

**SENATE BILL No. 246**

By Committee on Ways and Means

5-8

1 AN ACT reconciling amendments to certain statutes; amending K.S.A.  
2 2012 Supp. 8-1,161, 12-4106, as amended by section 1 of 2013 House  
3 Bill No. 2041, 21-5109, 21-5302, as amended by section 6 of 2013  
4 Senate Bill No. 16, 21-5808, 21-5904, 21-5924, 21-6302, as amended  
5 by section 4 of 2013 Senate Substitute for House Bill No. 2052, 21-  
6 6614, as amended by section 19 of 2013 Senate Substitute for House  
7 Bill No. 2034, 22-2802, 22-2908, 22-3212, 22-3717, as amended by  
8 section 27 of 2013 Senate Substitute for House Bill No. 2034, 32-1438,  
9 39-709, as amended by section 1 of 2013 Senate Bill No. 149, 44-706,  
10 as amended by section 5 of 2013 Substitute for House Bill No. 2105,  
11 44-709, as amended by section 3 of 2013 Senate Bill No. 187, 45-221,  
12 as amended by section 2 of 2013 Senate Bill No. 81, 45-229, as  
13 amended by section 1 of 2013 House Bill No. 2012, 47-422, 47-1804,  
14 60-3107, 60-4104, as amended by section 41 of 2013 Senate Substitute  
15 for House Bill No. 2034, 65-4101, 72-978, 74-7901, 75-7c05, as  
16 amended by section 7 of 2013 Senate Substitute for House Bill No.  
17 2052, 75-3740, 75-37,121, 75-4362, as amended by section 5 of 2013  
18 Senate Bill No. 149, 75-5133, 75-6102, 75-6609, 79-3234, 79-32,117,  
19 as amended by section 3 of 2013 House Substitute for Senate Bill No.  
20 83 and 79-32,160a and repealing the existing sections; also repealing  
21 K.S.A. 2012 Supp. 2-1930a, 2-1931a, 8-1,161a, 12-4106, as amended  
22 by section 8 of 2013 Senate Substitute for House Bill No. 2034, 21-  
23 5109a, 21-5302, as amended by section 12 of 2013 Senate Substitute  
24 for House Bill No. 2034, 21-5808a, 21-5904a, 21-5924a, 21-6302, as  
25 amended by section 3 of 2013 House Bill No. 2033, 21-6614, as  
26 amended by section 3 of 2013 Senate Bill No. 21, 22-2802c, 22-2908a,  
27 22-3212b, 22-3717, as amended by section 6 of 2013 House Bill No.  
28 2170, 32-1438a, 39-709, as amended by section 23 of 2013 Substitute  
29 for House Bill No. 2183, 39-923a, 44-706, as amended by section 4 of  
30 2013 Senate Bill No. 149, 44-709, as amended by section 6 of 2013  
31 Substitute for House Bill No. 2105, 45-221, as amended by section 6 of  
32 2013 Senate Substitute for House Bill No. 2052, 45-221, as amended  
33 by section 1 of 2013 House Bill No. 2128, 45-229, as amended by  
34 section 1 of 2013 House Bill No. 2144, 47-422a, 47-1001g, 47-1008a,  
35 47-1302a, 47-1701a, 47-1709a, 47-1725a, 47-1804a, 47-1809a, 60-  
36 3107a, 60-4104, as amended by section 8 of 2013 Senate Bill No. 16,

1 65-1685a, 65-4101b, 72-978a, 74-7901a, 75-7c05, as amended by  
2 section 6 of 2013 Senate Bill No. 21, 75-3740d, 75-37,121a, 75-4362,  
3 as amended by section 2 of 2013 House Bill No. 2302, 75-5133b, 75-  
4 6102c, 75-6609a, 79-3234c, 79-32,117, as amended by section 17 of  
5 2013 House Bill No. 2253, 79-32,160f, 82a-220a and 82a-903a.  
6

