

SENATE BILL No. 126

By Committee on Judiciary

2-5

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to abolition of the death penalty; creating the crime of aggravated
3 murder; sentences of imprisonment for life without the possibility of
4 parole; amending K.S.A. 22-3405, 22-3705 and 22-4210 and K.S.A.
5 2012 Supp. 21-5419, 21-6614, 21-6618, 21-6620, 21-6622, 21-6626,
6 21-6628, 21-6629, 21-6806, 22-3717, 22-3728, 22-4902, 22-4906, 38-
7 2255, 38-2271, 38-2312, 38-2365, 39-970, 65-5117, 72-1397 and 75-
8 52,148 and repealing the existing sections; also repealing K.S.A. 2012
9 Supp. 21-5401, 21-6617 and 21-6619.

10
11 WHEREAS, Kansas reenacted the death penalty in 1994; and
12 WHEREAS, Inmates in Kansas are currently under sentence of death;
13 and
14 WHEREAS, Kansas has not carried out an execution since 1965:
15 Now, therefore,

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. (a) No person shall be sentenced to death for a crime
19 committed on or after July 1, 2013.

20 (b) Any person who is sentenced to death for a crime committed prior
21 to July 1, 2013, may be put to death pursuant to the provisions of article 40
22 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

23 (c) This section shall be part of and supplemental to the Kansas
24 criminal code.

25 New Sec. 2. (a) Aggravated murder is the:

26 (1) Intentional and premeditated killing of any person in the
27 commission of kidnapping, as defined in subsection (a) of K.S.A. 2012
28 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as
29 defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments
30 thereto, when the kidnapping or aggravated kidnapping was committed
31 with the intent to hold such person for ransom;

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

35 (3) intentional and premeditated killing of any person by an inmate or
36 prisoner confined in a state correctional institution, community

1 correctional institution or jail or while in the custody of an officer or
2 employee of a state correctional institution, community correctional
3 institution or jail;

4 (4) intentional and premeditated killing of the victim of one of the
5 following crimes in the commission of, or subsequent to, such crime:
6 Rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments thereto,
7 criminal sodomy, as defined in subsections (a)(3) or (a)(4) of K.S.A. 2012
8 Supp. 21-5504, and amendments thereto, or aggravated criminal sodomy,
9 as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and
10 amendments thereto, or any attempt thereof, as defined in K.S.A. 2012
11 Supp. 21-5301, and amendments thereto;

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

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

17 (7) intentional and premeditated killing of a child under the age of 14
18 in the commission of kidnapping, as defined in subsection (a) of K.S.A.
19 2012 Supp. 21-5408, and amendments thereto, or aggravated kidnapping,
20 as defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and
21 amendments thereto, when the kidnapping or aggravated kidnapping was
22 committed with intent to commit a sex offense upon or with the child or
23 with intent that the child commit or submit to a sex offense.

24 (b) For purposes of this section, "sex offense" means rape, as defined
25 in K.S.A. 2012 Supp. 21-5503, and amendments thereto, aggravated
26 indecent liberties with a child, as defined in subsection (b) of K.S.A. 2012
27 Supp. 21-5506, and amendments thereto, aggravated criminal sodomy, as
28 defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments
29 thereto, prostitution, as defined in K.S.A. 2012 Supp. 21-6419, and
30 amendments thereto, promoting prostitution, as defined in K.S.A. 2012
31 Supp. 21-6420, and amendments thereto, or sexual exploitation of a child,
32 as defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto.

33 (c) Notwithstanding subsections (b)(1) or (b)(2) of K.S.A. 2012 Supp.
34 21-5109, and amendments thereto, when the same conduct of a defendant
35 may establish the commission of aggravated murder and the commission
36 of another crime under the laws of this state, the defendant may be
37 prosecuted and sentenced for each of such crimes.

38 (d) Aggravated murder is an off-grid person felony.

39 (e) This section shall be part of and supplemental to article 54 of
40 chapter 21 of the Kansas Statutes Annotated, the Kansas criminal code.

41 New Sec. 3. (a) When it is provided by law that a person shall be
42 sentenced pursuant to this section, such person shall be sentenced to
43 imprisonment for life without the possibility of parole. A defendant who is

1 sentenced to imprisonment for life without the possibility of parole shall
2 spend the remainder of the defendant's natural life incarcerated and in the
3 custody of the secretary of corrections. A defendant who is sentenced to
4 imprisonment for life without the possibility of parole shall not be eligible
5 for commutation of sentence, parole, probation, assignment to a
6 community correctional services program, conditional release, postrelease
7 supervision, functional incapacitation release pursuant to K.S.A. 22-3728,
8 and amendments thereto, or suspension, modification or reduction of
9 sentence. Upon sentencing a defendant to imprisonment for life without
10 the possibility of parole, the court shall commit the defendant to the
11 custody of the secretary of corrections and the court shall state in the
12 sentencing order of the judgment form or journal entry, whichever is
13 delivered with the defendant to the correctional institution, that the
14 defendant has been sentenced to imprisonment for life without the
15 possibility of parole.

16 (b) This section shall be part of and supplemental to the Kansas
17 criminal code.

18 Sec. 4. K.S.A. 2012 Supp. 21-5419 is hereby amended to read as
19 follows: 21-5419. (a) As used in this section:

20 (1) "Abortion" means an abortion as defined by K.S.A. 65-6701, and
21 amendments thereto; and

22 (2) "unborn child" means a living individual organism of the species
23 homo sapiens, in utero, at any stage of gestation from fertilization to birth.

24 (b) This section shall not apply to:

25 (1) Any act committed by the mother of the unborn child;

26 (2) any medical procedure, including abortion, performed by a
27 physician or other licensed medical professional at the request of the
28 pregnant woman or her legal guardian; or

29 (3) the lawful dispensation or administration of lawfully prescribed
30 medication.

31 (c) As used in K.S.A. 2012 Supp. ~~21-5401~~, 21-5402, 21-5403, 21-
32 5404, 21-5405, 21-5406 ~~and~~, subsections (a) and (b) of 21-5413 ~~and~~
33 ~~section 2~~, and amendments thereto, "person" and "human being" also mean
34 an unborn child.

35 (d) This section shall be known as Alexa's law.

36 Sec. 5. K.S.A. 2012 Supp. 21-6614 is hereby amended to read as
37 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d) and
38 (e), any person convicted in this state of a traffic infraction, cigarette or
39 tobacco infraction, misdemeanor or a class D or E felony, or for crimes
40 committed on or after July 1, 1993, nondrug crimes ranked in severity
41 levels 6 through 10, or for crimes committed on or after July 1, 1993, but
42 prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid,
43 or for crimes committed on or after July 1, 2012, any felony ranked in

1 severity level 5 of the drug grid may petition the convicting court for the
2 expungement of such conviction or related arrest records if three or more
3 years have elapsed since the person: (A) Satisfied the sentence imposed; or
4 (B) was discharged from probation, a community correctional services
5 program, parole, postrelease supervision, conditional release or a
6 suspended sentence.

7 (2) Except as provided in subsections (b), (c), (d) and (e), any person
8 who has fulfilled the terms of a diversion agreement may petition the
9 district court for the expungement of such diversion agreement and related
10 arrest records if three or more years have elapsed since the terms of the
11 diversion agreement were fulfilled.

12 (b) Except as provided in subsections (c), (d) and (e), no person may
13 petition for expungement until five or more years have elapsed since the
14 person satisfied the sentence imposed, the terms of a diversion agreement
15 or was discharged from probation, a community correctional services
16 program, parole, postrelease supervision, conditional release or a
17 suspended sentence, if such person was convicted of a class A, B or C
18 felony, or for crimes committed on or after July 1, 1993, if convicted of an
19 off-grid felony or any nondrug crime ranked in severity levels 1 through 5,
20 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,
21 any felony ranked in severity levels 1 through 3 of the drug grid, or for
22 crimes committed on or after July 1, 2012, any felony ranked in severity
23 levels 1 through 4 of the drug grid, or:

24 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
25 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto, or as
26 prohibited by any law of another state which is in substantial conformity
27 with that statute;

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

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

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

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

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

1 amendments thereto, or required by a law of another state which is in
2 substantial conformity with those statutes;

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

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

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

13 (d) There shall be no expungement of convictions for the following
14 offenses or of convictions for an attempt to commit any of the following
15 offenses:

16 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
17 2012 Supp. 21-5503, and amendments thereto;

18 (2) indecent liberties with a child or aggravated indecent liberties
19 with a child as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
20 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

21 (3) criminal sodomy as defined in subsection (a)(2) or (a)(3) of
22 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
23 2012 Supp. 21-5504, and amendments thereto;

24 (4) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
25 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;

26 (5) indecent solicitation of a child or aggravated indecent solicitation
27 of a child as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or
28 K.S.A. 2012 Supp. 21-5508, and amendments thereto;

29 (6) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
30 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

31 (7) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal,
32 or K.S.A. 2012 Supp. 21-5604, and amendments thereto;

33 (8) endangering a child or aggravated endangering a child as defined
34 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp.
35 21-5601, and amendments thereto;

36 (9) abuse of a child as defined in K.S.A. 21-3609, prior to its repeal,
37 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;

38 (10) capital murder as defined in K.S.A. 21-3439, prior to its repeal,
39 or K.S.A. 2012 Supp. 21-5401, ~~and amendments thereto prior to its repeal;~~

40 *(11) aggravated murder as defined in section 2, and amendments*
41 *thereto;*

42 ~~(11)~~ (12) murder in the first degree as defined in K.S.A. 21-3401,
43 prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments

1 thereto;

2 ~~(12)~~ (13) murder in the second degree as defined in K.S.A. 21-3402,
3 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
4 thereto;

5 ~~(13)~~ (14) voluntary manslaughter as defined in K.S.A. 21-3403, prior
6 to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

7 ~~(14)~~ (15) involuntary manslaughter as defined in K.S.A. 21-3404,
8 prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments
9 thereto;

10 ~~(15)~~ (16) sexual battery as defined in K.S.A. 21-3517, prior to its
11 repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto, when the
12 victim was less than 18 years of age at the time the crime was committed;

13 ~~(16)~~ (17) aggravated sexual battery as defined in K.S.A. 21-3518,
14 prior to its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments
15 thereto;

16 ~~(17)~~ (18) a violation of K.S.A. 8-2,144, and amendments thereto,
17 including any diversion for such violation; or

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

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

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

31 (A) Defendant's full name;

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

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

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

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

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

40 (2) Except as otherwise provided by law, a petition for expungement
41 shall be accompanied by a docket fee in the amount of \$100. On and after
42 April 12, 2012, through June 30, 2013, the supreme court may impose a
43 charge, not to exceed \$19 per case, to fund the costs of non-judicial

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

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

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

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

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

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

19 (h) When the court has ordered an arrest record, conviction or
20 diversion expunged, the order of expungement shall state the information
21 required to be contained in the petition. The clerk of the court shall send a
22 certified copy of the order of expungement to the Kansas bureau of
23 investigation which shall notify the federal bureau of investigation, the
24 secretary of corrections and any other criminal justice agency which may
25 have a record of the arrest, conviction or diversion. After the order of
26 expungement is entered, the petitioner shall be treated as not having been
27 arrested, convicted or diverted of the crime, except that:

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

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

33 (A) In any application for licensure as a private detective, private
34 detective agency, certification as a firearms trainer pursuant to K.S.A.
35 2012 Supp. 75-7b21, and amendments thereto, or employment as a
36 detective with a private detective agency, as defined by K.S.A. 75-7b01,
37 and amendments thereto; as security personnel with a private patrol
38 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
39 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
40 the department of social and rehabilitation services;

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

43 (C) to aid in determining the petitioner's qualifications for

1 employment with the Kansas lottery or for work in sensitive areas within
2 the Kansas lottery as deemed appropriate by the executive director of the
3 Kansas lottery;

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

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

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

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

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

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

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

27 (K) for applications received on and after July 1, 2006, to aid in
28 determining the petitioner's qualifications for a license to carry a concealed
29 weapon pursuant to the personal and family protection act, K.S.A. 2012
30 Supp. 75-7c01 et seq., and amendments thereto;

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

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

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

40 (i) Whenever a person is convicted of a crime, pleads guilty and pays
41 a fine for a crime, is placed on parole, postrelease supervision or
42 probation, is assigned to a community correctional services program, is
43 granted a suspended sentence or is released on conditional release, the

1 person shall be informed of the ability to expunge the arrest records or
2 conviction. Whenever a person enters into a diversion agreement, the
3 person shall be informed of the ability to expunge the diversion.

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

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

17 (1) The person whose record was expunged;

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

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

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

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

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

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

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

1 Kansas lottery;

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

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

16 (11) the Kansas sentencing commission;

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

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

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

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

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

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

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

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

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

6 Sec. 6. K.S.A. 2012 Supp. 21-6618 is hereby amended to read as
7 follows: 21-6618. Upon conviction of a defendant of ~~capital~~ *aggravated*
8 murder and a finding that the defendant was less than 18 years of age at
9 the time of the commission thereof, the court shall sentence the defendant
10 as otherwise provided by law, and no sentence of ~~death or~~ life without the
11 possibility of parole shall be imposed ~~hereunder~~.

12 Sec. 7. K.S.A. 2012 Supp. 21-6620 is hereby amended to read as
13 follows: 21-6620. (a) Except as provided in K.S.A. 2012 Supp. 21-6618
14 and 21-6622, and amendments thereto, if a defendant is convicted of the
15 crime of ~~capital murder and a sentence of death is not imposed pursuant to~~
16 ~~subsection (c) of K.S.A. 2012 Supp. 21-6617, and amendments thereto, or~~
17 ~~requested pursuant to subsection (a) or (b) of K.S.A. 2012 Supp. 21-6617,~~
18 ~~and amendments thereto, aggravated murder~~, the defendant shall be
19 sentenced to life without the possibility of parole *pursuant to section 3,*
20 *and amendments thereto.*

21 (b) If a defendant is convicted of murder in the first degree based
22 upon the finding of premeditated murder, the court shall determine
23 whether the defendant shall be required to serve a mandatory term of
24 imprisonment of 40 years or for crimes committed on and after July 1,
25 1999, a mandatory term of imprisonment of 50 years or sentenced as
26 otherwise provided by law.

