substance any
36 narcotic, hypnotic, somnifacient, stimulating or other drug which has
37 the capacity to render the defendant incapacitated, that fact may be
38 considered to determine if the defendant was under the influence of
39 alcohol or drugs, or both.

40 (i) The provisions of subsection (h) shall not be construed as
41 limiting the introduction of any other competent evidence bearing
42 upon the question of whether or not the defendant was under the
43 influence of alcohol or drugs, or both.

1 **(j) Upon the request of any person submitting to testing under**
2 **this section, a report of the results of the testing shall be made**
3 **available to such person.**

4 Sec. 7. 6. K.S.A. 2013 Supp. 12-16,124 is hereby amended to read as
5 follows: 12-16,124.(a) No city or county shall adopt *or enforce* any
6 ordinance, resolution or regulation, and no agent of any city or county
7 shall take any administrative action, governing the purchase, transfer,
8 ownership, storage, *carrying* or transporting of firearms or ammunition, or
9 any component or combination thereof. ~~Except as provided in subsection~~
10 ~~(b) of this section and subsection (b) of K.S.A. 2013 Supp. 75-7c10, and~~
11 ~~amendments thereto, any such ordinance, resolution or regulation adopted~~
12 ~~prior to the effective date of this 2007 act shall be null and void.~~

13 (b) *No city or county shall adopt or enforce any ordinance, resolution*
14 *or regulation relating to the sale of a firearm by an individual, who holds*
15 *a federal firearms license, that is more restrictive than any ordinance,*
16 *resolution or regulation relating to the sale of any other commercial good.*

17 (c) *Any ordinance, resolution or regulation prohibited by either*
18 *subsection (a) or (b) that was adopted prior to July 1, 2014, shall be null*
19 *and void.*

20 (d) Nothing in this section shall:

21 (1) *Prohibit a city or county from adopting and enforcing any*
22 *ordinance, resolution or regulation relating to the personnel policies of*
23 *such city or county and the carrying of firearms by employees of such city*
24 *or county, except that any such ordinance, resolution or regulation shall*
25 *comply with the provisions of K.S.A. 2013 Supp. 75-7c01 et seq., and*
26 *amendments thereto;*

27 (2) *prohibit a city or county from adopting any ordinance, resolution*
28 *or regulation pursuant to K.S.A. 2013 Supp. 75-7c20, and amendments*
29 *thereto; or*

30 (3) *prohibit a law enforcement officer, as defined in K.S.A. 22-2202,*
31 *and amendments thereto, from acting within the scope of such officer's*
32 *duties;*

33 ~~(2) prohibit a city or county from regulating the manner of openly~~
34 ~~carrying a loaded firearm on one's person; or in the immediate control of a~~
35 ~~person, not licensed or recognized under the personal and family~~
36 ~~protection act while on property open to the public;~~

37 ~~(3) prohibit a city or county from regulating in any manner the~~
38 ~~carrying of any firearm in any jail, juvenile detention facility, prison,~~
39 ~~courthouse, courtroom or city hall; or~~

40 ~~(4) prohibit a city or county from adopting an ordinance, resolution or~~
41 ~~regulation requiring a firearm transported in any air, land or water vehicle~~
42 ~~to be unloaded and encased in a container which completely encloses the~~
43 ~~firearm or any less restrictive provision governing the transporting of~~

1 firearms, provided such ordinance, resolution or regulation shall not apply
2 to persons licensed or recognized under the personal and family protection
3 act.

4 ~~(c) Except as provided in subsection (b) of this section and subsection~~
5 ~~(b) of K.S.A. 2013 Supp. 75-7e10, and amendments thereto, no person~~
6 ~~shall be prosecuted or convicted of a violation of any ordinance, resolution~~
7 ~~or regulation of a city or county which regulates the storage or~~
8 ~~transportation of a firearm if such person: (1) Is storing or transporting the~~
9 ~~firearm without violating any provision of the Kansas criminal code; or (2)~~
10 ~~is otherwise transporting the firearm in a lawful manner.~~

11 ~~(d) No person shall be prosecuted under any ordinance, resolution or~~
12 ~~regulation for transporting a firearm in any air, land or water vehicle if the~~
13 ~~firearm is unloaded and encased in a container which completely encloses~~
14 ~~the firearm.~~

15 Sec. ~~8.~~ 7. K.S.A. 2013 Supp. 12-16,134 is hereby amended to read as
16 follows: 12-16,134. (a) A municipality shall not enact *or enforce* any
17 ordinance, resolution, ~~rule~~ *regulation* or tax relating to the transportation,
18 possession, carrying, sale, transfer, purchase, gift, devise, licensing,
19 registration or use of a knife or knife making components.

20 (b) A municipality shall not enact *or enforce* any ordinance,
21 resolution or ~~rule~~ *regulation* relating to the manufacture of a knife that is
22 more restrictive than any such ordinance, resolution or ~~rule~~ *regulation*
23 relating to the manufacture of any other commercial goods.

24 *(c) Any ordinance, resolution or regulation prohibited by either*
25 *subsection (a) or (b) that was adopted prior to July 1, 2014, shall be null*
26 *and void.*

27 *(d) No action shall be commenced or prosecuted against any*
28 *individual for a violation of any ordinance, resolution or regulation that is*
29 *prohibited by either subsection (a) or (b) and which was adopted prior to*
30 *July 1, 2014, if such violation occurred on or after July 1, 2013.*

31 ~~(e)~~ (e) As used in this section:

32 (1) "Knife" means a cutting instrument and includes a sharpened or
33 pointed blade.

34 (2) "Municipality" has the same meaning as defined in K.S.A. 75-
35 6102, and amendments thereto, but shall not include *unified* school
36 districts, jails, as defined in K.S.A. 38-2302, and amendments thereto, ~~and~~
37 *or* juvenile correctional facilities, as defined in K.S.A. 38-2302, and
38 amendments thereto.