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

8 Section 1. K.S.A. 2012 Supp. 8-1,161 is hereby amended to read as  
9 follows: 8-1,161. (a) Any owner or lessee of one or more passenger  
10 vehicles or trucks registered for a gross weight of not more than 20,000  
11 pounds who is a resident of Kansas, upon compliance with the provisions  
12 of this section, may be issued one support Kansas arts license plate for  
13 each such passenger vehicle or truck. Such license plates shall be issued  
14 for the same time as other license plates upon proper registration and  
15 payment of the regular license fee as provided in K.S.A. 8-143, and  
16 amendments thereto, and either the payment to the county treasurer of the  
17 logo use royalty payment established by the commission or the  
18 presentation of the annual logo use authorization statement provided for in  
19 subsection (b).

20 (b) The Kansas *creative arts industries* commission, created under  
21 K.S.A. ~~74-5202~~ 2012 Supp. 74-5207, and amendments thereto, may  
22 authorize the use of their logo to be affixed on license plates as provided  
23 by this section. Any royalty payment derived from this section shall be  
24 credited to the Kansas *creative arts industries* commission special gifts  
25 fund and; shall be used in accordance with the provisions of K.S.A. ~~74-~~  
26 ~~5204~~ 2012 Supp. 74-5208, and amendments thereto. Any motor vehicle  
27 owner or lessee may annually apply to the commission for the use of such  
28 logo. Upon annual application and payment to either: (1) The commission  
29 in an amount of not less than \$25 nor more than \$100 as a logo use royalty  
30 payment for each license plate to be issued, the commission shall issue to  
31 the motor vehicle owner or lessee, without further charge, a logo use  
32 authorization statement, which shall be presented by the motor vehicle  
33 owner or lessee at the time of registration; or (2) the county treasurer of  
34 the logo use royalty payment for each license plate to be issued.

35 (c) Any applicant for a support Kansas arts license plate may make  
36 application for such plates not less than 60 days prior to such person's  
37 renewal of registration date, on a form prescribed and furnished by the  
38 director of motor vehicles, and any applicant for the support Kansas arts  
39 license plates shall either provide the annual logo use authorization  
40 statement provided for in subsection (b) or pay to the county treasurer the  
41 logo use royalty payment established by the commission. Application for  
42 registration of a passenger vehicle or truck and issuance of the license  
43 plate under this section shall be made by the owner or lessee in a manner

1 prescribed by the director of vehicles upon forms furnished by the director.

2 (d) No registration or support Kansas arts license plate issued under  
3 this section shall be transferable to any other person.

4 (e) The director of vehicles may transfer support Kansas arts license  
5 plates from a leased vehicle to a purchased vehicle.

6 (f) Renewals of registration under this section shall be made annually,  
7 upon payment of the fee prescribed in subsection (a), in the manner  
8 prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No  
9 renewal of registration shall be made to any applicant until such applicant  
10 provides to the county treasurer either the annual logo use authorization  
11 statement provided for in subsection (b) or the payment of the annual logo  
12 use royalty payment established by the commission. If such logo use  
13 authorization statement is not presented at the time of registration or faxed  
14 by the commission, or the annual logo use royalty payment is not made to  
15 the county treasurer, the applicant shall be required to comply with K.S.A.  
16 8-143, and amendments thereto, and return the support Kansas arts license  
17 plate to the county treasurer of such person's residence.

18 (g) The Kansas *creative arts industries* commission shall:

19 (1) Pay the initial cost of silk-screening for such support Kansas arts  
20 license plates; and

21 (2) provide to all county treasurers a toll-free telephone number  
22 where applicants can call the Kansas *creative arts industries* commission  
23 for information concerning the application process or the status of their  
24 license plate application.

25 (h) The Kansas *creative arts industries* commission, with the approval  
26 of the director of vehicles and subject to the availability of materials and  
27 equipment, shall design a plate to be issued under the provisions of this  
28 section.

29 (i) As a condition of receiving the support Kansas arts license plate  
30 and any subsequent registration renewal of such plate, the applicant must  
31 provide consent to the division authorizing the division's release of motor  
32 vehicle record information, including the applicant's name, address,  
33 royalty payment amount, plate number and vehicle type to the Kansas  
34 *creative arts industries* commission.