27 (c) In order to make such determination, the court may be presented
28 evidence concerning any matter that the court deems relevant to the
29 question of sentence and shall include matters relating to any of the
30 aggravating circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and
31 amendments thereto, and any mitigating circumstances. Any such evidence
32 which the court deems to have probative value may be received regardless
33 of its admissibility under the rules of evidence, provided that the defendant
34 is accorded a fair opportunity to rebut any hearsay statements. Only such
35 evidence of aggravating circumstances as the state has made known to the
36 defendant prior to the sentencing shall be admissible and no evidence
37 secured in violation of the constitution of the United States or of the state
38 of Kansas shall be admissible. No testimony by the defendant at the time
39 of sentencing shall be admissible against the defendant at any subsequent
40 criminal proceeding. At the conclusion of the evidentiary presentation, the
41 court shall allow the parties a reasonable period of time in which to present
42 oral argument.

43 (d) If the court finds that one or more of the aggravating

1 circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and
2 amendments thereto, exist and, further, that the existence of such
3 aggravating circumstances is not outweighed by any mitigating
4 circumstances which are found to exist, the defendant shall be sentenced
5 pursuant to K.S.A. 2012 Supp. 21-6623, and amendments thereto;
6 otherwise, the defendant shall be sentenced as provided by law. The court
7 shall designate, in writing, the statutory aggravating circumstances which
8 it found. The court may make the findings required by this subsection for
9 the purpose of determining whether to sentence a defendant pursuant to
10 K.S.A. 2012 Supp. 21-6623, and amendments thereto, notwithstanding
11 contrary findings made by the jury or court pursuant to subsection (c) of
12 K.S.A. 2012 Supp. 21-6617, and amendments thereto, for the purpose of
13 determining whether to sentence such defendant to death.

14 Sec. 8. K.S.A. 2012 Supp. 21-6622 is hereby amended to read as
15 follows: 21-6622. (a) ~~If, under K.S.A. 2012 Supp. 21-6617, and~~
16 ~~amendments thereto, the county or district attorney has filed a notice of~~
17 ~~intent to request a separate sentencing proceeding to determine whether~~
18 ~~the defendant should be sentenced to death and the defendant is convicted~~
19 ~~of the crime of capital murder, the defendant's counsel or the warden of the~~
20 ~~correctional institution or sheriff having custody of the defendant may~~
21 ~~request a determination by the court of whether the defendant is a person~~
22 ~~with intellectual disability. If the court determines that there is not~~
23 ~~sufficient reason to believe that the defendant is a person with intellectual~~
24 ~~disability, the court shall so find and the defendant shall be sentenced in~~
25 ~~accordance with K.S.A. 2012 Supp. 21-6617, 21-6619, 21-6624, 21-6625,~~
26 ~~21-6628 and 21-6629, and amendments thereto. If the court determines~~
27 ~~that there is sufficient reason to believe that the defendant is a person with~~
28 ~~intellectual disability, the court shall conduct a hearing to determine~~
29 ~~whether the defendant is a person with intellectual disability.~~

30 (b) (a) If a defendant is convicted of the crime of capital murder and a
31 sentence of death is not imposed *aggravated murder*, or if a defendant is
32 convicted of the crime of murder in the first degree based upon the finding
33 of premeditated murder, the defendant's counsel or the warden of the
34 correctional institution or sheriff having custody of the defendant may
35 request a determination by the court of whether the defendant is a person
36 with intellectual disability. If the court determines that there is not
37 sufficient reason to believe that the defendant is a person with intellectual
38 disability, the court shall so find and the defendant shall be sentenced in
39 accordance with K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-
40 6625, and amendments thereto. If the court determines that there is
41 sufficient reason to believe that the defendant is a person with intellectual
42 disability, the court shall conduct a hearing to determine whether the
43 defendant is a person with intellectual disability.

(e) (b) At the hearing, the court shall determine whether the defendant is a person with intellectual disability. The court shall order a psychiatric or psychological examination of the defendant. For that purpose, the court shall appoint two licensed physicians or licensed psychologists, or one of each, qualified by training and practice to make such examination, to examine the defendant and report their findings in writing to the judge within 14 days after the order of examination is issued. The defendant shall have the right to present evidence and cross-examine any witnesses at the hearing. No statement made by the defendant in the course of any examination provided for by this section, whether or not the defendant consents to the examination, shall be admitted in evidence against the defendant in any criminal proceeding.

~~(d) If, at the conclusion of a hearing pursuant to subsection (a), the court determines that the defendant is not a person with intellectual disability, the defendant shall be sentenced in accordance with K.S.A. 2012 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629, and amendments thereto.~~

(e) (c) If, at the conclusion of a hearing pursuant to ~~subsection (b)~~ *this section*, the court determines that the defendant is not a person with intellectual disability, the defendant shall be sentenced in accordance with K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto.

~~(f) (d)~~ If, at the conclusion of a hearing pursuant to this section, the court determines that the defendant is a person with intellectual disability, the court shall sentence the defendant as otherwise provided by law, and no sentence of ~~death~~, life without the possibility of parole; or mandatory term of imprisonment shall be imposed hereunder.

~~(g) Unless otherwise ordered by the court for good cause shown, the provisions of subsection (b) shall not apply if it has been determined, pursuant to a hearing granted under the provisions of subsection (a), that the defendant is not a person with intellectual disability.~~

~~(h) (e)~~ As used in this section, "intellectual disability" means having significantly subaverage general intellectual functioning, as defined by K.S.A. 76-12b01, and amendments thereto, to an extent which substantially impairs one's capacity to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law.

Sec. 9. K.S.A. 2012 Supp. 21-6626 is hereby amended to read as follows: 21-6626. (a) An aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole. Such offender shall spend the remainder of the offender's natural life incarcerated and in the custody of the secretary of corrections. An offender who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for *commutation of sentence*, parole, probation,

1 assignment to a community correctional services program, conditional
2 release, postrelease supervision, *functional incapacitation release*
3 *pursuant to K.S.A. 22-3728, and amendments thereto*, or suspension,
4 modification or reduction of sentence.

5 (b) Upon sentencing a defendant to imprisonment for life without the
6 possibility of parole, the court shall commit the defendant to the custody of
7 the secretary of corrections and the court shall state in the sentencing order
8 of the judgment form or journal entry, whichever is delivered with the
9 defendant to the correctional institution, that the defendant has been
10 sentenced to imprisonment for life without the possibility of parole.

11 (c) As used in this section:

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

17 (2) "Sexually violent crime" means:

18 (A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
19 2012 Supp. 21-5503, and amendments thereto;

20 (B) indecent liberties with a child or aggravated indecent liberties
21 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
22 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

23 (C) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
24 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
25 2012 Supp. 21-5504, and amendments thereto;

26 (D) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
27 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;

28 (E) indecent solicitation of a child or aggravated indecent solicitation
29 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
30 or K.S.A. 2012 Supp. 21-5508, and amendments thereto;

31 (F) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
32 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

33 (G) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
34 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;

35 (H) aggravated incest, as defined in K.S.A. 21-3603, prior to its
36 repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;

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

40 (J) an attempt, conspiracy or criminal solicitation, as defined in
41 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
42 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
43 sexually violent crime as defined in this section; or

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

6 Sec. 10. K.S.A. 2012 Supp. 21-6628 is hereby amended to read as
7 follows: 21-6628. (a) In the event the term of imprisonment for life
8 without the possibility of parole or any provision of K.S.A. 2012 Supp. 21-
9 6626 or 21-6627, and amendments thereto, authorizing such term is held to
10 be unconstitutional by the supreme court of Kansas or the United States
11 supreme court, the court having jurisdiction over a person previously
12 sentenced shall cause such person to be brought before the court and shall
13 modify the sentence to require no term of imprisonment for life without
14 the possibility of parole and shall sentence the defendant to the maximum
15 term of imprisonment otherwise provided by law.

16 ~~(b) In the event a sentence of death or any provision of chapter 252 of~~
17 ~~the 1994 Session Laws of Kansas authorizing such sentence is held to be~~
18 ~~unconstitutional by the supreme court of Kansas or the United States~~
19 ~~supreme court, the court having jurisdiction over a person previously~~
20 ~~sentenced shall cause such person to be brought before the court and shall~~
21 ~~modify the sentence and resentence the defendant as otherwise provided~~
22 ~~by law.~~

23 (e) (b) In the event the mandatory term of imprisonment or any
24 provision of chapter 341 of the 1994 Session Laws of Kansas authorizing
25 such mandatory term is held to be unconstitutional by the supreme court of
26 Kansas or the United States supreme court, the court having jurisdiction
27 over a person previously sentenced shall cause such person to be brought
28 before the court and shall modify the sentence to require no mandatory
29 term of imprisonment and shall sentence the defendant as otherwise
30 provided by law.

31 Sec. 11. K.S.A. 2012 Supp. 21-6629 is hereby amended to read as
32 follows: 21-6629. (a) The provisions of K.S.A. 21-4622 through 21-4630,
33 as they existed immediately prior to July 1, 1994, shall be applicable only
34 to persons convicted of crimes committed on or after July 1, 1990, and
35 before July 1, 1994.

36 (b) The provisions of K.S.A. 21-4622 through 21-4627 and 21-4629
37 and 21-4630, as amended on July 1, 1994, and prior to their repeal, and
38 K.S.A. 2012 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-
39 6625 and subsection (b) of 21-6628, ~~and amendments thereto as they~~
40 ~~existed immediately prior to July 1, 2013,~~ shall be applicable only to
41 persons convicted of crimes committed on or after July 1, 1994, ~~and~~
42 ~~before July 1, 2013.~~

43 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.

1 2012 Supp. 21-6620 through 21-6625 and subsection (c) of 21-6628, ~~and~~
2 ~~amendments thereto as they existed immediately prior to July 1, 2013,~~
3 shall be applicable only to persons convicted of crimes committed on or
4 after July 1, 1994, ~~and before July 1, 2013.~~

5 (d) *The provisions of K.S.A. 2012 Supp. 21-6618, 21-6620, 21-6622*
6 *and 21-6628, as amended on July 1, 2013, and K.S.A. 2012 Supp. 21-*
7 *6621, 21-6623, 21-6624 and 21-6625, and amendments thereto, shall be*
8 *applicable only to persons convicted of crimes committed on or after July*
9 *1, 2013.*

10 Sec. 12. K.S.A. 2012 Supp. 21-6806 is hereby amended to read as
11 follows: 21-6806. (a) Sentences of imprisonment shall represent the
12 time a person shall actually serve, subject to a reduction of the primary
13 sentence for good time as authorized by K.S.A. 2012 Supp. 21-6821, and
14 amendments thereto.

15 (b) The sentencing court shall pronounce sentence in all felony cases.

16 (c) Violations of K.S.A. 2012 Supp. ~~21-5401~~, 21-5402, 21-5421, 21-
17 5422 and 21-5901, and amendments thereto, are off-grid crimes for the
18 purpose of sentencing. Except as otherwise provided by K.S.A. 2012
19 Supp. ~~21-6617~~, 21-6618, ~~21-6619~~, 21-6622, 21-6624, 21-6625, 21-6628
20 and 21-6629, and amendments thereto, the sentence shall be imprisonment
21 for life and shall not be subject to statutory provisions for suspended
22 sentence, community service or probation.

23 (d) As identified in K.S.A. 2012 Supp. 21-5426, 21-5503, 21-5504,
24 21-5506, 21-5510 and 21-6420, and amendments thereto, if the offender is
25 18 years of age or older and the victim is under 14 years of age, such
26 violations are off-grid crimes for the purposes of sentencing. Except as
27 provided in K.S.A. 2012 Supp. 21-6626, and amendments thereto, the
28 sentence shall be imprisonment for life pursuant to K.S.A. 2012 Supp. 21-
29 6627, and amendments thereto.

30 (e) *Violation of section 2, and amendments thereto, is an off-grid*
31 *crime for the purposes of sentencing. Except as provided in K.S.A. 2012*
32 *Supp. 21-6618 and 21-6622, and amendments thereto, the sentence shall*
33 *be imprisonment for life without the possibility of parole pursuant to*
34 *section 3, and amendments thereto.*

35 Sec. 13. K.S.A. 22-3405 is hereby amended to read as follows: 22-
36 3405. (1) The defendant in a felony case shall be present at the
37 arraignment, at every stage of the trial including the impaneling of the jury
38 and the return of the verdict, and at the imposition of sentence, except as
39 otherwise provided by law. In prosecutions for crimes not punishable by
40 death *or life without the possibility of parole*, the defendant's voluntary
41 absence after the trial has been commenced in such person's presence shall
42 not prevent continuing the trial to and including the return of the verdict. A
43 corporation may appear by counsel for all purposes.

(2) The defendant must be present, either personally or by counsel, at every stage of the trial of traffic infraction, cigarette or tobacco infraction and misdemeanor cases.

Sec. 14. K.S.A. 22-3705 is hereby amended to read as follows: 22-3705. (a) The governor may, when ~~he~~ *the governor* deems it proper or advisable, commute a sentence in any criminal case by reducing the penalty as follows:

(a) (1) If the sentence is death, to imprisonment for life ~~or for any term not less than ten years without the possibility of parole and not to any lesser sentence;~~

(b) (2) ~~except as provided in subsection (b),~~ if the sentence is to imprisonment, by reducing the duration of such imprisonment;

(c) (3) if the sentence is a fine, by reducing the amount thereof;

(d) (4) if the sentence is both imprisonment and fine, by reducing either or both.

(b) *The governor shall not commute a sentence of life without the possibility of parole.*

Sec. 15. K.S.A. 2012 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through 21-4638 and 21-4642, prior to their repeal; ~~K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642, prior to its repeal; K.S.A. 2012 Supp. 21-6617, prior to its repeal; K.S.A. 2012 Supp. 21-6617, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; section 3, and amendments thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2012 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.~~

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(2) Except as provided by subsection (b)(1) ~~or~~, (b)(4) and (b)(6), K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years

1 of confinement, without deduction of any good time credits and an inmate
2 sentenced to imprisonment for an off-grid offense committed on or after
3 July 1, 1999, shall be eligible for parole after serving 20 years of
4 confinement without deduction of any good time credits.

5 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
6 repeal, an inmate sentenced for a class A felony committed before July 1,
7 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
8 its repeal, or K.S.A. 2012 Supp. 21-6707, and amendments thereto, shall
9 be eligible for parole after serving 15 years of confinement, without
10 deduction of any good time credits.