39 Sec. ~~9.~~ 8. K.S.A. 2013 Supp. 12-4516 is hereby amended to read as
40 follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d)
41 ~~and~~, (e) *and* (f), any person who has been convicted of a violation of a city
42 ordinance of this state may petition the convicting court for the
43 expungement of such conviction and related arrest records if three or more

1 years have elapsed since the person:

2 (A) Satisfied the sentence imposed; or

3 (B) was discharged from probation, parole or a suspended sentence.

4 (2) Except as provided in subsections (b), (c), (d) ~~and~~, (e) *and* (f), any
5 person who has fulfilled the terms of a diversion agreement based on a
6 violation of a city ordinance of this state may petition the court for the
7 expungement of such diversion agreement and related arrest records if
8 three or more years have elapsed since the terms of the diversion
9 agreement were fulfilled.

10 *(b) Any person convicted of a violation of any ordinance that is*
11 *prohibited by either subsection (a) or (b) of K.S.A. 2013 Supp. 12-16,134,*
12 *and amendments thereto, and which was adopted prior to July 1, 2014, or*
13 *who entered into a diversion agreement in lieu of further criminal*
14 *proceedings for such violation, may petition the convicting court for the*
15 *expungement of such conviction or diversion agreement and related arrest*
16 *records.*

17 ~~(b)~~ (c) Any person convicted of the violation of a city ordinance
18 which would also constitute a violation of K.S.A. 21-3512, prior to its
19 repeal, or a violation of K.S.A. 2013 Supp. 21-6419, and amendments
20 thereto, or who entered into a diversion agreement in lieu of further
21 criminal proceedings for such violation, may petition the convicting court
22 for the expungement of such conviction or diversion agreement and related
23 arrest records if:

24 (1) One or more years have elapsed since the person satisfied the
25 sentence imposed or the terms of a diversion agreement or was discharged
26 from probation, parole, conditional release or a suspended sentence; and

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

33 ~~(c)~~ (d) No person may petition for expungement until five or more
34 years have elapsed since the person satisfied the sentence imposed or the
35 terms of a diversion agreement or was discharged from probation, parole,
36 conditional release or a suspended sentence, if such person was convicted
37 of the violation of a city ordinance which would also constitute:

38 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
39 repeal, or K.S.A. 2013 Supp. 21-5406, and amendments thereto;

40 (2) driving while the privilege to operate a motor vehicle on the
41 public highways of this state has been canceled, suspended or revoked, as
42 prohibited by K.S.A. 8-262, and amendments thereto;

43 (3) perjury resulting from a violation of K.S.A. 8-261a, and

1 amendments thereto;

2 (4) a violation of the provisions of the fifth clause of K.S.A. 8-142,
3 and amendments thereto, relating to fraudulent applications;

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

6 (6) failing to stop at the scene of an accident and perform the duties
7 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and
8 amendments thereto;

9 (7) a violation of the provisions of K.S.A. 40-3104, and amendments
10 thereto, relating to motor vehicle liability insurance coverage; or

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

12 ~~(d)~~ (e) No person may petition for expungement until 10 or more
13 years have elapsed since the person satisfied the sentence imposed or the
14 terms of a diversion agreement or was discharged from probation, parole,
15 conditional release or a suspended sentence, if such person was convicted
16 of the violation of a city ordinance which would also constitute a violation
17 of K.S.A. 8-1567, and amendments thereto.

18 ~~(e)~~ (f) There shall be no expungement of convictions or diversions for
19 a violation of a city ordinance which would also constitute a violation of
20 K.S.A. 8-2,144, and amendments thereto.

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

25 (A) Defendant's full name;

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

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

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

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

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

34 (2) A municipal court may prescribe a fee to be charged as costs for a
35 person petitioning for an order of expungement pursuant to this section.

36 (3) Any person who may have relevant information about the
37 petitioner may testify at the hearing. The court may inquire into the
38 background of the petitioner and shall have access to any reports or
39 records relating to the petitioner that are on file with the secretary of
40 corrections or the prisoner review board.

41 ~~(g)~~ (h) At the hearing on the petition, the court shall order the
42 petitioner's arrest record, conviction or diversion expunged if the court
43 finds that:

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

4 (2) the circumstances and behavior of the petitioner warrant the
5 expungement; and

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

7 ~~(h)~~ (i) When the court has ordered an arrest record, conviction or
8 diversion expunged, the order of expungement shall state the information
9 required to be contained in the petition. The clerk of the court shall send a
10 certified copy of the order of expungement to the Kansas bureau of
11 investigation which shall notify the federal bureau of investigation, the
12 secretary of corrections and any other criminal justice agency which may
13 have a record of the arrest, conviction or diversion. After the order of
14 expungement is entered, the petitioner shall be treated as not having been
15 arrested, convicted or diverted of the crime, except that:

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

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

21 (A) In any application for employment as a detective with a private
22 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
23 as security personnel with a private patrol operator, as defined by K.S.A.
24 75-7b01, and amendments thereto; or with an institution, as defined in
25 K.S.A. 76-12a01, and amendments thereto, of the department for children
26 and families;

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

29 (C) to aid in determining the petitioner's qualifications for
30 employment with the Kansas lottery or for work in sensitive areas within
31 the Kansas lottery as deemed appropriate by the executive director of the
32 Kansas lottery;

33 (D) to aid in determining the petitioner's qualifications for executive
34 director of the Kansas racing and gaming commission, for employment
35 with the commission or for work in sensitive areas in parimutuel racing as
36 deemed appropriate by the executive director of the commission, or to aid
37 in determining qualifications for licensure or renewal of licensure by the
38 commission;

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

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

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

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

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

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

13 (K) for applications received on and after July 1, 2006, to aid in
14 determining the petitioner's qualifications for a license to carry a concealed
15 weapon pursuant to the personal and family protection act, K.S.A. 2013
16 Supp. 75-7c01 et seq., and amendments thereto;

17 (3) the court, in the order of expungement, may specify other
18 circumstances under which the arrest, conviction or diversion is to be
19 disclosed; and

20 (4) the conviction may be disclosed in a subsequent prosecution for
21 an offense which requires as an element of such offense a prior conviction
22 of the type expunged.