35 (j) Annual royalty payments collected by county treasurers under this  
36 section shall be remitted to the state treasurer in accordance with the  
37 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
38 each such remittance the state treasurer shall deposit the entire amount in  
39 the state treasury to the credit of the Kansas *creative arts industries*  
40 commission special gifts fund.

41 Sec. 2. K.S.A. 2012 Supp. 12-4106, as amended by section 1 of 2013  
42 House Bill No. 2041, is hereby amended to read as follows: 12-4106. (a)  
43 The municipal judge shall have the power to administer the oaths and

1 enforce all orders, rules and judgments made by such municipal judge, and  
2 may fine or imprison for contempt in the same manner and to the same  
3 extent as a judge of the district court.

4 (b) The municipal judge shall have the power to hear and determine  
5 all cases properly brought before such municipal judge to: Grant  
6 continuances; sentence those found guilty to a fine or confinement in jail,  
7 or both; commit accused persons to jail in default of bond; determine  
8 applications for parole; release on probation; grant time in which a fine  
9 may be paid; correct a sentence; suspend imposition of a sentence; set  
10 aside a judgment; permit time for post trial motions; and discharge accused  
11 persons.

12 (c) The municipal judge shall maintain a docket in which every cause  
13 commenced before such municipal judge shall be entered. Such docket  
14 shall contain the names of the accused persons and complainant, the nature  
15 or character of the offense, the date of trial, the names of all witnesses  
16 sworn and examined, the finding of the court, the judgment and sentence,  
17 the date of payment, the date of issuing commitment, if any, and every  
18 other fact necessary to show the full proceedings in each case.

19 (d) The municipal judge shall promptly make such reports and  
20 furnish the information requested by any departmental justice or the  
21 judicial administrator, in the manner and form prescribed by the supreme  
22 court.

23 (e) The municipal judge shall ensure that information concerning  
24 dispositions of city ordinance violations that result in convictions  
25 comparable to convictions for offenses under Kansas criminal statutes is  
26 forwarded to the Kansas bureau of investigation central repository. This  
27 information shall be transmitted, on a form or in a format approved by the  
28 attorney general, within 30 days of final disposition.

29 (f) In all cases alleging a violation of a city ordinance prohibiting the  
30 acts prohibited by K.S.A. 8-2,144, 8-1567 or 32-1131 or K.S.A. 2012  
31 Supp. 8-1025, and amendments thereto, the municipal court judge shall  
32 ensure that the municipal court reports the filing and disposition of such  
33 case to the Kansas bureau of investigation central repository, and, on and  
34 after July 1, 2014, reports the filing and disposition of such case  
35 electronically to the Kansas bureau of investigation central repository.

36 (g) In all cases in which a fine is imposed for a violation of a city  
37 ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or  
38 K.S.A. 2012 Supp. 8-1025 *or 21-6421*, and amendments thereto, the  
39 municipal court judge shall ensure that the municipal court remits the  
40 appropriate amount of such fine to the state treasurer as provided in K.S.A.  
41 2012 Supp. 12-4120, and amendments thereto.

42 Sec. 3. K.S.A. 2012 Supp. 21-5109 is hereby amended to read as  
43 follows: 21-5109. (a) When the same conduct of a defendant may establish

1 the commission of more than one crime under the laws of this state, the  
2 defendant may be prosecuted for each of such crimes. Each of such crimes  
3 may be alleged as a separate count in a single complaint, information or  
4 indictment.

5 (b) Upon prosecution for a crime, the defendant may be convicted of  
6 either the crime charged or a lesser included crime, but not both. A lesser  
7 included crime is:

8 (1) A lesser degree of the same crime, except that there are no lesser  
9 degrees of murder in the first degree under subsection (a)(2) of K.S.A.  
10 2012 Supp. 21-5402, and amendments thereto;

11 (2) a crime where all elements of the lesser crime are identical to  
12 some of the elements of the crime charged;

13 (3) an attempt to commit the crime charged; or

14 (4) an attempt to commit a crime defined under paragraph (1) or (2).