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

16 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
17 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
18 thereto, committed on or after July 1, 2006, shall be eligible for parole
19 after serving the mandatory term of imprisonment without deduction of
20 any good time credits.

21 (6) *An inmate sentenced to imprisonment for life without the*
22 *possibility of parole pursuant to section 3, and amendments thereto, shall*
23 *not be eligible for parole.*

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

28 (A) The aggregate minimum sentences, as determined pursuant to
29 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2012 Supp. 21-6606, and
30 amendments thereto, less good time credits for those crimes which are not
31 class A felonies; and

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

34 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
35 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
36 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
37 eligible for parole after serving the mandatory term of imprisonment.

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

43 (A) Except as provided in subparagraphs (D) and (E), persons

1 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
2 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
3 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
4 July 1, 2012, must serve 36 months, plus the amount of good time and
5 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
6 repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto, on
7 postrelease supervision.

8 (B) Except as provided in subparagraphs (D) and (E), persons
9 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
10 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
11 drug severity level 4 crimes committed on or after July 1, 2012, must serve
12 24 months, plus the amount of good time and program credit earned and
13 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012
14 Supp. 21-6821, and amendments thereto, on postrelease supervision.

15 (C) Except as provided in subparagraphs (D) and (E), persons
16 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
17 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
18 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
19 must serve 12 months, plus the amount of good time and program credit
20 earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or
21 K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease
22 supervision.

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

29 (ii) If the sentencing judge departs from the presumptive postrelease
30 supervision period, the judge shall state on the record at the time of
31 sentencing the substantial and compelling reasons for the departure.
32 Departures in this section are subject to appeal pursuant to K.S.A. 21-
33 4721, prior to its repeal, or K.S.A. 2012 Supp. 21-6820, and amendments
34 thereto.

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

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

39 (b) any evidence received during the proceeding;

40 (c) the presentence report, the victim's impact statement and any
41 psychological evaluation as ordered by the court pursuant to subsection (e)
42 of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2012
43 Supp. 21-6813, and amendments thereto; and

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

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

6 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
7 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2012 Supp. 21-
8 6817, and amendments thereto.

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

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

18 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
19 repeal, or K.S.A. 2012 Supp. 21-5508, and amendments thereto, shall be
20 required to participate in a treatment program for sex offenders during the
21 postrelease supervision period.

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

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

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

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

39 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp.
40 21-5503, and amendments thereto;

41 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
42 or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

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

1 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and
2 amendments thereto;

3 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
4 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2012 Supp. 21-
5 5504, and amendments thereto;

6 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
7 or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

8 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
9 or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

10 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
11 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and
12 amendments thereto;

13 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
14 or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

15 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
16 subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

17 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
18 subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto; or

19 (K) an attempt, conspiracy or criminal solicitation, as defined in
20 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
21 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
22 sexually violent crime as defined in this section.

23 (3) As used in this subsection, "sexually motivated" means that one of
24 the purposes for which the defendant committed the crime was for the
25 purpose of the defendant's sexual gratification.

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

33 (f) If a person is sentenced to prison for a crime committed on or after
34 July 1, 1993, while on probation, parole, conditional release or in a
35 community corrections program, for a crime committed prior to July 1,
36 1993, and the person is not eligible for retroactive application of the
37 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
38 4724, prior to its repeal, the new sentence shall not be aggregated with the
39 old sentence, but shall begin when the person is paroled or reaches the
40 conditional release date on the old sentence. If the offender was past the
41 offender's conditional release date at the time the new offense was
42 committed, the new sentence shall not be aggregated with the old sentence
43 but shall begin when the person is ordered released by the prisoner review

1 board or reaches the maximum sentence expiration date on the old
2 sentence, whichever is earlier. The new sentence shall then be served as
3 otherwise provided by law. The period of postrelease supervision shall be
4 based on the new sentence, except that those offenders whose old sentence
5 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
6 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
7 term of life imprisonment, for which there is no conditional release or
8 maximum sentence expiration date, shall remain on postrelease
9 supervision for life or until discharged from supervision by the prisoner
10 review board.

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

26 (h) The prisoner review board shall hold a parole hearing at least the
27 month prior to the month an inmate will be eligible for parole under
28 subsections (a), (b) and (c). At least one month preceding the parole
29 hearing, the county or district attorney of the county where the inmate was
30 convicted shall give written notice of the time and place of the public
31 comment sessions for the inmate to any victim of the inmate's crime who
32 is alive and whose address is known to the county or district attorney or, if
33 the victim is deceased, to the victim's family if the family's address is
34 known to the county or district attorney. Except as otherwise provided,
35 failure to notify pursuant to this section shall not be a reason to postpone a
36 parole hearing. In the case of any inmate convicted of an off-grid felony or
37 a class A felony, the secretary of corrections shall give written notice of the
38 time and place of the public comment session for such inmate at least one
39 month preceding the public comment session to any victim of such
40 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
41 amendments thereto. If notification is not given to such victim or such
42 victim's family in the case of any inmate convicted of an off-grid felony or
43 a class A felony, the board shall postpone a decision on parole of the

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

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

36 (j) (1) Before ordering the parole of any inmate, the prisoner review
37 board shall have the inmate appear either in person or via a video
38 conferencing format and shall interview the inmate unless impractical
39 because of the inmate's physical or mental condition or absence from the
40 institution. Every inmate while on parole shall remain in the legal custody
41 of the secretary of corrections and is subject to the orders of the secretary.
42 Whenever the board formally considers placing an inmate on parole and
43 no agreement has been entered into with the inmate under K.S.A. 75-

1 5210a, and amendments thereto, the board shall notify the inmate in
2 writing of the reasons for not granting parole. If an agreement has been
3 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
4 has not satisfactorily completed the programs specified in the agreement,
5 or any revision of such agreement, the board shall notify the inmate in
6 writing of the specific programs the inmate must satisfactorily complete
7 before parole will be granted. If parole is not granted only because of a
8 failure to satisfactorily complete such programs, the board shall grant
9 parole upon the secretary's certification that the inmate has successfully
10 completed such programs. If an agreement has been entered under K.S.A.
11 75-5210a, and amendments thereto, and the secretary of corrections has
12 reported to the board in writing that the inmate has satisfactorily
13 completed the programs required by such agreement, or any revision
14 thereof, the board shall not require further program participation.
15 However, if the board determines that other pertinent information
16 regarding the inmate warrants the inmate's not being released on parole,
17 the board shall state in writing the reasons for not granting the parole. If
18 parole is denied for an inmate sentenced for a crime other than a class A or
19 class B felony or an off-grid felony, the board shall hold another parole
20 hearing for the inmate not later than one year after the denial unless the
21 board finds that it is not reasonable to expect that parole would be granted
22 at a hearing if held in the next three years or during the interim period of a
23 deferral. In such case, the board may defer subsequent parole hearings for
24 up to three years but any such deferral by the board shall require the board
25 to state the basis for its findings. If parole is denied for an inmate
26 sentenced for a class A or class B felony or an off-grid felony, the board
27 shall hold another parole hearing for the inmate not later than three years
28 after the denial unless the board finds that it is not reasonable to expect
29 that parole would be granted at a hearing if held in the next 10 years or
30 during the interim period of a deferral. In such case, the board may defer
31 subsequent parole hearings for up to 10 years, but any such deferral shall
32 require the board to state the basis for its findings.

33 (2) Inmates sentenced for a class A or class B felony who have not
34 had a board hearing in the five years prior to July 1, 2010, shall have such
35 inmates' cases reviewed by the board on or before July 1, 2012. Such
36 review shall begin with the inmates with the oldest deferral date and
37 progress to the most recent. Such review shall be done utilizing existing
38 resources unless the board determines that such resources are insufficient.
39 If the board determines that such resources are insufficient, then the
40 provisions of this paragraph are subject to appropriations therefor.

41 (k) (1) Parolees and persons on postrelease supervision shall be
42 assigned, upon release, to the appropriate level of supervision pursuant to
43 the criteria established by the secretary of corrections.

1 (2) Parolees and persons on postrelease supervision are, and shall
2 agree in writing to be, subject to search or seizure by a parole officer or a
3 department of corrections enforcement, apprehension and investigation
4 officer, at any time of the day or night, with or without a search warrant
5 and with or without cause. Nothing in this subsection shall be construed to
6 authorize such officers to conduct arbitrary or capricious searches or
7 searches for the sole purpose of harassment.

8 (3) Parolees and persons on postrelease supervision are, and shall
9 agree in writing to be, subject to search or seizure by any law enforcement
10 officer based on reasonable suspicion of the person violating conditions of
11 parole or postrelease supervision or reasonable suspicion of criminal
12 activity. Any law enforcement officer who conducts such a search shall
13 submit a written report to the appropriate parole officer no later than the
14 close of the next business day after such search. The written report shall
15 include the facts leading to such search, the scope of such search and any
16 findings resulting from such search.

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

25 (m) Whenever the prisoner review board orders the parole of an
26 inmate or establishes conditions for an inmate placed on postrelease
27 supervision, the board:

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

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

41 (3) may order that the parolee or person on postrelease supervision
42 perform community or public service work for local governmental
43 agencies, private corporations organized not-for-profit or charitable or

1 social service organizations performing services for the community;

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

6 (5) unless it finds compelling circumstances which would render a
7 plan of payment unworkable, shall order that the parolee or person on
8 postrelease supervision reimburse the state for all or part of the
9 expenditures by the state board of indigents' defense services to provide
10 counsel and other defense services to the person. In determining the
11 amount and method of payment of such sum, the prisoner review board
12 shall take account of the financial resources of the person and the nature of
13 the burden that the payment of such sum will impose. Such amount shall
14 not exceed the amount claimed by appointed counsel on the payment
15 voucher for indigents' defense services or the amount prescribed by the
16 board of indigents' defense services reimbursement tables as provided in
17 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
18 previous payments for such services;

19 (6) shall order that the parolee or person on postrelease supervision
20 agree in writing to be subject to search or seizure by a parole officer or a
21 department of corrections enforcement, apprehension and investigation
22 officer, at any time of the day or night, with or without a search warrant
23 and with or without cause. Nothing in this subsection shall be construed to
24 authorize such officers to conduct arbitrary or capricious searches or
25 searches for the sole purpose of harassment; and

26 (7) shall order that the parolee or person on postrelease supervision
27 agree in writing to be subject to search or seizure by any law enforcement
28 officer based on reasonable suspicion of the person violating conditions of
29 parole or postrelease supervision or reasonable suspicion of criminal
30 activity.

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

38 (o) Whenever the prisoner review board grants the parole of an
39 inmate, the board, within 14 days of the date of the decision to grant
40 parole, shall give written notice of the decision to the county or district
41 attorney of the county where the inmate was sentenced.

42 (p) When an inmate is to be released on postrelease supervision, the
43 secretary, within 30 days prior to release, shall provide the county or

1 district attorney of the county where the inmate was sentenced written
2 notice of the release date.

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

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

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

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

28 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
29 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
30 thereto, for crimes committed on or after July 1, 2006, shall be placed on
31 parole for life and shall not be discharged from supervision by the prisoner
32 review board. When the board orders the parole of an inmate pursuant to
33 this subsection, the board shall order as a condition of parole that the
34 inmate be electronically monitored for the duration of the inmate's natural
35 life.

36 (v) Whenever the prisoner review board orders a person to be
37 electronically monitored pursuant to this section, or the court orders a
38 person to be electronically monitored pursuant to subsection (r) of K.S.A.
39 2012 Supp. 21-6604, and amendments thereto, the board shall order the
40 person to reimburse the state for all or part of the cost of such monitoring.
41 In determining the amount and method of payment of such sum, the board
42 shall take account of the financial resources of the person and the nature of
43 the burden that the payment of such sum will impose.

1 (w) (1) On and after July 1, 2012, for any inmate who is a sex
2 offender, as defined in K.S.A. 22-4902, and amendments thereto,
3 whenever the prisoner review board orders the parole of such inmate or
4 establishes conditions for such inmate placed on postrelease supervision,
5 such inmate shall agree in writing to not possess pornographic materials.

6 (A) As used in this subsection, "pornographic materials" means: Any
7 obscene material or performance depicting sexual conduct, sexual contact
8 or a sexual performance; and any visual depiction of sexually explicit
9 conduct.

10 (B) As used in this subsection, all other terms have the meanings
11 provided by K.S.A. 2012 Supp. 21-5510, and amendments thereto.

12 (2) The provisions of this subsection shall be applied retroactively to
13 every sex offender, as defined in K.S.A. 22-4902, and amendments
14 thereto, who is on parole or postrelease supervision on July 1, 2012. The
15 prisoner review board shall obtain the written agreement required by this
16 subsection from such offenders as soon as practicable.

17 Sec. 16. K.S.A. 2012 Supp. 22-3728 is hereby amended to read as
18 follows: 22-3728. (a) (1) Upon application of the secretary of corrections,
19 the prisoner review board may grant release to any person deemed to be
20 functionally incapacitated, upon such terms and conditions as prescribed in
21 the order granting such release.

22 (2) The secretary of corrections shall adopt rules and regulations
23 governing the prisoner review board's procedure for initiating, processing,
24 reviewing and establishing criteria for review of applications filed on
25 behalf of persons deemed to be functionally incapacitated. Such rules and
26 regulations shall include criteria and guidelines for determining whether
27 the functional incapacitation precludes the person from posing a threat to
28 the public.

29 (3) Subject to the provisions of subsections (a)(4) and (a)(5), a
30 functional incapacitation release shall not be granted until at least 30 days
31 after written notice of the application has been given to: (A) The
32 prosecuting attorney and the judge of the court in which the person was
33 convicted; and (B) any victim of the person's crime or the victim's family.
34 Notice of such application shall be given by the secretary of corrections to
35 the victim who is alive and whose address is known to the secretary, or if
36 the victim is deceased, to the victim's family if the family's address is
37 known to the secretary. Subject to the provisions of subsection (a)(4), if
38 there is no known address for the victim, if alive, or the victim's family, if
39 deceased, the board shall not grant or deny such application until at least
40 30 days after notification is given by publication in the county of
41 conviction. Publication costs shall be paid by the department of
42 corrections.

43 (4) All applications for functional incapacitation release shall be

1 referred to the board. The board shall examine each case and may approve
2 such application and grant a release. An application for release shall not be
3 approved unless the board determines that the person is functionally
4 incapacitated and does not represent a future risk to public safety. The
5 board shall determine whether a hearing is necessary on the application.
6 The board may request additional information or evidence it deems
7 necessary from a medical or mental health practitioner.