23 ~~(j)~~ (j) Whenever a person is convicted of an ordinance violation,
24 pleads guilty and pays a fine for such a violation, is placed on parole or
25 probation or is granted a suspended sentence for such a violation, the
26 person shall be informed of the ability to expunge the arrest records or
27 conviction. Whenever a person enters into a diversion agreement, the
28 person shall be informed of the ability to expunge the diversion.

29 ~~(k)~~ (k) Subject to the disclosures required pursuant to subsection ~~(g)~~
30 (i), in any application for employment, license or other civil right or
31 privilege, or any appearance as a witness, a person whose arrest records,
32 conviction or diversion of an offense has been expunged under this statute
33 may state that such person has never been arrested, convicted or diverted
34 of such offense.

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

40 (1) The person whose record was expunged;

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

1 operator by the person whose record has been expunged;

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

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

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

11 (6) a prosecuting attorney, and such request is accompanied by a
12 statement that the request is being made in conjunction with a prosecution
13 of an offense that requires a prior conviction as one of the elements of such
14 offense;

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

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

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

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

40 (11) the state gaming agency, and the request is accompanied by a
41 statement that the request is being made to aid in determining
42 qualifications: (A) To be an employee of the state gaming agency; or (B)
43 to be an employee of a tribal gaming commission or to hold a license

1 issued pursuant to a tribal-state gaming compact;

2 (12) the Kansas securities commissioner, or a designee of the
3 commissioner, and the request is accompanied by a statement that the
4 request is being made in conjunction with an application for registration as
5 a broker-dealer, agent, investment adviser or investment adviser
6 representative by such agency and the application was submitted by the
7 person whose record has been expunged;

8 (13) the attorney general, and the request is accompanied by a
9 statement that the request is being made to aid in determining
10 qualifications for a license to carry a concealed weapon pursuant to the
11 personal and family protection act;

12 (14) the Kansas sentencing commission;

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

17 (16) a law enforcement agency and the request is accompanied by a
18 statement that the request is being made to aid in determining eligibility
19 for employment as a law enforcement officer as defined by K.S.A. 22-
20 2202, and amendments thereto.

21 ~~Sec. 9.~~ K.S.A. 2013 Supp. 12-4516a is hereby amended to read as
22 follows: 12-4516a.(a) Any person who has been arrested on a violation of
23 a city ordinance of this state may petition the court for the expungement of
24 such arrest record.

25 (b) When a petition for expungement is filed, the court shall set a date
26 for hearing on such petition and shall cause notice of such hearing to be
27 given to the prosecuting attorney and the arresting law enforcement
28 agency. When a petition for expungement is filed, the official court file
29 shall be separated from the other records of the court, and shall be
30 disclosed only to a judge of the court and members of the staff of the court
31 designated by a judge of the district court, the prosecuting attorney, the
32 arresting law enforcement agency, or any other person when authorized by
33 a court order, subject to any conditions imposed by the order. The petition
34 shall state:

- 35 (1) The petitioner's full name;
- 36 (2) the full name of the petitioner at the time of arrest, if different
37 than the petitioner's current name;
- 38 (3) the petitioner's sex, race and date of birth;
- 39 (4) the crime for which the petitioner was arrested;
- 40 (5) the date of the petitioner's arrest; and
- 41 (6) the identity of the arresting law enforcement agency.

42 A municipal court may prescribe a fee to be charged as costs for a
43 person petitioning for an order of expungement pursuant to this section,

1 except that no fee shall be charged to a person who was arrested as a result
2 of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal,
3 or K.S.A. 2013 Supp. 21-6107, and amendments thereto. Any person who
4 may have relevant information about the petitioner may testify at the
5 hearing. The court may inquire into the background of the petitioner.

6 (c) At the hearing on a petition for expungement, the court shall order
7 the arrest record and subsequent court proceedings, if any, expunged upon
8 finding:

9 (1) The arrest occurred because of mistaken identity;

10 (2) a court has found that there was no probable cause for the arrest;

11 (3) the petitioner was found not guilty in court proceedings;

12 (4) *the arrest was for a violation of any ordinance that is prohibited*
13 *by either subsection (a) or (b) of K.S.A. 2013 Supp. 12-16,134, and*
14 *amendments thereto, and which was adopted prior to July 1, 2014; or*

15 ~~(4)~~ (5) the expungement would be in the best interests of justice and:
16 (A) Charges have been dismissed; or (B) no charges have been or are
17 likely to be filed.

18 (d) When the court has ordered expungement of an arrest record and
19 subsequent court proceedings, if any, the order shall state the information
20 required to be stated in the petition and shall state the grounds for
21 expungement under subsection (c). The clerk of the court shall send a
22 certified copy of the order to the Kansas bureau of investigation which
23 shall notify the federal bureau of investigation, the secretary of corrections
24 and any other criminal justice agency which may have a record of the
25 arrest. If an order of expungement is entered, the petitioner shall be treated
26 as not having been arrested.

27 (e) If the ground for expungement is as provided in subsection ~~(e)(4)~~
28 ~~(c)(5)~~, the court shall determine whether, in the interest of public welfare,
29 the records should be available for any of the following purposes:

30 (1) In any application for employment as a detective with a private
31 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
32 as security personnel with a private patrol operator, as defined by K.S.A.
33 75-7b01, and amendments thereto; or with an institution, as defined in
34 K.S.A. 76-12a01, and amendments thereto, of the department of social and
35 rehabilitation services;

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

38 (3) to aid in determining the petitioner's qualifications for
39 employment with the Kansas lottery or for work in sensitive areas within
40 the Kansas lottery as deemed appropriate by the executive director of the
41 Kansas lottery;

42 (4) to aid in determining the petitioner's qualifications for executive
43 director of the Kansas racing commission, for employment with the

1 commission or for work in sensitive areas in parimutuel racing as deemed
2 appropriate by the executive director of the commission, or to aid in
3 determining qualifications for licensure or renewal of licensure by the
4 commission;

5 (5) in any application for a commercial driver's license under K.S.A.
6 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

13 (f) The court shall make all expunged records and related information
14 in such court's possession, created prior to, on and after July 1, 2011,
15 available to the Kansas bureau of investigation for the purposes of:

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

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

22 (g) Subject to any disclosures required under subsection (e), in any
23 application for employment, license or other civil right or privilege, or any
24 appearance as a witness, a person whose arrest records have been
25 expunged as provided in this section may state that such person has never
26 been arrested.