8 (5) The board shall establish any conditions related to the release of
9 the person. The release shall be conditional, and be subject to revocation
10 pursuant to K.S.A. 75-5217, and amendments thereto, if the person's
11 functional incapacity significantly diminishes, if the person fails to comply
12 with any condition of release, or if the board otherwise concludes that the
13 person presents a threat or risk to public safety. The person shall remain on
14 release supervision until the release is revoked, expiration of the maximum
15 sentence, or discharged by the board. Subject to the provisions of
16 subsection (f) of K.S.A. 75-5217, and amendments thereto, the person
17 shall receive credit for the time during which the person is on functional
18 incapacitation release supervision towards service of the prison and
19 postrelease supervision obligations of determinate sentences or
20 indeterminate sentences.

21 (6) The secretary of corrections shall cause the person to be
22 supervised upon release, and shall have the authority to initiate revocation
23 of the person at any time for the reasons indicated in subsection (a)(5).

24 (7) The decision of the board on the application or any revocation
25 shall be final and not subject to review by any administrative agency or
26 court.

27 (8) In determining whether a person is functionally incapacitated, the
28 board shall consider the following: (A) The person's current condition as
29 confirmed by medical or mental health care providers, including whether
30 the condition is terminal;

31 (B) the person's age and personal history;

32 (C) the person's criminal history;

33 (D) the person's length of sentence and time the person has served;

34 (E) the nature and circumstances of the current offense;

35 (F) the risk or threat to the community if released;

36 (G) whether an appropriate release plan has been established; and

37 (H) any other factors deemed relevant by the board.

38 (b) Nothing in this section shall be construed to limit or preclude
39 submission of an application for pardon or commutation of sentence
40 pursuant to K.S.A. 22-3701, and amendments thereto.

41 (c) Nothing in this section shall apply to the release of people with
42 terminal medical conditions as described in K.S.A. 2012 Supp. 22-3729,
43 and amendments thereto.

1 (d) This section does not apply to any person sentenced to
2 imprisonment for an off-grid offense.

3 (e) *This section does not apply to any person under sentence of death*
4 *or life without the possibility of parole.*

5 Sec. 17. K.S.A. 22-4210 is hereby amended to read as follows: 22-
6 4210. If a person confined in a penal institution in any other state may be a
7 material witness in a criminal action pending in a court of record or in a
8 grand jury investigation in this state, a judge of the court may certify (1)
9 that there is a criminal proceeding or investigation by a grand jury or a
10 criminal action pending in the court, (2) that a person who is confined in a
11 penal institution in the other state may be a material witness in the
12 proceeding, investigation, or action, and (3) that his presence will be
13 required during a specified time. The certificate shall be presented to a
14 judge of a court of record in the other state having jurisdiction over the
15 prisoner confined, and a notice shall be given to the attorney general of the
16 state in which the prisoner is confined.

17 This act does not apply to any person in this state confined as mentally
18 ill, in need of mental treatment, or under sentence of death *or life without*
19 *the possibility of parole.*

20 Sec. 18. K.S.A. 2012 Supp. 22-4902 is hereby amended to read as
21 follows: 22-4902. As used in the Kansas offender registration act, unless
22 the context otherwise requires:

23 (a) "Offender" means:

24 (1) A sex offender;

25 (2) a violent offender;

26 (3) a drug offender;

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

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

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

32 (1) On or after April 14, 1994, is convicted of any sexually violent
33 crime;

34 (2) on or after April 14, 1994, is adjudicated as a juvenile offender for
35 an act which if committed by an adult would constitute the commission of
36 a sexually violent crime, unless the court, on the record, finds that the act
37 involved non-forcible sexual conduct, the victim was at least 14 years of
38 age and the offender was not more than four years older than the victim;

39 (3) has been determined to be a sexually violent predator;

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

42 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
43 K.S.A. 2012 Supp. 21-5511, and amendments thereto;

1 (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
2 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012
3 Supp. 21-5504, and amendments thereto;

4 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
5 repeal, or K.S.A. 2012 Supp. 21-6420, and amendments thereto;

6 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
7 repeal, or K.S.A. 2012 Supp. 21-6421, and amendments thereto; or

8 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
9 to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto;

10 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
11 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and
12 amendments thereto;

13 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
14 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
15 K.S.A. 2012 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
16 of an offense defined in this subsection; or

17 (7) has been convicted of an offense that is comparable to any crime
18 defined in this subsection, or any out of state conviction for an offense that
19 under the laws of this state would be an offense defined in this subsection.

20 (c) "Sexually violent crime" means:

21 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
22 2012 Supp. 21-5503, and amendments thereto;

23 (2) indecent liberties with a child as defined in K.S.A. 21-3503, prior
24 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and
25 amendments thereto;

26 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-
27 3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506,
28 and amendments thereto;

29 (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of
30 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
31 2012 Supp. 21-5504, and amendments thereto;

32 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
33 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
34 amendments thereto;

35 (6) indecent solicitation of a child as defined in K.S.A. 21-3510, prior
36 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and
37 amendments thereto;

38 (7) aggravated indecent solicitation of a child as defined in K.S.A.
39 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
40 5508, and amendments thereto;

41 (8) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
42 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

43 (9) aggravated sexual battery as defined in K.S.A. 21-3518, prior to

1 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and
2 amendments thereto;

3 (10) aggravated incest as defined in K.S.A. 21-3603, prior to its
4 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5605, and amendments
5 thereto;

6 (11) electronic solicitation as defined in K.S.A. 21-3523, prior to its
7 repeal, and K.S.A. 2012 Supp. 21-5509, and amendments thereto,
8 committed on or after April 17, 2008;

9 (12) unlawful sexual relations as defined in K.S.A. 21-3520, prior to
10 its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;

11 (13) any conviction or adjudication for an offense that is comparable
12 to a sexually violent crime as defined in this subsection, or any out of state
13 conviction or adjudication for an offense that under the laws of this state
14 would be a sexually violent crime as defined in this subsection;

15 (14) an attempt, conspiracy or criminal solicitation, as defined in
16 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
17 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
18 violent crime, as defined in this subsection; or

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

26 (d) "Sexually violent predator" means any person who, on or after
27 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
28 59-29a01 et seq., and amendments thereto.

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

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

32 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
33 or K.S.A. 2012 Supp. 21-5401, ~~and amendments thereto prior to its repeal~~;

34 (B) *aggravated murder, as defined in section 2, and amendments*
35 *thereto*;

36 ~~(B)~~ (C) murder in the first degree, as defined in K.S.A. 21-3401, prior
37 to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

38 ~~(C)~~ (D) murder in the second degree, as defined in K.S.A. 21-3402,
39 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
40 thereto;

41 ~~(D)~~ (E) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
42 to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

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

1 to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

2 ~~(F)~~ (G) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,
3 or subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

4 ~~(G)~~ (H) aggravated kidnapping, as defined in K.S.A. 21-3421, prior
5 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and
6 amendments thereto;

7 ~~(H)~~ (I) criminal restraint, as defined in K.S.A. 21-3424, prior to its
8 repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by
9 a parent, and only when the victim is less than 18 years of age; or

10 ~~(I)~~ (J) aggravated human trafficking, as defined in K.S.A. 21-3447,
11 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and
12 amendments thereto;

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

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

20 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
21 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
22 K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments
23 thereto, of an offense defined in this subsection.

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

25 (1) Unlawful manufacture or attempting such of any controlled
26 substance or controlled substance analog as defined in K.S.A. 65-4159,
27 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
28 K.S.A. 2012 Supp. 21-5703, and amendments thereto;

29 (2) possession of ephedrine, pseudoephedrine, red phosphorus,
30 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
31 ammonia or phenylpropanolamine, or their salts, isomers or salts of
32 isomers with intent to use the product to manufacture a controlled
33 substance as defined in subsection (a) of K.S.A. 65-7006, prior to its
34 repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer,
35 or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;

36 (3) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A.
37 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A.
38 2012 Supp. 21-5705, and amendments thereto. The provisions of this
39 paragraph shall not apply to violations of subsections (a)(2) through (a)(6)
40 or (b) of K.S.A. 2010 Supp. 21-36a05 which occurred on or after July 1,
41 2009, through April 15, 2010;

42 (4) an offense that is comparable to any crime defined in this
43 subsection, any out of state conviction for an offense that under the laws of

1 this state would be an offense defined in this subsection; or

2 (5) an attempt, conspiracy or criminal solicitation, as defined in
3 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
4 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
5 offense defined in this subsection.

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

13 (h) "School" means any public or private educational institution,
14 including, but not limited to, postsecondary school, college, university,
15 community college, secondary school, high school, junior high school,
16 middle school, elementary school, trade school, vocational school or
17 professional school providing training or education to an offender for three
18 or more consecutive days or parts of days, or for 10 or more
19 nonconsecutive days in a period of 30 consecutive days.

20 (i) "Employment" means any full-time, part-time, transient, day-labor
21 employment or volunteer work, with or without compensation, for three or
22 more consecutive days or parts of days, or for 10 or more nonconsecutive
23 days in a period of 30 consecutive days.

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

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

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

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

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

42 (o) "Registering entity" means any person, agency or other
43 governmental unit, correctional facility or registering law enforcement

1 agency responsible for obtaining the required information from, and
2 explaining the required registration procedures to, any person required to
3 register pursuant to the Kansas offender registration act. "Registering
4 entity" shall include, but not be limited to, sheriff's offices, tribal police
5 departments and correctional facilities.

6 (p) "Treatment facility" means any public or private facility or
7 institution providing inpatient mental health, drug or alcohol treatment or
8 counseling, but does not include a hospital, as defined in K.S.A. 65-425,
9 and amendments thereto.

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

12 (r) "Out of state" means: the District of Columbia; any federal,
13 military or tribal jurisdiction, including those within this state; any foreign
14 jurisdiction; or any state or territory within the United States, other than
15 this state.

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

18 Sec. 19. K.S.A. 2012 Supp. 22-4906 is hereby amended to read as
19 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted
20 of any of the following offenses, an offender's duration of registration shall
21 be, if confined, 15 years after the date of parole, discharge or release,
22 whichever date is most recent, or, if not confined, 15 years from the date of
23 conviction:

24 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
25 or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

26 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
27 K.S.A. 2012 Supp. 21-5511, and amendments thereto, when one of the
28 parties involved is less than 18 years of age;

29 (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
30 repeal, or K.S.A. 2012 Supp. 21-6421, and amendments thereto, when one
31 of the parties involved is less than 18 years of age;

32 (D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
33 to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto,
34 when one of the parties involved is less than 18 years of age;

35 (E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
36 or K.S.A. 2012 Supp. 21-5401, ~~and amendments thereto prior to its repeal~~;

37 ~~(F) aggravated murder, as defined in section 2, and amendments~~
38 ~~thereto;~~

39 ~~(F)~~ (G) murder in the first degree, as defined in K.S.A. 21-3401, prior
40 to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

41 ~~(G)~~ (H) murder in the second degree, as defined in K.S.A. 21-3402,
42 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
43 thereto;

1 ~~(H)~~ (I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
2 its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

3 ~~(H)~~ (J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
4 to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

5 ~~(H)~~ (K) criminal restraint, as defined in K.S.A. 21-3424, prior to its
6 repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by
7 a parent, and only when the victim is less than 18 years of age;

8 ~~(K)~~ (L) any act which has been determined beyond a reasonable
9 doubt to have been sexually motivated, unless the court, on the record,
10 finds that the act involved non-forcible sexual conduct, the victim was at
11 least 14 years of age and the offender was not more than four years older
12 than the victim;

13 ~~(L)~~ (M) conviction of any person required by court order to register
14 for an offense not otherwise required as provided in the Kansas offender
15 registration act;

16 ~~(M)~~ (N) conviction of any person felony and the court makes a
17 finding on the record that a deadly weapon was used in the commission of
18 such person felony;

19 ~~(N)~~ (O) unlawful manufacture or attempting such of any controlled
20 substance or controlled substance analog as defined in K.S.A. 65-4159,
21 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
22 K.S.A. 2012 Supp. 21-5703, and amendments thereto;

23 ~~(O)~~ (P) possession of ephedrine, pseudoephedrine, red phosphorus,
24 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
25 ammonia or phenylpropanolamine, or their salts, isomers or salts of
26 isomers with intent to use the product to manufacture a controlled
27 substance as defined by subsection (a) of K.S.A. 65-7006, prior to its
28 repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer,
29 or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;

30 ~~(P)~~ (Q) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of
31 K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of
32 K.S.A. 2012 Supp. 21-5705, and amendments thereto; or

33 ~~(Q)~~ (R) any attempt, conspiracy or criminal solicitation, as defined in
34 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
35 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
36 offense defined in this subsection.

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

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

6 (A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
7 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012
8 Supp. 21-5504, and amendments thereto, when one of the parties involved
9 is less than 18 years of age;

10 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
11 prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and
12 amendments thereto;

13 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
14 repeal, or K.S.A. 2012 Supp. 21-5509, and amendments thereto;

15 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
16 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments
17 thereto;

18 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
19 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and
20 amendments thereto;

21 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
22 its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;

23 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
24 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if
25 the victim is 14 or more years of age but less than 18 years of age;

26 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
27 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and
28 amendments thereto;

29 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
30 repeal, or K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the
31 prostitute is 14 or more years of age but less than 18 years of age; or

32 (J) any attempt, conspiracy or criminal solicitation, as defined in
33 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
34 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
35 offense defined in this subsection.

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

43 (c) Upon a second or subsequent conviction of an offense requiring

1 registration, an offender's duration of registration shall be for such
2 offender's lifetime.

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

6 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
7 2012 Supp. 21-5503, and amendments thereto;

8 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
9 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
10 5508, and amendments thereto;

11 (3) aggravated indecent liberties with a child, as defined in K.S.A.
12 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
13 5506, and amendments thereto;

14 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
15 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
16 2012 Supp. 21-5504, and amendments thereto;

17 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
18 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
19 amendments thereto;

20 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
21 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and
22 amendments thereto;

23 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
24 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if
25 the victim is less than 14 years of age;

26 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
27 repeal, or K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the
28 prostitute is less than 14 years of age;

29 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
30 subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

31 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
32 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments
33 thereto; or

34 (11) any attempt, conspiracy or criminal solicitation, as defined in
35 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
36 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
37 offense defined in this subsection.

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

41 (f) Notwithstanding any other provisions of this section, for an
42 offender less than 14 years of age who is adjudicated as a juvenile offender
43 for an act which if committed by an adult would constitute a sexually

1 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
2 amendments thereto, the court shall:

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

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

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

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

23 (g) Notwithstanding any other provisions of this section, for an
24 offender 14 years of age or more who is adjudicated as a juvenile offender
25 for an act which if committed by an adult would constitute a sexually
26 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
27 amendments thereto, and such crime is not an off-grid felony or a felony
28 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
29 4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments
30 thereto, the court shall:

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

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

40 (3) require registration, but such registration information shall not be
41 open to inspection by the public or posted on any internet website, as
42 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
43 registration but such registration is not open to the public, such offender

1 shall provide a copy of such court order to the registering law enforcement
2 agency at the time of registration. The registering law enforcement agency
3 shall forward a copy of such court order to the Kansas bureau of
4 investigation.

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

8 (h) Notwithstanding any other provisions of this section, an offender
9 14 years of age or more who is adjudicated as a juvenile offender for an
10 act which if committed by an adult would constitute a sexually violent
11 crime set forth in subsection (c) of K.S.A. 22-4902, and amendments
12 thereto, and such crime is an off-grid felony or a felony ranked in severity
13 level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its
14 repeal, or K.S.A. 2012 Supp. 21-6804, and amendments thereto, shall be
15 required to register for such offender's lifetime.

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

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

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

37 (l) For any person residing, maintaining employment or attending
38 school in this state who has been convicted or adjudicated by an out of
39 state court of an offense that is comparable to any crime requiring
40 registration pursuant to the Kansas offender registration act, but who was
41 not required to register in the jurisdiction of conviction or adjudication, the
42 duration of registration shall be the duration required for the comparable
43 offense pursuant to the Kansas offender registration act. The duration of

1 registration shall begin upon establishing residency, beginning
2 employment or beginning school.

3 Sec. 20. K.S.A. 2012 Supp. 38-2255 is hereby amended to read as
4 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
5 disposition, the court shall give consideration to:

- 6 (1) The child's physical, mental and emotional condition;
- 7 (2) the child's need for assistance;
- 8 (3) the manner in which the parent participated in the abuse, neglect
9 or abandonment of the child;
- 10 (4) any relevant information from the intake and assessment process;
11 and
- 12 (5) the evidence received at the dispositional hearing.

13 (b) *Custody with a parent*. The court may place the child in the
14 custody of either of the child's parents subject to terms and conditions
15 which the court prescribes to assure the proper care and protection of the
16 child, including, but not limited to:

- 17 (1) Supervision of the child and the parent by a court services officer;
- 18 (2) participation by the child and the parent in available programs
19 operated by an appropriate individual or agency; and
- 20 (3) any special treatment or care which the child needs for the child's
21 physical, mental or emotional health and safety.

22 (c) *Removal of a child from custody of a parent*. The court shall not
23 enter the initial order removing a child from the custody of a parent
24 pursuant to this section unless the court first finds probable cause that: (1)
25 (A) The child is likely to sustain harm if not immediately removed from
26 the home;

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

29 (C) immediate placement of the child is in the best interest of the
30 child; and

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

34 The court shall not enter an order removing a child from the custody of
35 a parent pursuant to this section based solely on the finding that the parent
36 is homeless.

37 (d) *Custody of a child removed from the custody of a parent*. If the
38 court has made the findings required by subsection (c), the court shall
39 enter an order awarding custody to a relative of the child or to a person
40 with whom the child has close emotional ties who shall not be required to
41 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
42 and amendments thereto, to any other suitable person, to a shelter facility,
43 to a youth residential facility or, if the child is 15 years of age or younger,

1 or 16 or 17 years of age if the child has no identifiable parental or family
2 resources or shows signs of physical, mental, emotional or sexual abuse, to
3 the secretary. Custody awarded under this subsection shall continue until
4 further order of the court.

5 (1) When custody is awarded to the secretary, the secretary shall
6 consider any placement recommendation by the court and notify the court
7 of the placement or proposed placement of the child within 10 days of the
8 order awarding custody. After providing the parties or interested parties
9 notice and opportunity to be heard, the court may determine whether the
10 secretary's placement or proposed placement is contrary to the welfare or
11 in the best interests of the child. In making that determination the court
12 shall consider the health and safety needs of the child and the resources
13 available to meet the needs of children in the custody of the secretary. If
14 the court determines that the placement or proposed placement is contrary
15 to the welfare or not in the best interests of the child, the court shall notify
16 the secretary, who shall then make an alternative placement.

17 (2) The custodian designated under this subsection shall notify the
18 court in writing at least 10 days prior to any planned placement with a
19 parent. The written notice shall state the basis for the custodian's belief that
20 placement with a parent is no longer contrary to the welfare or best interest
21 of the child. Upon reviewing the notice, the court may allow the custodian
22 to proceed with the planned placement or may set the date for a hearing to
23 determine if the child shall be allowed to return home. If the court sets a
24 hearing on the matter, the custodian shall not return the child home without
25 written consent of the court.

26 (3) The court may grant any person reasonable rights to visit the child
27 upon motion of the person and a finding that the visitation rights would be
28 in the best interests of the child.

29 (4) The court may enter an order restraining any alleged perpetrator
30 of physical, mental or emotional abuse or sexual abuse of the child from
31 residing in the child's home; visiting, contacting, harassing or intimidating
32 the child, other family member or witness; or attempting to visit, contact,
33 harass or intimidate the child, other family member or witness. Such
34 restraining order shall be served by personal service pursuant to subsection
35 (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on any
36 alleged perpetrator to whom the order is directed.

37 (5) The court shall provide a copy of any orders entered within 10
38 days of entering the order to the custodian designated under this
39 subsection.

40 (e) *Further determinations regarding a child removed from the home.*
41 If custody has been awarded under subsection (d) to a person other than a
42 parent, a permanency plan shall be provided or prepared pursuant to
43 K.S.A. 2012 Supp. 38-2264, and amendments thereto. If a permanency

1 plan is provided at the dispositional hearing, the court may determine
2 whether reintegration is a viable alternative or, if reintegration is not a
3 viable alternative, whether the child should be placed for adoption or a
4 permanent custodian appointed. In determining whether reintegration is a
5 viable alternative, the court shall consider:

6 (1) Whether a parent has been found by a court to have committed
7 one of the following crimes or to have violated the law of another state
8 prohibiting such crimes or to have aided and abetted, attempted, conspired
9 or solicited the commission of one of these crimes: *(A) Capital murder,*
10 *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, prior to*
11 *its repeal; (B) aggravated murder, section 2, and amendments thereto; (A)*
12 *(C) murder in the first degree, K.S.A. 21-3401, prior to its repeal, or*
13 *K.S.A. 2012 Supp. 21-5402, and amendments thereto; (B) (D) murder in*
14 *the second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012*
15 *Supp. 21-5403, and amendments thereto; (C) capital murder, K.S.A. 21-*
16 *3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments*
17 *thereto; (D) (E) voluntary manslaughter, K.S.A. 21-3403, prior to its*
18 *repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto; or (E) (F)*
19 *a felony battery that resulted in bodily injury;*

20 (2) whether a parent has subjected the child or another child to
21 aggravated circumstances;

22 (3) whether a parent has previously been found to be an unfit parent
23 in proceedings under this code or in comparable proceedings under the
24 laws of another state or the federal government;

25 (4) whether the child has been in extended out of home placement;

26 (5) whether the parents have failed to work diligently toward
27 reintegration;

28 (6) whether the secretary has provided the family with services
29 necessary for the safe return of the child to the home; and

30 (7) whether it is reasonable to expect reintegration to occur within a
31 time frame consistent with the child's developmental needs.

32 (f) *Proceedings if reintegration is not a viable alternative.* If the court
33 determines that reintegration is not a viable alternative, proceedings to
34 terminate parental rights and permit placement of the child for adoption or
35 appointment of a permanent custodian shall be initiated unless the court
36 finds that compelling reasons have been documented in the case plan why
37 adoption or appointment of a permanent custodian would not be in the best
38 interests of the child. If compelling reasons have not been documented, the
39 county or district attorney shall file a motion within 30 days to terminate
40 parental rights or a motion to appoint a permanent custodian within 30
41 days and the court shall hold a hearing on the motion within 90 days of its
42 filing. No hearing is required when the parents voluntarily relinquish
43 parental rights or consent to the appointment of a permanent custodian.

1 (g) *Additional orders.* In addition to or in lieu of any other order
2 authorized by this section:

3 (1) The court may order the child and the parents of any child who
4 has been adjudicated a child in need of care to attend counseling sessions
5 as the court directs. The expense of the counseling may be assessed as an
6 expense in the case. No mental health provider shall charge a greater fee
7 for court-ordered counseling than the provider would have charged to the
8 person receiving counseling if the person had requested counseling on the
9 person's own initiative.

10 (2) If the court has reason to believe that a child is before the court
11 due, in whole or in part, to the use or misuse of alcohol or a violation of
12 K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto, by
13 the child, a parent of the child, or another person responsible for the care
14 of the child, the court may order the child, parent of the child or other
15 person responsible for the care of the child to submit to and complete an
16 alcohol and drug evaluation by a qualified person or agency and comply
17 with any recommendations. If the evaluation is performed by a
18 community-based alcohol and drug safety program certified pursuant to
19 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
20 other person responsible for the care of the child shall pay a fee not to
21 exceed the fee established by that statute. If the court finds that the child
22 and those legally liable for the child's support are indigent, the fee may be
23 waived. In no event shall the fee be assessed against the secretary.

24 (3) If child support has been requested and the parent or parents have
25 a duty to support the child, the court may order one or both parents to pay
26 child support and, when custody is awarded to the secretary, the court shall
27 order one or both parents to pay child support. The court shall determine,
28 for each parent separately, whether the parent is already subject to an order
29 to pay support for the child. If the parent is not presently ordered to pay
30 support for any child who is subject to the jurisdiction of the court and the
31 court has personal jurisdiction over the parent, the court shall order the
32 parent to pay child support in an amount determined under K.S.A. 2012
33 Supp. 38-2277, and amendments thereto. Except for good cause shown,
34 the court shall issue an immediate income withholding order pursuant to
35 K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto, for each
36 parent ordered to pay support under this subsection, regardless of whether
37 a payor has been identified for the parent. A parent ordered to pay child
38 support under this subsection shall be notified, at the hearing or otherwise,
39 that the child support order may be registered pursuant to K.S.A. 2012
40 Supp. 38-2279, and amendments thereto. The parent shall also be informed
41 that, after registration, the income withholding order may be served on the
42 parent's employer without further notice to the parent and the child support
43 order may be enforced by any method allowed by law. Failure to provide

1 this notice shall not affect the validity of the child support order.

2 Sec. 21. K.S.A. 2012 Supp. 38-2271 is hereby amended to read as
3 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-
4 414, and amendments thereto, that a parent is unfit by reason of conduct or
5 condition which renders the parent unable to fully care for a child, if the
6 state establishes, by clear and convincing evidence, that:

7 (1) A parent has previously been found to be an unfit parent in
8 proceedings under K.S.A. 2012 Supp. 38-2266 et seq., and amendments
9 thereto, or comparable proceedings under the laws of another jurisdiction;

10 (2) a parent has twice before been convicted of a crime specified in
11 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
12 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
13 Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
14 through 21-6421, and amendments thereto, or comparable offenses under
15 the laws of another jurisdiction, or an attempt or attempts to commit such
16 crimes and the victim was under the age of 18 years;

17 (3) on two or more prior occasions a child in the physical custody of
18 the parent has been adjudicated a child in need of care as defined by
19 subsection (d)(1), (d)(3), (d)(5) or (d)(11) of K.S.A. 2012 Supp. 38-2202,
20 and amendments thereto, or comparable proceedings under the laws of
21 another jurisdiction;

22 (4) the parent has been convicted of causing the death of another
23 child or stepchild of the parent;

24 (5) the child has been in an out-of-home placement, under court order
25 for a cumulative total period of one year or longer and the parent has
26 substantially neglected or willfully refused to carry out a reasonable plan,
27 approved by the court, directed toward reintegration of the child into the
28 parental home;

29 (6) (A) the child has been in an out-of-home placement, under court
30 order for a cumulative total period of two years or longer; (B) the parent
31 has failed to carry out a reasonable plan, approved by the court, directed
32 toward reintegration of the child into the parental home; and (C) there is a
33 substantial probability that the parent will not carry out such plan in the
34 near future;

35 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
36 prior to its repeal, or K.S.A. 2012 Supp. 21-5401, *prior to its repeal*,
37 *aggravated murder, section 2*, and amendments thereto, murder in the first
38 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402,
39 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
40 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
41 thereto, or voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or
42 K.S.A. 2012 Supp. 21-5404, and amendments thereto, or comparable
43 proceedings under the laws of another jurisdiction or, has been adjudicated

1 a juvenile offender because of an act which if committed by an adult
2 would be an offense as provided in this subsection, and the victim of such
3 murder was the other parent of the child;

4 (8) a parent abandoned or neglected the child after having knowledge
5 of the child's birth or either parent has been granted immunity from
6 prosecution for abandonment of the child under subsection (b) of K.S.A.
7 21-3604, prior to its repeal, or subsection (d) of K.S.A. 2012 Supp. 21-
8 5605, and amendments thereto; or

9 (9) a parent has made no reasonable efforts to support or
10 communicate with the child after having knowledge of the child's birth;

11 (10) a father, after having knowledge of the pregnancy, failed without
12 reasonable cause to provide support for the mother during the six months
13 prior to the child's birth;

14 (11) a father abandoned the mother after having knowledge of the
15 pregnancy;

16 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
17 repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto, or
18 comparable proceedings under the laws of another jurisdiction resulting in
19 the conception of the child; or

20 (13) a parent has failed or refused to assume the duties of a parent for
21 two consecutive years next preceding the filing of the petition. In making
22 this determination the court may disregard incidental visitations, contacts,
23 communications or contributions.

24 (b) The burden of proof is on the parent to rebut the presumption of
25 unfitness by a preponderance of the evidence. In the absence of proof that
26 the parent is presently fit and able to care for the child or that the parent
27 will be fit and able to care for the child in the foreseeable future, the court
28 shall terminate parental rights in proceedings pursuant to K.S.A. 2012
29 Supp. 38-2266 et seq., and amendments thereto.