27 (h) Whenever a petitioner's arrest records have been expunged as
28 provided in this section, the custodian of the records of arrest,
29 incarceration due to arrest or court proceedings related to the arrest, shall
30 not disclose the arrest or any information related to the arrest, except as
31 directed by the order of expungement or when requested by the person
32 whose arrest record was expunged.

33 **Sec. 44. 10.** K.S.A. 2013 Supp. 21-6301 is hereby amended to read as
34 follows: 21-6301. (a) Criminal use of weapons is knowingly:

35 (1) Selling, manufacturing, purchasing or possessing any bludgeon,
36 sand club, metal knuckles or throwing star;

37 (2) possessing with intent to use the same unlawfully against another,
38 *a dagger, dirk, a billy, blackjack, slungshot, dangerous knife, straight-*
39 *edged razor, stiletto* or any other dangerous or deadly weapon or
40 instrument of like character;

41 (3) setting a spring gun;

42 (4) possessing any device or attachment of any kind designed, used or
43 intended for use in suppressing the report of any firearm;

1 (5) selling, manufacturing, purchasing or possessing a shotgun with a
2 barrel less than 18 inches in length, or any firearm designed to discharge or
3 capable of discharging automatically more than once by a single function
4 of the trigger, whether the person knows or has reason to know the length
5 of the barrel or that the firearm is designed or capable of discharging
6 automatically;

7 (6) possessing, manufacturing, causing to be manufactured, selling,
8 offering for sale, lending, purchasing or giving away any cartridge which
9 can be fired by a handgun and which has a plastic-coated bullet that has a
10 core of less than 60% lead by weight, whether the person knows or has
11 reason to know that the plastic-coated bullet has a core of less than 60%
12 lead by weight;

13 (7) selling, giving or otherwise transferring any firearm with a barrel
14 less than 12 inches long to any person under 18 years of age whether the
15 person knows or has reason to know the length of the barrel;

16 (8) selling, giving or otherwise transferring any firearms to any
17 person who is both addicted to and an unlawful user of a controlled
18 substance;

19 (9) selling, giving or otherwise transferring any firearm to any person
20 who is or has been a mentally ill person subject to involuntary
21 commitment for care and treatment, as defined in K.S.A. 59-2946, and
22 amendments thereto, or a person with an alcohol or substance abuse
23 problem subject to involuntary commitment for care and treatment as
24 defined in K.S.A. 59-29b46, and amendments thereto;

25 (10) ~~possession of~~ *possessing* any firearm by a person who is both
26 addicted to and an unlawful user of a controlled substance;

27 (11) ~~possession of~~ *possessing* any firearm by any person, other than a
28 law enforcement officer, in or on any school property or grounds upon
29 which is located a building or structure used by a unified school district or
30 an accredited nonpublic school for student instruction or attendance or
31 extracurricular activities of pupils enrolled in kindergarten or any of the
32 grades + *one* through 12 or at any regularly scheduled school sponsored
33 activity or event whether the person knows or has reason to know that such
34 person was in or on any such property or grounds;

35 (12) ~~refusal~~ *refusing* to surrender or immediately remove from school
36 property or grounds or at any regularly scheduled school sponsored
37 activity or event any firearm in the possession of any person, other than a
38 law enforcement officer, when so requested or directed by any duly
39 authorized school employee or any law enforcement officer;

40 (13) ~~possession of~~ *possessing* any firearm by a person who is or has
41 been a mentally ill person subject to involuntary commitment for care and
42 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or
43 persons with an alcohol or substance abuse problem subject to involuntary

1 commitment for care and treatment as defined in K.S.A. 59-29b46, and
2 amendments thereto; or

3 (14) possessing a firearm with a barrel less than 12 inches long by
4 any person less than 18 years of age ~~whether the person knows or has~~
5 ~~reason to know the length of the barrel.~~

6 (b) Criminal use of weapons as defined in:

7 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a
8 class A nonperson misdemeanor;

9 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson
10 felony;

11 (3) subsection (a)(10) or (a)(11) is a class B nonperson select
12 misdemeanor;

13 (4) subsection (a)(13) is a severity level 8, nonperson felony; and

14 (5) subsection (a)(14) is a:

15 (A) Class A nonperson misdemeanor except as provided in subsection
16 (b)(5)(B);

17 (B) severity level 8, nonperson felony upon a second or subsequent
18 conviction.

19 (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

20 (1) Law enforcement officers, or any person summoned by any such
21 officers to assist in making arrests or preserving the peace while actually
22 engaged in assisting such officer;

23 (2) wardens, superintendents, directors, security personnel and
24 keepers of prisons, penitentiaries, jails and other institutions for the
25 detention of persons accused or convicted of crime, while acting within the
26 scope of their authority;

27 (3) members of the armed services or reserve forces of the United
28 States or the Kansas national guard while in the performance of their
29 official duty; or

30 (4) the manufacture of, transportation to, or sale of weapons to a
31 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
32 such weapons.

33 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
34 sells, purchases, possesses or carries a firearm, device or attachment which
35 has been rendered unserviceable by steel weld in the chamber and
36 marriage weld of the barrel to the receiver and which has been registered
37 in the national firearms registration and transfer record in compliance with
38 26 U.S.C. § 5841 et seq. in the name of such person and, if such person
39 transfers such firearm, device or attachment to another person, has been so
40 registered in the transferee's name by the transferor.

41 (e) Subsection (a)(6) shall not apply to a governmental laboratory or
42 solid plastic bullets.