30 Sec. 22. K.S.A. 2012 Supp. 38-2312 is hereby amended to read as
31 follows: 38-2312. (a) Except as provided in subsection (b) and (c), any
32 records or files specified in this code concerning a juvenile may be
33 expunged upon application to a judge of the court of the county in which
34 the records or files are maintained. The application for expungement may
35 be made by the juvenile, if 18 years of age or older or, if the juvenile is
36 less than 18 years of age, by the juvenile's parent or next friend.

37 (b) There shall be no expungement of records or files concerning acts
38 committed by a juvenile which, if committed by an adult, would constitute
39 a violation of *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-
40 5401, and amendments thereto, capital murder; section 2, and
41 amendments thereto, aggravated murder*; K.S.A. 21-3401, prior to its
42 repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto, murder in
43 the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp.

1 21-5403, and amendments thereto, murder in the second degree; K.S.A.
2 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and
3 amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its
4 repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto,
5 involuntary manslaughter; ~~K.S.A. 21-3439, prior to its repeal, or K.S.A.~~
6 ~~2012 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 21-~~
7 ~~3442, prior to its repeal, or subsection (a)(3) of K.S.A. 2012 Supp. 21-~~
8 ~~5405, and amendments thereto, involuntary manslaughter while driving~~
9 ~~under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal,~~
10 ~~or K.S.A. 2012 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-~~
11 ~~3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506,~~
12 ~~and amendments thereto, indecent liberties with a child; K.S.A. 21-3504,~~
13 ~~prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and~~
14 ~~amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-~~
15 ~~3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504,~~
16 ~~and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510,~~
17 ~~prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and~~
18 ~~amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior~~
19 ~~to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and~~
20 ~~amendments thereto, aggravated indecent solicitation of a child; K.S.A.~~
21 ~~21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and~~
22 ~~amendments thereto, sexual exploitation; K.S.A. 21-3603, prior to its~~
23 ~~repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments~~
24 ~~thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or~~
25 ~~subsection (a) of K.S.A. 2012 Supp. 21-5601, and amendments thereto,~~
26 ~~endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2012~~
27 ~~Supp. 21-5602, and amendments thereto, abuse of a child; or which would~~
28 ~~constitute an attempt to commit a violation of any of the offenses specified~~
29 ~~in this subsection.~~

30 (c) Notwithstanding any other law to the contrary, for any offender
31 who is required to register as provided in the Kansas offender registration
32 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
33 expungement of any conviction or any part of the offender's criminal
34 record while the offender is required to register as provided in the Kansas
35 offender registration act.

36 (d) When a petition for expungement is filed, the court shall set a date
37 for a hearing on the petition and shall give notice thereof to the county or
38 district attorney. The petition shall state: (1) The juvenile's full name; (2)
39 the full name of the juvenile as reflected in the court record, if different
40 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
41 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
42 of the trial court. Except as otherwise provided by law, a petition for
43 expungement shall be accompanied by a docket fee in the amount of \$100.

1 On and after the effective date of this act through June 30, 2013, the
2 supreme court may impose a charge, not to exceed \$19 per case, to fund
3 the costs of non-judicial personnel. All petitions for expungement shall be
4 docketed in the original action. Any person who may have relevant
5 information about the petitioner may testify at the hearing. The court may
6 inquire into the background of the petitioner.

7 (e) (1) After hearing, the court shall order the expungement of the
8 records and files if the court finds that:

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

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

16 (C) the circumstances and behavior of the petitioner warrant
17 expungement.

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

20 (f) Upon entry of an order expunging records or files, the offense
21 which the records or files concern shall be treated as if it never occurred,
22 except that upon conviction of a crime or adjudication in a subsequent
23 action under this code the offense may be considered in determining the
24 sentence to be imposed. The petitioner, the court and all law enforcement
25 officers and other public offices and agencies shall properly reply on
26 inquiry that no record or file exists with respect to the juvenile. Inspection
27 of the expunged files or records thereafter may be permitted by order of
28 the court upon petition by the person who is the subject thereof. The
29 inspection shall be limited to inspection by the person who is the subject of
30 the files or records and the person's designees.

31 (g) A certified copy of any order made pursuant to subsection (a) or
32 (d) shall be sent to the Kansas bureau of investigation, which shall notify
33 every juvenile or criminal justice agency which may possess records or
34 files ordered to be expunged. If the agency fails to comply with the order
35 within a reasonable time after its receipt, such agency may be adjudged in
36 contempt of court and punished accordingly.

37 (h) The court shall inform any juvenile who has been adjudicated a
38 juvenile offender of the provisions of this section.

39 (i) Nothing in this section shall be construed to prohibit the
40 maintenance of information relating to an offense after records or files
41 concerning the offense have been expunged if the information is kept in a
42 manner that does not enable identification of the juvenile.

43 (j) Nothing in this section shall be construed to permit or require

1 expungement of files or records related to a child support order registered
2 pursuant to the revised Kansas juvenile justice code.

3 (k) Whenever the records or files of any adjudication have been
4 expunged under the provisions of this section, the custodian of the records
5 or files of adjudication relating to that offense shall not disclose the
6 existence of such records or files, except when requested by:

7 (1) The person whose record was expunged;

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

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

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

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

21 (6) 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 (7) the governor or the Kansas racing commission, or a designee of
27 the commission, and the request is accompanied by a statement that the
28 request is being made to aid in determining qualifications for executive
29 director of the commission, for employment with the commission, for
30 work in sensitive areas in parimutuel racing as deemed appropriate by the
31 executive director of the commission or for licensure, renewal of licensure
32 or continued licensure by the commission;

33 (8) the Kansas sentencing commission; or

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

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

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

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

43 Sec. 23. K.S.A. 2012 Supp. 38-2365 is hereby amended to read as

1 follows: 38-2365. (a) When a juvenile offender has been placed in the
2 custody of the commissioner, the commissioner shall have a reasonable
3 time to make a placement. If the juvenile offender has not been placed, any
4 party who believes that the amount of time elapsed without placement has
5 exceeded a reasonable time may file a motion for review with the court. In
6 determining what is a reasonable amount of time, matters considered by
7 the court shall include, but not be limited to, the nature of the underlying
8 offense, efforts made for placement of the juvenile offender and the
9 availability of a suitable placement. The commissioner shall notify the
10 court, the juvenile's attorney of record and the juvenile's parent, in writing,
11 of the initial placement and any subsequent change of placement as soon
12 as the placement has been accomplished. The notice to the juvenile
13 offender's parent shall be sent to such parent's last known address or
14 addresses. The court shall have no power to direct a specific placement by
15 the commissioner, but may make recommendations to the commissioner.
16 The commissioner may place the juvenile offender in an institution
17 operated by the commissioner, a youth residential facility or any other
18 appropriate placement. If the court has recommended an out-of-home
19 placement, the commissioner may not return the juvenile offender to the
20 home from which removed without first notifying the court of the plan.

21 (b) If a juvenile is in the custody of the commissioner, the
22 commissioner shall prepare and present a permanency plan at sentencing
23 or within 30 days thereafter. If a permanency plan is already in place under
24 a child in need of care proceeding, the court may adopt the plan under the
25 present proceeding. The written permanency plan shall provide for
26 reintegration of the juvenile into such juvenile's family or, if reintegration
27 is not a viable alternative, for other permanent placement of the juvenile.
28 Reintegration may not be a viable alternative when: (1) The parent has
29 been found by a court to have committed *capital murder*, K.S.A. 21-3439,
30 *prior to its repeal*, or K.S.A. 2012 Supp. 21-5401, *prior to its repeal*,
31 *aggravated murder*, section 2, and *amendments thereto*, murder in the first
32 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402,
33 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
34 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
35 thereto, ~~capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012~~
36 ~~Supp. 21-5401, and amendments thereto~~, voluntary manslaughter, K.S.A.
37 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and
38 amendments thereto, of a child or violated a law of another state which
39 prohibits such murder or manslaughter of a child;

40 (2) the parent aided or abetted, attempted, conspired or solicited to
41 commit such murder or voluntary manslaughter of a child;

42 (3) the parent committed a felony battery that resulted in bodily
43 injury to the juvenile who is the subject of this proceeding or another

1 child;

2 (4) the parent has subjected the juvenile who is the subject of this
3 proceeding or another child to aggravated circumstances as defined in
4 K.S.A. 38-1502, and amendments thereto;

5 (5) the parental rights of the parent to another child have been
6 terminated involuntarily; or

7 (6) the juvenile has been in extended out-of-home placement as
8 defined in K.S.A. 2012 Supp. 38-2202, and amendments thereto.

9 (c) If the juvenile is placed in the custody of the commissioner, the
10 plan shall be prepared and submitted by the commissioner. If the juvenile
11 is placed in the custody of a facility or person other than the commissioner,
12 the plan shall be prepared and submitted by a court services officer. If the
13 permanency goal is reintegration into the family, the permanency plan
14 shall include measurable objectives and time schedules for reintegration.

15 (d) During the time a juvenile remains in the custody of the
16 commissioner, the commissioner shall submit to the court, at least every
17 six months, a written report of the progress being made toward the goals of
18 the permanency plan submitted pursuant to subsections (b) and (c) and the
19 specific actions taken to achieve the goals of the permanency plan. If the
20 juvenile is placed in foster care, the court may request the foster parent to
21 submit to the court, at least every six months, a report in regard to the
22 juvenile's adjustment, progress and condition. Such report shall be made a
23 part of the juvenile's court social file. The court shall review the plan
24 submitted by the commissioner and the report, if any, submitted by the
25 foster parent and determine whether reasonable efforts and progress have
26 been made to achieve the goals of the permanency plan. If the court
27 determines that progress is inadequate or that the permanency plan is no
28 longer viable, the court shall hold a hearing pursuant to subsection (e).

29 (e) When the commissioner has custody of the juvenile, a
30 permanency hearing shall be held no more than 12 months after the
31 juvenile is first placed outside such juvenile's home and at least every 12
32 months thereafter. Juvenile offenders who have been in extended out-of-
33 home placement shall be provided a permanency hearing within 30 days of
34 a request from the commissioner. The court may appoint a guardian ad
35 litem to represent the juvenile offender at the permanency hearing. At each
36 hearing, the court shall make a written finding whether reasonable efforts
37 have been made to accomplish the permanency goal and whether
38 continued out-of-home placement is necessary for the juvenile's safety.

39 (f) Whenever a hearing is required under subsection (e), the court
40 shall notify all interested parties of the hearing date, the commissioner,
41 foster parent and preadoptive parent or relatives providing care for the
42 juvenile and hold a hearing. Individuals receiving notice pursuant to this
43 subsection shall not be made a party to the action solely on the basis of this

1 notice and opportunity to be heard. After providing the persons receiving
2 notice an opportunity to be heard, the court shall determine whether the
3 juvenile's needs are being adequately met; whether services set out in the
4 permanency plan necessary for the safe return of the juvenile have been
5 made available to the parent with whom reintegration is planned; and
6 whether reasonable efforts and progress have been made to achieve the
7 goals of the permanency plan.

8 (g) If the court finds reintegration continues to be a viable alternative,
9 the court shall determine whether and, if applicable, when the juvenile will
10 be returned to the parent. The court may rescind any of its prior
11 dispositional orders and enter any dispositional order authorized by this
12 code or may order that a new plan for the reintegration be prepared and
13 submitted to the court. If reintegration cannot be accomplished as
14 approved by the court, the court shall be informed and shall schedule a
15 hearing pursuant to subsection (h). No such hearing is required when the
16 parent voluntarily relinquishes parental rights or agrees to appointment of
17 a permanent guardian.

18 (h) When the court finds any of the following conditions exist, the
19 county or district attorney or the county or district attorney's designee shall
20 file a petition alleging the juvenile to be a child in need of care and
21 requesting termination of parental rights pursuant to the Kansas code for
22 care of children: (1) The court determines that reintegration is not a viable
23 alternative and either adoption or permanent guardianship might be in the
24 best interests of the juvenile;

25 (2) the goal of the permanency plan is reintegration into the family
26 and the court determines after 12 months from the time such plan is first
27 submitted that progress is inadequate; or

28 (3) the juvenile has been in out-of-home placement for a cumulative
29 total of 15 of the last 22 months, excluding trial home visits and juvenile in
30 runaway status.

31 Nothing in this subsection shall be interpreted to prohibit termination of
32 parental rights prior to the expiration of 12 months.

33 (i) A petition to terminate parental rights is not required to be filed if
34 one of the following exceptions is documented to exist: (1) The juvenile is
35 in a stable placement with relatives;

36 (2) services set out in the case plan necessary for the safe return of
37 the juvenile have not been made available to the parent with whom
38 reintegration is planned; or

39 (3) there are one or more documented reasons why such filing would
40 not be in the best interests of the juvenile. Documented reasons may
41 include, but are not limited to: The juvenile has close emotional bonds
42 with a parent which should not be broken; the juvenile is 14 years of age
43 or older and, after advice and counsel, refuses to be adopted; insufficient

1 grounds exist for termination of parental rights; the juvenile is an
2 unaccompanied refugee minor; or there are international legal or
3 compelling foreign policy reasons precluding termination of parental
4 rights.

5 Sec. 24. K.S.A. 2012 Supp. 39-970 is hereby amended to read as
6 follows: 39-970. (a) (1) No person shall knowingly operate an adult care
7 home if, in the adult care home, there works any person who has been
8 convicted of or has been adjudicated a juvenile offender because of having
9 committed an act which if done by an adult would constitute the
10 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
11 repeal, or K.S.A. 2012 Supp. 21-5401, *prior to its repeal, aggravated*
12 *murder, pursuant to section 2*, and amendments thereto, first degree
13 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012
14 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
15 to subsection (a) of K.S.A. 21-3402, prior to its repeal, or subsection (a) of
16 K.S.A. 2012 Supp. 21-5403, and amendments thereto, voluntary
17 manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A.
18 2012 Supp. 21-5404, and amendments thereto, assisting suicide pursuant
19 to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 Supp. 21-5407, and
20 amendments thereto, mistreatment of a dependent adult, pursuant to
21 K.S.A. 21-3437, prior to its repeal, or K.S.A. 2012 Supp. 21-5417, and
22 amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal,
23 or K.S.A. 2012 Supp. 21-5503, and amendments thereto, indecent liberties
24 with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or subsection
25 (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, aggravated
26 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
27 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments
28 thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to
29 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
30 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
31 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-
32 5508, and amendments thereto, aggravated indecent solicitation of a child,
33 pursuant to K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A.
34 2012 Supp. 21-5508, and amendments thereto, sexual exploitation of a
35 child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp.
36 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-
37 3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505,
38 and amendments thereto, or aggravated sexual battery, pursuant to K.S.A.
39 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
40 5505, and amendments thereto, an attempt to commit any of the crimes
41 listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its
42 repeal, or K.S.A. 2012 Supp. 21-5301, and amendments thereto, a
43 conspiracy to commit any of the crimes listed in this subsection (a)(1),

1 pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp. 21-
2 5302, and amendments thereto, or criminal solicitation of any of the
3 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, prior to
4 its repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto, or
5 similar statutes of other states or the federal government. The provisions of
6 subsection (a)(2)(C) shall not apply to any person who is employed by an
7 adult care home on July 1, 2010, and while continuously employed by the
8 same adult care home.

9 (2) A person operating an adult care home may employ an applicant
10 who has been convicted of any of the following if five or more years have
11 elapsed since the applicant satisfied the sentence imposed or was
12 discharged from probation, a community correctional services program,
13 parole, postrelease supervision, conditional release or a suspended
14 sentence; or if five or more years have elapsed since the applicant has been
15 finally discharged from the custody of the commissioner of juvenile justice
16 or from probation or has been adjudicated a juvenile offender, whichever
17 time is longer: A felony conviction for a crime which is described in: (A)
18 Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their
19 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or
20 K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
21 amendments thereto, except those crimes listed in subsection (a)(1); (B)
22 articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to
23 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
24 Annotated, or K.S.A. 2012 Supp. 21-6419 through 21-6421, and
25 amendments thereto, except those crimes listed in subsection (a)(1) and
26 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2012 Supp. 21-5606, and
27 amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
28 2012 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
29 any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-
30 3301, prior to its repeal, or K.S.A. 2012 Supp. 21-5301, and amendments
31 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
32 (a)(2) pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp.
33 21-5302, and amendments thereto; (F) criminal solicitation of any of the
34 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, prior to its
35 repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto; or (G)
36 similar statutes of other states or the federal government.

37 (b) No person shall operate an adult care home if such person has
38 been found to be in need of a guardian or conservator, or both as provided
39 in K.S.A. 59-3050 through 59-3095, and amendments thereto. The
40 provisions of this subsection shall not apply to a minor found to be in need
41 of a guardian or conservator for reasons other than impairment.

42 (c) The secretary of health and environment shall have access to any
43 criminal history record information in the possession of the Kansas bureau

1 of investigation regarding any criminal history information, convictions
2 under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or
3 K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and
4 amendments thereto, adjudications of a juvenile offender which if
5 committed by an adult would have been a felony conviction, and
6 adjudications of a juvenile offender for an offense described in K.S.A. 21-
7 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
8 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
9 concerning persons working in an adult care home. The secretary shall
10 have access to these records for the purpose of determining whether or not
11 the adult care home meets the requirements of this section. The Kansas
12 bureau of investigation may charge to the department of health and
13 environment a reasonable fee for providing criminal history record
14 information under this subsection.

15 (d) For the purpose of complying with this section, the operator of an
16 adult care home shall request from the department of health and
17 environment information regarding any criminal history information,
18 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
19 repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-
20 5801, and amendments thereto, adjudications of a juvenile offender which
21 if committed by an adult would have been a felony conviction, and
22 adjudications of a juvenile offender for an offense described in K.S.A. 21-
23 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
24 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
25 and which relates to a person who works in the adult care home, or is
26 being considered for employment by the adult care home, for the purpose
27 of determining whether such person is subject to the provision of this
28 section. For the purpose of complying with this section, the operator of an
29 adult care home shall receive from any employment agency which
30 provides employees to work in the adult care home written certification
31 that such employees are not prohibited from working in the adult care
32 home under this section. For the purpose of complying with this section,
33 information relating to convictions and adjudications by the federal
34 government or to convictions and adjudications in states other than Kansas
35 shall not be required until such time as the secretary of health and
36 environment determines the search for such information could reasonably
37 be performed and the information obtained within a two-week period. For
38 the purpose of complying with this section, a person who operates an adult
39 care home may hire an applicant for employment on a conditional basis
40 pending the results from the department of health and environment of a
41 request for information under this subsection. No adult care home, the
42 operator or employees of an adult care home or an employment agency, or
43 the operator or employees of an employment agency, shall be liable for

1 civil damages resulting from any decision to employ, to refuse to employ
2 or to discharge from employment any person based on such adult care
3 home's compliance with the provisions of this section if such adult care
4 home or employment agency acts in good faith to comply with this
5 section.

6 (e) The secretary of health and environment shall charge each person
7 requesting information under this section a fee equal to cost, not to exceed
8 \$10, for each name about which an information request has been submitted
9 to the department under this section.

10 (f) (1) The secretary of health and environment shall provide each
11 operator requesting information under this section with the criminal
12 history record information concerning any criminal history information
13 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
14 repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-
15 5801, and amendments thereto, in writing and within three working days
16 of receipt of such information from the Kansas bureau of investigation.
17 The criminal history record information shall be provided regardless of
18 whether the information discloses that the subject of the request has been
19 convicted of an offense enumerated in subsection (a).

20 (2) When an offense enumerated in subsection (a) exists in the
21 criminal history record information, and when further confirmation
22 regarding criminal history record information is required from the
23 appropriate court of jurisdiction or Kansas department of corrections, the
24 secretary shall notify each operator that requests information under this
25 section in writing and within three working days of receipt from the
26 Kansas bureau of investigation that further confirmation is required. The
27 secretary shall provide to the operator requesting information under this
28 section information in writing and within three working days of receipt of
29 such information from the appropriate court of jurisdiction or Kansas
30 department of corrections regarding confirmation regarding the criminal
31 history record information.

32 (3) Whenever the criminal history record information reveals that the
33 subject of the request has no criminal history on record, the secretary shall
34 provide notice to each operator requesting information under this section,
35 in writing and within three working days after receipt of such information
36 from the Kansas bureau of investigation.

37 (4) The secretary of health and environment shall not provide each
38 operator requesting information under this section with the juvenile
39 criminal history record information which relates to a person subject to a
40 background check as is provided by K.S.A. 2012 Supp. 38-2326, and
41 amendments thereto, except for adjudications of a juvenile offender for an
42 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2012
43 Supp. 21-5801, and amendments thereto. The secretary shall notify the

1 operator that requested the information, in writing and within three
2 working days of receipt of such information from the Kansas bureau of
3 investigation, whether juvenile criminal history record information
4 received pursuant to this section reveals that the operator would or would
5 not be prohibited by this section from employing the subject of the request
6 for information and whether such information contains adjudications of a
7 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
8 repeal, or K.S.A. 2012 Supp. 21-5801, and amendments thereto.

9 (5) An operator who receives criminal history record information
10 under this subsection (f) shall keep such information confidential, except
11 that the operator may disclose such information to the person who is the
12 subject of the request for information. A violation of this paragraph (5)
13 shall be an unclassified misdemeanor punishable by a fine of \$100.

14 (g) No person who works for an adult care home and who is currently
15 licensed or registered by an agency of this state to provide professional
16 services in the state and who provides such services as part of the work
17 which such person performs for the adult care home shall be subject to the
18 provisions of this section.

19 (h) A person who volunteers in an adult care home shall not be
20 subject to the provisions of this section because of such volunteer activity.

21 (i) An operator may request from the department of health and
22 environment criminal history information on persons employed under
23 subsections (g) and (h).

24 (j) No person who has been employed by the same adult care home
25 since July 1, 1992, shall be subject to the provisions of this section while
26 employed by such adult care home.

27 (k) The operator of an adult care home shall not be required under
28 this section to conduct a background check on an applicant for
29 employment with the adult care home if the applicant has been the subject
30 of a background check under this act within one year prior to the
31 application for employment with the adult care home. The operator of an
32 adult care home where the applicant was the subject of such background
33 check may release a copy of such background check to the operator of an
34 adult care home where the applicant is currently applying.

35 (l) No person who is in the custody of the secretary of corrections and
36 who provides services, under direct supervision in nonpatient areas, on the
37 grounds or other areas designated by the superintendent of the Kansas
38 soldiers' home or the Kansas veterans' home shall be subject to the
39 provisions of this section while providing such services.

40 (m) For purposes of this section, the Kansas bureau of investigation
41 shall report any criminal history information, convictions under K.S.A. 21-
42 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
43 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,

1 adjudications of a juvenile offender which if committed by an adult would
2 have been a felony conviction, and adjudications of a juvenile offender for
3 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
4 their repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and
5 21-5801, and amendments thereto, to the secretary of health and
6 environment when a background check is requested.

7 (n) This section shall be part of and supplemental to the adult care
8 home licensure act.

9 Sec. 25. K.S.A. 2012 Supp. 65-5117 is hereby amended to read as
10 follows: 65-5117. (a) (1) No person shall knowingly operate a home health
11 agency if, for the home health agency, there works any person who has
12 been convicted of or has been adjudicated a juvenile offender because of
13 having committed an act which if done by an adult would constitute the
14 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
15 repeal, or K.S.A. 2012 Supp. 21-5401, *prior to its repeal, aggravated*
16 *murder, pursuant to section 2*, and amendments thereto, first degree
17 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012
18 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
19 to subsection (a) of K.S.A. 21-3402, prior to its repeal, or subsection (a) of
20 K.S.A. 2012 Supp. 21-5403, and amendments thereto, voluntary
21 manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A.
22 2012 Supp. 21-5404, and amendments thereto, assisting suicide, pursuant
23 to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 Supp. 21-5407, and
24 amendments thereto, mistreatment of a dependent adult, pursuant to
25 K.S.A. 21-3437, prior to its repeal, or K.S.A. 2012 Supp. 21-5417, and
26 amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal,
27 or K.S.A. 2012 Supp. 21-5503, and amendments thereto, indecent liberties
28 with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or subsection
29 (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, aggravated
30 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
31 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments
32 thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to
33 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
34 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
35 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-
36 5508, and amendments thereto, aggravated indecent solicitation of a child,
37 pursuant to K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A.
38 2012 Supp. 21-5508, and amendments thereto, sexual exploitation of a
39 child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp.
40 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-
41 3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505,
42 and amendments thereto, or aggravated sexual battery, pursuant to K.S.A.
43 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-

1 5505, and amendments thereto, an attempt to commit any of the crimes
2 listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its
3 repeal, or K.S.A. 2012 Supp. 21-5301, and amendments thereto, a
4 conspiracy to commit any of the crimes listed in this subsection (a)(1),
5 pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp. 21-
6 5302, and amendments thereto, or criminal solicitation of any of the
7 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, prior to
8 its repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto, or
9 similar statutes of other states or the federal government. The provisions of
10 subsection (a)(2)(C) shall not apply to any person who is employed by a
11 home health agency on July 1, 2010, and while continuously employed by
12 the same home health agency.

13 (2) A person operating a home health agency may employ an
14 applicant who has been convicted of any of the following if five or more
15 years have elapsed since the applicant satisfied the sentence imposed or
16 was discharged from probation, a community correctional services
17 program, parole, postrelease supervision, conditional release or a
18 suspended sentence; or if five or more years have elapsed since the
19 applicant has been finally discharged from the custody of the
20 commissioner of juvenile justice or from probation or has been adjudicated
21 a juvenile offender, whichever time is longer: (A) Article 34 of chapter 21 of the Kansas
22 Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the
23 Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-
24 6326 or 21-6418, and amendments thereto, except those crimes listed in
25 subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
26 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
27 Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6419 through 21-
28 6421, and amendments thereto, except those crimes listed in subsection (a)
29 (1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2012 Supp. 21-5606,
30 and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
31 2012 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
32 any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-
33 3301, prior to its repeal, or K.S.A. 2012 Supp. 21-5301, and amendments
34 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
35 (a)(2) pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp.
36 21-5302, and amendments thereto; (F) criminal solicitation of any of the
37 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, prior to its
38 repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto; or (G)
39 similar statutes of other states or the federal government.
40

41 (b) No person shall operate a home health agency if such person has
42 been found to be a person in need of a guardian or a conservator, or both,
43 as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

1 The provisions of this subsection shall not apply to a minor found to be in
2 need of a guardian or conservator for reasons other than impairment.

3 (c) The secretary of health and environment shall have access to any
4 criminal history record information in the possession of the Kansas bureau
5 of investigation regarding any criminal history information, convictions
6 under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or
7 K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and
8 amendments thereto, adjudications of a juvenile offender which if
9 committed by an adult would have been a felony conviction, and
10 adjudications of a juvenile offender for an offense described in K.S.A. 21-
11 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
12 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
13 concerning persons working for a home health agency. The secretary shall
14 have access to these records for the purpose of determining whether or not
15 the home health agency meets the requirements of this section. The Kansas
16 bureau of investigation may charge to the department of health and
17 environment a reasonable fee for providing criminal history record
18 information under this subsection.

19 (d) For the purpose of complying with this section, the operator of a
20 home health agency shall request from the department of health and
21 environment information regarding any criminal history information,
22 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
23 repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-
24 5801, and amendments thereto, adjudications of a juvenile offender which
25 if committed by an adult would have been a felony conviction, and
26 adjudications of a juvenile offender for an offense described in K.S.A. 21-
27 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
28 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
29 and which relates to a person who works for the home health agency or is
30 being considered for employment by the home health agency, for the
31 purpose of determining whether such person is subject to the provisions of
32 this section. For the purpose of complying with this section, information
33 relating to convictions and adjudications by the federal government or to
34 convictions and adjudications in states other than Kansas shall not be
35 required until such time as the secretary of health and environment
36 determines the search for such information could reasonably be performed
37 and the information obtained within a two-week period. For the purpose of
38 complying with this section, the operator of a home health agency shall
39 receive from any employment agency which provides employees to work
40 for the home health agency written certification that such employees are
41 not prohibited from working for the home health agency under this
42 section. For the purpose of complying with this section, a person who
43 operates a home health agency may hire an applicant for employment on a

1 conditional basis pending the results from the department of health and
2 environment of a request for information under this subsection. No home
3 health agency, the operator or employees of a home health agency or an
4 employment agency, or the operator or employees of an employment
5 agency, which provides employees to work for the home health agency
6 shall be liable for civil damages resulting from any decision to employ, to
7 refuse to employ or to discharge from employment any person based on
8 such home health agency's compliance with the provisions of this section
9 if such home health agency or employment agency acts in good faith to
10 comply with this section.