43 (f) Subsection (a)(4) shall not apply to a law enforcement officer who

1 is:

2 (1) Assigned by the head of such officer's law enforcement agency to
3 a tactical unit which receives specialized, regular training;

4 (2) designated by the head of such officer's law enforcement agency
5 to possess devices described in subsection (a)(4); and

6 (3) in possession of commercially manufactured devices which are:

7 (A) Owned by the law enforcement agency;

8 (B) in such officer's possession only during specific operations; and

9 (C) approved by the bureau of alcohol, tobacco, firearms and
10 explosives of the United States department of justice.

11 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person
12 employed by a laboratory which is certified by the United States
13 department of justice, national institute of justice, while actually engaged
14 in the duties of their employment and on the premises of such certified
15 laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the
16 manufacture of, transportation to or sale of weapons to such certified
17 laboratory.

18 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
19 person or entity in compliance with the national firearms act, 26 U.S.C. §
20 5801 et seq.

21 (i) Subsection (a)(11) shall not apply to:

22 (1) Possession of any firearm in connection with a firearms safety
23 course of instruction or firearms education course approved and authorized
24 by the school;

25 (2) ~~any~~ possession of any firearm specifically authorized in writing
26 by the superintendent of any unified school district or the chief
27 administrator of any accredited nonpublic school;

28 (3) possession of a firearm secured in a motor vehicle by a parent,
29 guardian, custodian or someone authorized to act in such person's behalf
30 who is delivering or collecting a student;

31 (4) possession of a firearm secured in a motor vehicle by a registered
32 voter who is on the school grounds, which contain a polling place for the
33 purpose of voting during polling hours on an election day; or

34 (5) possession of a handgun by an individual who is licensed by the
35 attorney general to carry a concealed handgun under K.S.A. 2013 Supp.
36 75-7c01 et seq., and amendments thereto.

37 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has
38 received a certificate of restoration pursuant to K.S.A. 2013 Supp. 75-
39 7c26, and amendments thereto.

40 (k) Subsection (a)(14) shall not apply if such person, less than 18
41 years of age, was:

42 (1) In attendance at a hunter's safety course or a firearms safety
43 course;

1 (2) engaging in practice in the use of such firearm or target shooting
2 at an established range authorized by the governing body of the
3 jurisdiction in which such range is located, *or at another private range*
4 *with permission of such person's parent or legal guardian;*

5 (3) engaging in an organized competition involving the use of such
6 firearm, or participating in or practicing for a performance by an
7 organization exempt from federal income tax pursuant to section 501(c)(3)
8 of the internal revenue code of 1986 which uses firearms as a part of such
9 performance;

10 (4) hunting or trapping pursuant to a valid license issued to such
11 person pursuant to article 9 of chapter 32 of the Kansas Statutes
12 Annotated, and amendments thereto;

13 (5) traveling with any such firearm in such person's possession being
14 unloaded to or from any activity described in subsections (k)(1) through
15 (k)(4), only if such firearm is secured, unloaded and outside the immediate
16 access of such person;

17 (6) on real property under the control of such person's parent, legal
18 guardian or grandparent and who has the permission of such parent, legal
19 guardian or grandparent to possess such firearm; ~~or or~~

20 (7) at such person's residence and who, with the permission of such
21 person's parent or legal guardian, possesses such firearm for the purpose of
22 exercising the rights contained in K.S.A. 2013 Supp. 21-5222, 21-5223 or
23 21-5225, and amendments thereto; ~~or~~

24 ~~(8) in possession of such firearm with the permission of such person's~~
25 ~~parent or legal guardian.~~

26 (1) As used in this section, "throwing star" means any instrument,
27 without handles, consisting of a metal plate having three or more radiating
28 points with one or more sharp edges and designed in the shape of a
29 polygon, trefoil, cross, star, diamond or other geometric shape,
30 manufactured for use as a weapon for throwing.

31 ~~Sec. 12.~~ **11.** K.S.A. 2013 Supp. 21-6304 is hereby amended to read as
32 follows: 21-6304. (a) Criminal possession of a ~~firearm~~ *weapon* by a
33 convicted felon is possession of any ~~firearm~~ *weapon* by a person who:

34 (1) Has been convicted of a person felony or a violation of article 57
35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto,
36 **K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer,**
37 or any violation of any provision of the uniform controlled substances act
38 prior to July 1, 2009, or a crime under a law of another jurisdiction which
39 is substantially the same as such felony or violation, or was adjudicated a
40 juvenile offender because of the commission of an act which if done by an
41 adult would constitute the commission of a person felony or a violation of
42 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
43 thereto, **K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their**

1 **transfer**, or any violation of any provision of the uniform controlled
2 substances act prior to July 1, 2009, and was found to have been in
3 possession of a firearm at the time of the commission of the crime;

4 (2) within the preceding five years has been convicted of a felony,
5 other than those specified in subsection (a)(3)(A), under the laws of
6 Kansas or a crime under a law of another jurisdiction which is
7 substantially the same as such felony, has been released from
8 imprisonment for a felony or was adjudicated as a juvenile offender
9 because of the commission of an act which if done by an adult would
10 constitute the commission of a felony, and was not found to have been in
11 possession of a firearm at the time of the commission of the crime; or

12 (3) within the preceding 10 years, has been convicted of a:

13 (A) Felony under K.S.A. 2013 Supp. 21-5402, 21-5403, 21-5404, 21-
14 5405, 21-5408, subsection (b) or (d) of 21-5412, subsection (b) or (d) of
15 21-5413, subsection (a) of 21-5415, subsection (b) of 21-5420, 21-5503,
16 subsection (b) of 21-5504, subsection (b) of 21-5505, and subsection (b) of
17 21-5807, and amendments thereto; article 57 of chapter 21 of the Kansas
18 Statutes Annotated, and amendments thereto; K.S.A. 21-3401, 21-3402,
19 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-
20 3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716,
21 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to their
22 repeal; an attempt, conspiracy or criminal solicitation as defined in K.S.A.
23 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2013 Supp.
24 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such
25 felony; or a crime under a law of another jurisdiction which is
26 substantially the same as such felony, has been released from
27 imprisonment for such felony, or was adjudicated as a juvenile offender
28 because of the commission of an act which if done by an adult would
29 constitute the commission of such felony, was not found to have been in
30 possession of a firearm at the time of the commission of the crime, and has
31 not had the conviction of such crime expunged or been pardoned for such
32 crime. The provisions of subsection (j)(2) of K.S.A. 2013 Supp. 21-6614,
33 and amendments thereto, shall not apply to an individual who has had a
34 conviction under this paragraph expunged; or

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

42 (b) Criminal possession of a ~~firearm~~ *weapon* by a convicted felon is a
43 severity level 8, nonperson felony.

1 (c) *As used in this section:*

2 (1) *"Knife" means a dagger, dirk, switchblade, stiletto, straight-edged*
3 *razor or any other dangerous or deadly cutting instrument of like*
4 *character; and*

5 (2) *"weapon" means a firearm or a knife.*

6 Sec. ~~13~~. 12. K.S.A. 2013 Supp. 22-2512 is hereby amended to read as
7 follows: 22-2512. ~~(+)~~ (a) Property seized under a search warrant or validly
8 seized without a warrant shall be safely kept by the officer seizing the
9 same unless otherwise directed by the magistrate, and shall be so kept as
10 long as necessary for the purpose of being produced as evidence on any
11 trial. The property seized may not be taken from the officer having it in
12 custody so long as it is or may be required as evidence in any trial. The
13 officer seizing the property shall give a receipt to the person detained or
14 arrested particularly describing each article of property being held and
15 shall file a copy of such receipt with the magistrate before whom the
16 person detained or arrested is taken. Where seized property is no longer
17 required as evidence in the prosecution of any indictment or information,
18 the court which has jurisdiction of such property may transfer the same to
19 the jurisdiction of any other court, including courts of another state or
20 federal courts, where it is shown to the satisfaction of the court that such
21 property is required as evidence in any prosecution in such other court.

22 ~~(2)-(a)~~ (b) (1) Notwithstanding the provisions of subsection ~~(+)~~ (a)
23 and with the approval of the affected court, any law enforcement officer
24 who seizes hazardous materials as evidence related to a criminal
25 investigation may collect representative samples of such hazardous
26 materials, and lawfully destroy or dispose of, or direct another person to
27 lawfully destroy or dispose of the remaining quantity of such hazardous
28 materials.

29 ~~(+)~~ (2) In any prosecution, representative samples of hazardous
30 materials accompanied by photographs, videotapes, laboratory analysis
31 reports or other means used to verify and document the identity and
32 quantity of the material shall be deemed competent evidence of such
33 hazardous materials and shall be admissible in any proceeding, hearing or
34 trial as if such materials had been introduced as evidence.

35 ~~(+)~~ (3) As used in this section, the term "hazardous materials" means
36 any substance which is capable of posing an unreasonable risk to health,
37 safety and property. It shall include any substance which by its nature is
38 explosive, flammable, corrosive, poisonous, radioactive, a biological
39 hazard or a material which may cause spontaneous combustion. It shall
40 include, but not be limited to, substances listed in the table of hazardous
41 materials contained in the code of federal regulations title 49 and national
42 fire protection association's fire protection guide on hazardous materials.

43 ~~(+)~~ (4) The provisions of this subsection shall not apply to

1 ammunition and components thereof.

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

4 ~~(a)~~ (1) Property stolen, embezzled, obtained by false pretenses, or
5 otherwise obtained unlawfully from the rightful owner thereof shall be
6 restored to the owner;

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

11 ~~(c)~~ (3) property which is unclaimed or the ownership of which is
12 unknown shall be sold at public auction to be held by the sheriff and the
13 proceeds, less the cost of sale and any storage charges incurred in
14 preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-
15 2801, and amendments thereto;

16 ~~(d)~~ (4) articles of contraband shall be destroyed, except that any such
17 articles the disposition of which is otherwise provided by law shall be
18 dealt with as so provided and any such articles the disposition of which is
19 not otherwise provided by law and which may be capable of innocent use
20 may in the discretion of the court be sold and the proceeds disposed of as
21 provided in subsection ~~(2)~~~~(b)~~ (c)(3);

22 ~~(e)~~ (5) ~~firearms, ammunition, explosives, bombs and like devices,~~
23 which have been used in the commission of crime, may be returned to the
24 rightful owner, or in the discretion of the court having jurisdiction of the
25 property, destroyed or forfeited to the Kansas bureau of investigation—
26 ~~provided in K.S.A. 2013 Supp. 21-6307, and amendments thereto;~~

27 (6) (A) *except as provided in subsections (c)(6)(B) and (d), any*
28 *weapon or ammunition, in the discretion of the court having jurisdiction of*
29 *the property, shall be:*

30 (i) *Forfeited to the law enforcement agency seizing the weapon for*
31 *use within such agency, for sale to a properly licensed federal firearms*
32 *dealer, for trading to a properly licensed federal firearms dealer for other*
33 *new or used firearms or accessories for use within such agency or for*
34 *trading to another law enforcement agency for that agency's use;*

35 (ii) *forfeited to the Kansas bureau of investigation for law*
36 *enforcement, testing or comparison by the Kansas bureau of investigation*
37 *forensic laboratory;*

38 (iii) *forfeited to a county regional forensic science center, or other*
39 *county forensic laboratory for testing, comparison or other forensic*
40 *science purposes; or*

41 (iv) *forfeited to the Kansas department of wildlife, parks and tourism*
42 *for use pursuant to the conditions set forth in K.S.A. 32-1047, and*
43 *amendments thereto.*

1 (B) *Except as provided in subsection (d), any weapon which cannot*
2 *be forfeited pursuant to subsection (c)(6)(A) due to the condition of the*
3 *weapon, and any weapon which was used in the commission of a felony as*
4 *described in K.S.A. 2013 Supp. 21-5401, 21-5402, 21-5403, 21-5404 or*
5 *21-5405, and amendments thereto, shall be destroyed.*

6 (†) (7) *controlled substances forfeited for violations of K.S.A. 2013*
7 *Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt*
8 *with as provided under K.S.A. 60-4101 through 60-4126, and amendments*
9 *thereto;*