11 (e) The secretary of health and environment shall charge each person
12 requesting information under this section a fee equal to cost, not to exceed
13 \$10, for each name about which an information request has been submitted
14 under this section.

15 (f) (1) The secretary of health and environment shall provide each
16 operator requesting information under this section with the criminal
17 history record information concerning any criminal history information
18 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
19 repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-
20 5801, and amendments thereto, in writing and within three working days
21 of receipt of such information from the Kansas bureau of investigation.
22 The criminal history record information shall be provided regardless of
23 whether the information discloses that the subject of the request has been
24 convicted of an offense enumerated in subsection (a).

25 (2) When an offense enumerated in subsection (a) exists in the
26 criminal history record information, and when further confirmation
27 regarding criminal history record information is required from the
28 appropriate court of jurisdiction or Kansas department of corrections, the
29 secretary shall notify each operator that requests information under this
30 section in writing and within three working days of receipt from the
31 Kansas bureau of investigation that further confirmation is required. The
32 secretary shall provide to the operator requesting information under this
33 section information in writing and within three working days of receipt of
34 such information from the appropriate court of jurisdiction or Kansas
35 department of corrections regarding confirmation regarding the criminal
36 history record information.

37 (3) Whenever the criminal history record information reveals that the
38 subject of the request has no criminal history on record, the secretary shall
39 provide notice to each operator requesting information under this section,
40 in writing and within three working days after receipt of such information
41 from the Kansas bureau of investigation.

42 (4) The secretary of health and environment shall not provide each
43 operator requesting information under this section with the juvenile

1 criminal history record information which relates to a person subject to a
2 background check as is provided by K.S.A. 2012 Supp. 38-2326, and
3 amendments thereto, except for adjudications of a juvenile offender for an
4 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2012
5 Supp. 21-5801, and amendments thereto. The secretary shall notify the
6 operator that requested the information, in writing and within three
7 working days of receipt of such information from the Kansas bureau of
8 investigation, whether juvenile criminal history record information
9 received pursuant to this section reveals that the operator would or would
10 not be prohibited by this section from employing the subject of the request
11 for information and whether such information contains adjudications of a
12 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
13 repeal, or K.S.A. 2012 Supp. 21-5801, and amendments thereto.

14 (5) An operator who receives criminal history record information
15 under this subsection (f) shall keep such information confidential, except
16 that the operator may disclose such information to the person who is the
17 subject of the request for information. A violation of this paragraph (5)
18 shall be an unclassified misdemeanor punishable by a fine of \$100.

19 (g) No person who works for a home health agency and who is
20 currently licensed or registered by an agency of this state to provide
21 professional services in this state and who provides such services as part of
22 the work which such person performs for the home health agency shall be
23 subject to the provisions of this section.

24 (h) A person who volunteers to assist a home health agency shall not
25 be subject to the provisions of this section because of such volunteer
26 activity.

27 (i) An operator may request from the department of health and
28 environment criminal history information on persons employed under
29 subsections (g) and (h).

30 (j) No person who has been employed by the same home health
31 agency since July 1, 1992, shall be subject to the requirements of this
32 section while employed by such home health agency.

33 (k) The operator of a home health agency shall not be required under
34 this section to conduct a background check on an applicant for
35 employment with the home health agency if the applicant has been the
36 subject of a background check under this act within one year prior to the
37 application for employment with the home health agency. The operator of
38 a home health agency where the applicant was the subject of such
39 background check may release a copy of such background check to the
40 operator of a home health agency where the applicant is currently
41 applying.

42 (l) For purposes of this section, the Kansas bureau of investigation
43 shall only report felony convictions, convictions under K.S.A. 21-3437,

1 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-5417,
2 subsection (a) of 21-5505 and 21-5801, and amendments thereto,
3 adjudications of a juvenile offender which if committed by an adult would
4 have been a felony conviction, and adjudications of a juvenile offender for
5 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
6 their repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and
7 21-5801, and amendments thereto, to the secretary of health and
8 environment when a background check is requested.

9 (m) This section shall be part of and supplemental to the provisions
10 of article 51 of chapter 65 of the Kansas Statutes Annotated, and
11 amendments thereto.

12 Sec. 26. K.S.A. 2012 Supp. 72-1397 is hereby amended to read as
13 follows: 72-1397. (a) The state board of education shall not knowingly
14 issue a license to or renew the license of any person who has been
15 convicted of:

16 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
17 2012 Supp. 21-5503, and amendments thereto;

18 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
19 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and
20 amendments thereto;

21 (3) aggravated indecent liberties with a child, as defined in K.S.A.
22 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
23 5506, and amendments thereto;

24 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
25 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
26 2012 Supp. 21-5504, and amendments thereto;

27 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
28 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
29 amendments thereto;

30 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
31 prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and
32 amendments thereto;

33 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
34 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
35 5508, and amendments thereto;

36 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
37 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

38 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
39 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments
40 thereto;

41 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
42 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5601, and
43 amendments thereto;

1 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
2 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;

3 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
4 or K.S.A. 2012 Supp. 21-5401, ~~and amendments thereto prior to its repeal~~;

5 (13) *aggravated murder, as defined in section 2, and amendments*
6 *thereto*;

7 ~~(13)~~ (14) murder in the first degree, as defined in K.S.A. 21-3401,
8 prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments
9 thereto;

10 ~~(14)~~ (15) murder in the second degree, as defined in K.S.A. 21-3402,
11 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
12 thereto;

13 ~~(15)~~ (16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
14 to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

15 ~~(16)~~ (17) involuntary manslaughter, as defined in K.S.A. 21-3404,
16 prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments
17 thereto;

18 ~~(17)~~ (18) involuntary manslaughter while driving under the influence
19 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;

20 ~~(18)~~ (19) sexual battery, as defined in K.S.A. 21-3517, prior to its
21 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments
22 thereto, when, at the time the crime was committed, the victim was less
23 than 18 years of age or a student of the person committing such crime;

24 ~~(19)~~ (20) aggravated sexual battery, as defined in K.S.A. 21-3518,
25 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and
26 amendments thereto;

27 ~~(20)~~ (21) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
28 2012 Supp. 21-5301, and amendments thereto, to commit any act specified
29 in this subsection;

30 ~~(21)~~ (22) conspiracy under K.S.A. 21-3302, prior to its repeal, or
31 K.S.A. 2012 Supp. 21-5302, and amendments thereto, to commit any act
32 specified in this subsection;

33 ~~(22)~~ (23) an act in another state or by the federal government that is
34 comparable to any act described in this subsection; or

35 ~~(23)~~ (24) an offense in effect at any time prior to the effective date of
36 this act that is comparable to an offense as provided in this subsection.

37 (b) Except as provided in subsection (c), the state board of education
38 shall not knowingly issue a license to or renew the license of any person
39 who has been convicted of, or has entered into a criminal diversion
40 agreement after having been charged with:

41 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
42 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes
43 Annotated, and amendments thereto, or any felony violation of any

1 provision of the uniform controlled substances act prior to July 1, 2009;

2 (2) a felony described in any section of article 34 of chapter 21 of the
3 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
4 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325,
5 21-6326 or 21-6418, and amendments thereto, other than an act specified
6 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
7 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5413, and amendments
8 thereto, or domestic battery, as described in K.S.A. 21-3412a, prior to its
9 repeal, or K.S.A. 2012 Supp. 21-5414, and amendments thereto, if the
10 victim is a minor or student;

11 (3) a felony described in any section of article 35 of chapter 21 of the
12 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
13 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6419 through
14 21-6421, and amendments thereto, other than an act specified in
15 subsection (a);

16 (4) any act described in any section of article 36 of chapter 21 of the
17 Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21
18 of the Kansas Statutes Annotated, and amendments thereto, other than an
19 act specified in subsection (a);

20 (5) a felony described in article 37 of chapter 21 of the Kansas
21 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
22 Kansas Statutes Annotated, or subsection (a)(6) of K.S.A. 2012 Supp. 21-
23 6412, and amendments thereto;

24 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
25 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-6401, and amendments
26 thereto, promoting obscenity to minors, as described in K.S.A. 21-4301a,
27 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-6401, and
28 amendments thereto, or promoting to minors obscenity harmful to minors,
29 as described in K.S.A. 21-4301c, prior to its repeal, or K.S.A. 2012 Supp.
30 21-6402, and amendments thereto;

31 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
32 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5601, and amendments
33 thereto;

34 (8) driving under the influence of alcohol or drugs in violation of
35 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is
36 punishable as a felony;

37 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2012
38 Supp. 21-5301, and amendments thereto, to commit any act specified in
39 this subsection;

40 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
41 2012 Supp. 21-5302, and amendments thereto, to commit any act specified
42 in this subsection; or

43 (11) an act committed in violation of a federal law or in violation of

1 another state's law that is comparable to any act described in this
2 subsection.

3 (c) The state board of education may issue a license to or renew the
4 license of a person who has been convicted of committing an offense or
5 act described in subsection (b) or who has entered into a criminal diversion
6 agreement after having been charged with an offense or act described in
7 subsection (b) if the state board determines, following a hearing, that the
8 person has been rehabilitated for a period of at least five years from the
9 date of conviction of the offense or commission of the act or, in the case of
10 a person who has entered into a criminal diversion agreement, that the
11 person has satisfied the terms and conditions of the agreement. The state
12 board of education may consider factors including, but not limited to, the
13 following in determining whether to grant a license:

- 14 (1) The nature and seriousness of the offense or act;
15 (2) the conduct of the person subsequent to commission of the
16 offense or act;
17 (3) the time elapsed since the commission of the offense or act;
18 (4) the age of the person at the time of the offense or act;
19 (5) whether the offense or act was an isolated or recurring incident;
20 and
21 (6) discharge from probation, pardon or expungement.

22 (d) Before any license is denied by the state board of education for
23 any of the offenses or acts specified in subsections (a) and (b), the person
24 shall be given notice and an opportunity for a hearing in accordance with
25 the provisions of the Kansas administrative procedure act.

26 (e) The county or district attorney shall file a report with the state
27 board of education indicating the name, address and social security
28 number of any person who has been determined to have committed any
29 offense or act specified in subsection (a) or (b) or to have entered into a
30 criminal diversion agreement after having been charged with any offense
31 or act specified in subsection (b). Such report shall be filed within 30 days
32 of the date of the determination that the person has committed any such act
33 or entered into any such diversion agreement.

34 (f) The state board of education shall not be liable for civil damages
35 to any person refused issuance or renewal of a license by reason of the
36 state board's compliance, in good faith, with the provisions of this section.

37 Sec. 27. K.S.A. 2012 Supp. 75-52,148 is hereby amended to read as
38 follows: 75-52,148. (a) The department of corrections shall be required to
39 review and report on the following serious offenses committed by sex
40 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while
41 such offenders are in the custody of the secretary of corrections:

- 42 (1) Murder in the first degree, as defined in K.S.A. 2012 Supp. 21-
43 5402, and amendments thereto;

1 (2) murder in the second degree, as defined in K.S.A. 2012 Supp. 21-
2 5403, and amendments thereto;

3 (3) ~~capital murder, as defined in K.S.A. 2012 Supp. 21-5401-~~
4 *aggravated murder, as defined in section 2*, and amendments thereto;

5 (4) rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments
6 thereto;

7 (5) aggravated criminal sodomy, as defined in subsection (b) of
8 K.S.A. 2012 Supp. 21-5504, and amendments thereto;

9 (6) sexual exploitation of a child, as defined in K.S.A. 2012 Supp. 21-
10 5510, and amendments thereto;

11 (7) kidnapping as defined in subsection (a) of K.S.A. 2012 Supp. 21-
12 5408, and amendments thereto;

13 (8) aggravated kidnapping, as defined in subsection (b) of K.S.A.
14 2012 Supp. 21-5408, and amendments thereto;

15 (9) criminal restraint, as defined in K.S.A. 2012 Supp. 21-5411, and
16 amendments thereto;

17 (10) indecent solicitation of a child, as defined in subsection (a) of
18 K.S.A. 2012 Supp. 21-5508, and amendments thereto;

19 (11) aggravated indecent solicitation of a child, as defined in
20 subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

21 (12) indecent liberties with a child, as defined in subsection (a) of
22 K.S.A. 2012 Supp. 21-5506, and amendments thereto;

23 (13) aggravated indecent liberties with a child, as defined in
24 subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

25 (14) criminal sodomy, as defined in subsection (a) of K.S.A. 2012
26 Supp. 21-5504, and amendments thereto;

27 (15) child abuse, as defined in K.S.A. 2012 Supp. 21-5602, and
28 amendments thereto;

29 (16) aggravated robbery, as defined in subsection (b) of K.S.A. 2012
30 Supp. 21-5420, and amendments thereto;

31 (17) burglary, as defined in subsection (a) of K.S.A. 2012 Supp. 21-
32 5807, and amendments thereto;

33 (18) aggravated burglary, as defined in subsection (b) of K.S.A. 2012
34 Supp. 21-5807, and amendments thereto;

35 (19) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments
36 thereto;

37 (20) vehicular homicide, as defined in K.S.A. 2012 Supp. 21-5406,
38 and amendments thereto;

39 (21) involuntary manslaughter while driving under the influence, as
40 defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-5405, and
41 amendments thereto; or

42 (22) stalking, as defined in K.S.A. 2012 Supp. 21-5427, and
43 amendments thereto.

1 (b) The secretary of corrections shall submit such report to the
2 speaker of the house of representatives and the president of the senate
3 annually, beginning January 1, 2007.

4 Sec. 28. K.S.A. 22-3405, 22-3705 and 22-4210 and K.S.A. 2012
5 Supp. 21-5401, 21-5419, 21-6614, 21-6617, 21-6618, 21-6619, 21-6620,
6 21-6622, 21-6626, 21-6628, 21-6629, 21-6806, 22-3717, 22-3728, 22-
7 4902, 22-4906, 38-2255, 38-2271, 38-2312, 38-2365, 39-970, 65-5117,
8 72-1397 and 75-52,148 are hereby repealed.

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