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

12 (d) *If a weapon is seized from an individual and the individual is not*
13 *convicted of or adjudicated as a juvenile offender for the violation for*
14 *which the weapon was seized, then within 30 days after the declination or*
15 *conclusion of prosecution of the case against the individual, including any*
16 *period of appeal, the law enforcement agency that seized the weapon shall*
17 *verify that the weapon is not stolen, and upon such verification shall notify*
18 *the person from whom it was seized that the weapon may be retrieved.*
19 *Such notification shall include the location where such weapon may be*
20 *retrieved.*

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

24 (f) *For purposes of this section, the term "weapon" means a weapon*
25 *described in K.S.A. 2013 Supp. 21-6301, and amendments thereto.*

26 Sec. ~~14~~. **13.** *K.S.A. 2013 Supp. 32-1047 is hereby amended to read as*
27 *follows: 32-1047. The department is hereby empowered and directed to*
28 *seize and possess any wildlife which is taken, possessed, sold or*
29 *transported unlawfully, and any steel trap, snare or other device or*
30 *equipment used in taking or transporting wildlife unlawfully or during*
31 *closed season. The department is hereby authorized and directed to:*

32 (a) *Sell the seized item, including wildlife parts with a dollar value,*
33 *and remit the proceeds to the state treasurer in accordance with the*
34 *provisions of K.S.A. 75-4215, and amendments thereto. If the seized item*
35 *is a firearm that has been forfeited pursuant to K.S.A. ~~2013 Supp. 21-6307~~*
36 *22-2512, and amendments thereto, then it may be sold unless: (1) The*
37 *firearm is significantly altered in any manner; or (2) the sale and public*
38 *possession of such firearm is otherwise prohibited by law. Upon receipt of*
39 *each such remittance, the state treasurer shall deposit the entire amount in*
40 *the state treasury to the credit of the wildlife fee fund; or*

41 (b) *retain the seized item for educational, scientific or department*
42 *operational purposes.*

43 Sec. ~~15~~. **14.** *K.S.A. 2013 Supp. 75-7c04 is hereby amended to read as*

1 follows: 75-7c04. (a) The attorney general shall not issue a license
2 pursuant to this act if the applicant:

3 (1) Is not a resident of the county where application for licensure is
4 made or is not a resident of the state;

5 (2) is prohibited from shipping, transporting, possessing or receiving
6 a firearm or ammunition under 18 U.S.C. § 922(g) or (n), and amendments
7 thereto, or K.S.A. 21-4204, prior to its repeal, or subsections (a)(10)
8 through (a)(13) of K.S.A. 2013 Supp. 21-6301 or subsections (a)(1)
9 through (a)(3) of K.S.A. 2013 Supp. 21-6304, and amendments thereto; ~~or~~

10 (3) **has been convicted of or was adjudicated a juvenile offender**
11 **because of the commission of an act which if done by an adult would**
12 **constitute the commission of any of the offenses described in subsections**
13 **(a)(1) through (a)(3) and (a)(3)(A) of K.S.A. 2013 Supp. 21-6304, and**
14 **amendments thereto; or**

15 (4) is less than 21 years of age.

16 (b) (1) The attorney general shall adopt rules and regulations
17 establishing procedures and standards as authorized by this act for an
18 eight-hour handgun safety and training course required by this section.
19 Such standards shall include: (A) A requirement that trainees receive
20 training in the safe storage of handguns, actual firing of handguns and
21 instruction in the laws of this state governing the carrying of concealed
22 handguns and the use of deadly force; (B) general guidelines for courses
23 which are compatible with the industry standard for basic handgun training
24 for civilians; (C) qualifications of instructors; and (D) a requirement that
25 the course be: (i) A handgun course certified or sponsored by the attorney
26 general; or (ii) a handgun course certified or sponsored by the national
27 rifle association or by a law enforcement agency, college, private or public
28 institution or organization or handgun training school, if the attorney
29 general determines that such course meets or exceeds the standards
30 required by rules and regulations adopted by the attorney general and is
31 taught by instructors certified by the attorney general or by the national
32 rifle association, if the attorney general determines that the requirements
33 for certification of instructors by such association meet or exceed the
34 standards required by rules and regulations adopted by the attorney
35 general. Any person wanting to be certified by the attorney general as an
36 instructor shall submit to the attorney general an application in the form
37 required by the attorney general and a fee not to exceed \$150.

38 (2) The cost of the handgun safety and training course required by
39 this section shall be paid by the applicant. The following shall constitute
40 satisfactory evidence of satisfactory completion of an approved handgun
41 safety and training course:

42 (A) Evidence of completion of the course, in the form provided by
43 rules and regulations adopted by the attorney general;

1 (B) an affidavit from the instructor, school, club, organization or
2 group that conducted or taught such course attesting to the completion of
3 the course by the applicant; or

4 (C) a determination by the attorney general pursuant to subsection (d)
5 of K.S.A. 2013 Supp. 75-7c03, and amendments thereto.

6 ~~Sec. 16.~~ **15.** K.S.A. 2013 Supp. 75-7c20 is hereby amended to read as
7 follows: 75-7c20. (a) The carrying of a concealed handgun as authorized
8 by the personal and family protection act shall not be prohibited in any
9 state or municipal building unless such building has adequate security
10 measures to ensure that no weapons are permitted to be carried into such
11 building and the building is conspicuously posted in accordance with
12 K.S.A. 2013 Supp. 75-7c10, and amendments thereto.

13 (b) Any state or municipal building which contains both public access
14 entrances and restricted access entrances shall provide adequate security
15 measures at the public access entrances in order to prohibit the carrying of
16 any weapons into such building.

17 (c) No state agency or municipality shall prohibit an employee who is
18 licensed to carry a concealed handgun under the provisions of the personal
19 and family protection act from carrying such concealed handgun at the
20 employee's work place unless the building has adequate security measures
21 and the building is conspicuously posted in accordance with K.S.A. 2013
22 Supp. 75-7c10, and amendments thereto.

23 (d) It shall not be a violation of the personal and family protection act
24 for a person to carry a concealed handgun into a state or municipal
25 building so long as that person is licensed to carry a concealed handgun
26 under the provisions of the personal and family protection act and has
27 authority to enter through a restricted access entrance into such building
28 which provides adequate security measures and the building is
29 conspicuously posted in accordance with K.S.A. 2013 Supp. 75-7c10, and
30 amendments thereto.

31 (e) A state agency or municipality which provides adequate security
32 measures in a state or municipal building and which conspicuously posts
33 signage in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments
34 thereto, prohibiting the carrying of a concealed handgun in such building,
35 as authorized by the personal and family protection act, such state agency
36 or municipality shall not be liable for any wrongful act or omission
37 relating to actions of persons licensed to carry a concealed handgun
38 concerning acts or omissions regarding such handguns.

39 (f) A state agency or municipality which does not provide adequate
40 security measures in a state or municipal building and which allows the
41 carrying of a concealed handgun as authorized by the personal and family
42 protection act shall not be liable for any wrongful act or omission relating
43 to actions of persons licensed to carry a concealed handgun concerning

1 acts or omissions regarding such handguns.

2 (g) Nothing in this act shall limit the ability of a corrections facility, a
3 jail facility or a law enforcement agency to prohibit the carrying of a
4 handgun or other firearm concealed or unconcealed by any person into any
5 secure area of a building located on such premises, except those areas of
6 such building outside of a secure area and readily accessible to the public
7 shall be subject to the provisions of subsection (b).

8 (h) Nothing in this section shall limit the ability of the chief judge of
9 each judicial district to prohibit the carrying of a concealed handgun by
10 any person into courtrooms or ancillary courtrooms within the district
11 provided that other means of security are employed such as armed law
12 enforcement or armed security officers.

13 (i) The governing body or the chief administrative officer, if no
14 governing body exists, of a state or municipal building, may exempt the
15 building from this section until January 1, 2014, by notifying the Kansas
16 attorney general and the law enforcement agency of the local jurisdiction
17 by letter of such exemption. Thereafter, such governing body or chief
18 administrative officer may exempt a state or municipal building for a
19 period of only four years by adopting a resolution, or drafting a letter,
20 listing the legal description of such building, listing the reasons for such
21 exemption, and including the following statement: "A security plan has
22 been developed for the building being exempted which supplies adequate
23 security to the occupants of the building and merits the prohibition of the
24 carrying of a concealed handgun as authorized by the personal and family
25 protection act." A copy of the security plan for the building shall be
26 maintained on file and shall be made available, upon request, to the
27 Kansas attorney general and the law enforcement agency of local
28 jurisdiction. Notice of this exemption, together with the resolution adopted
29 or the letter drafted, shall be sent to the Kansas attorney general and to the
30 law enforcement agency of local jurisdiction. The security plan shall not
31 be subject to disclosure under the Kansas open records act.

32 (j) The governing body or the chief administrative officer, if no
33 governing body exists, of any of the following institutions may exempt
34 any building of such institution from this section for a period of four years
35 only by stating the reasons for such exemption and sending notice of such
36 exemption to the Kansas attorney general:

37 (1) A state or municipal-owned medical care facility, as defined in
38 K.S.A. 65-425, and amendments thereto;

39 (2) a state or municipal-owned adult care home, as defined in K.S.A.
40 39-923, and amendments thereto;

41 (3) a community mental health center organized pursuant to K.S.A.
42 19-4001 et seq., and amendments thereto;

43 (4) an indigent health care clinic, as defined by K.S.A. 2013 Supp.

1 65-7402, and amendments thereto; or

2 (5) a postsecondary educational institution, as defined in K.S.A. 74-
3 3201b, and amendments thereto, including any buildings located on the
4 grounds of such institution and any buildings leased by such institution.

5 (k) The provisions of this section shall not apply to any building
6 located on the grounds of the Kansas state school for the deaf or the
7 Kansas state school for the blind.

8 (l) For purposes of this section:

9 (1) "Adequate security measures" means the use of electronic
10 equipment and personnel at public entrances to detect and restrict the
11 carrying of any weapons into the state or municipal building, including,
12 but not limited to, metal detectors, metal detector wands or any other
13 equipment used for similar purposes to ensure that weapons are not
14 permitted to be carried into such building by members of the public.
15 Adequate security measures for storing and securing lawfully carried
16 weapons, including, but not limited to, the use of gun lockers or other
17 similar storage options may be provided at public entrances.

18 (2) The terms "municipality" and "municipal" are interchangeable
19 and have the same meaning as the term "municipality" is defined in K.S.A.
20 75-6102, and amendments thereto, but does not include school districts.

21 (3) "Restricted access entrance" means an entrance that is restricted to
22 the public and requires a key, keycard, code, or similar device to allow
23 entry to authorized personnel.

24 (4) "State" means the same as the term is defined in K.S.A. 75-6102,
25 and amendments thereto.

26 (5) (A) "State or municipal building" means a building owned or
27 leased by such public entity. It does not include a building owned by the
28 state or a municipality which is leased by a private entity whether for
29 profit or not-for-profit or a building held in title by the state or a
30 municipality solely for reasons of revenue bond financing.

31 (B) On and after July 1, 2014, provided that the provisions of K.S.A.
32 2013 Supp. 75-7c21, and amendments thereto, are in full force and effect,
33 the term "state and municipal building" shall not include the state capitol.

34 (6) "Weapon" means a weapon described in K.S.A. 2013 Supp. 21-
35 6301, and amendments thereto, *except the term "weapon" shall not include*
36 *any cutting instrument that has a sharpened or pointed blade.*

37 (m) This section shall be a part of and supplemental to the personal
38 and family protection act.

39 ~~Sec. 16.~~ K.S.A. 2013 Supp. 12-16,124, 12-16,134, 12-4516, 12-
40 4516a, 21-6301, 21-6304, 21-6307, 22-2512, 32-1047, 75-7c04, 75-7c12
41 and 75-7c20 are hereby repealed.

42 ~~Sec. 17.~~ This act shall take effect and be in force from and after
43 its publication in the statute book.