15 (c) Whenever charges are filed against a person, accusing the person  
16 of a crime which includes another crime of which the person has been  
17 convicted, the conviction of the lesser included crime shall not bar  
18 prosecution or conviction of the crime charged if the crime charged was  
19 not consummated at the time of conviction of the lesser included crime,  
20 but the conviction of the lesser included crime shall be annulled upon the  
21 filing of such charges. Evidence of the person's plea or any admission or  
22 statement made by the person in connection therewith in any of the  
23 proceedings which resulted in the person's conviction of the lesser  
24 included crime shall not be admissible at the trial of the crime charged. If  
25 the person is convicted of the crime charged, or of a lesser included crime,  
26 the person so convicted shall receive credit against any prison sentence  
27 imposed or fine to be paid for the period of confinement actually served or  
28 the amount of any fine actually paid under the sentence imposed for the  
29 annulled conviction.

30 (d) Unless otherwise provided by law, when crimes differ only in that  
31 one is defined to prohibit a designated kind of conduct generally and the  
32 other to prohibit a specific instance of such conduct, the defendant:

33 (1) May not be convicted of the two crimes based upon the same  
34 conduct; and

35 (2) shall be sentenced according to the terms of the more specific  
36 crime.

37 (e) *A defendant may not be convicted of identical offenses based upon*  
38 *the same conduct. The prosecution may choose which such offense to*  
39 *charge and, upon conviction, the defendant shall be sentenced according*  
40 *to the terms of that offense.*

41 Sec. 4. K.S.A. 2012 Supp. 21-5302, as amended by section 6 of 2013  
42 Senate Bill No. 16, is hereby amended to read as follows: 21-5302. (a) A  
43 conspiracy is an agreement with another person to commit a crime or to

1 assist in committing a crime. No person may be convicted of a conspiracy  
2 unless an overt act in furtherance of such conspiracy is alleged and proved  
3 to have been committed by such person or by a co-conspirator.

4 (b) It is immaterial to the criminal liability of a person charged with  
5 conspiracy that any other person with whom the defendant conspired  
6 lacked the actual intent to commit the underlying crime provided that the  
7 defendant believed the other person did have the actual intent to commit  
8 the underlying crime.

9 (c) It shall be a defense to a charge of conspiracy that the accused  
10 voluntarily and in good faith withdrew from the conspiracy, and  
11 communicated the fact of such withdrawal to one or more of the accused  
12 person's co-conspirators, before any overt act in furtherance of the  
13 conspiracy was committed by the accused or by a co-conspirator.

14 (d) (1) Conspiracy to commit an off-grid felony shall be ranked at  
15 nondrug severity level 2. Conspiracy to commit any other nondrug felony  
16 shall be ranked on the nondrug scale at two severity levels below the  
17 appropriate level for the underlying or completed crime. The lowest  
18 severity level for conspiracy to commit a nondrug felony shall be a  
19 severity level 10.

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

22 (A) Aggravated human trafficking, as defined in subsection (b) of  
23 K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18  
24 years of age or older and the victim is less than 14 years of age;

25 (B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and  
26 amendments thereto;

27 (C) illegal use of weapons of mass destruction, as defined in K.S.A.  
28 2012 Supp. 21-5422, and amendments thereto;

29 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-  
30 5503, and amendments thereto, if the offender is 18 years of age or older;

31 (E) aggravated indecent liberties with a child, as defined in  
32 subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,  
33 if the offender is 18 years of age or older;

34 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)  
35 (2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the  
36 offender is 18 years of age or older;

37 ~~(G) promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,~~  
38 ~~and amendments thereto, if the offender is 18 years of age or older and the~~  
39 ~~prostitute is less than 14 years of age~~ *commercial sexual exploitation of a*  
40 *child, as defined in section 4 of 2013 Senate Substitute for House Bill No.*  
41 *2034, and amendments thereto, if the offender is 18 years of age or older*  
42 *and the victim is less than 14 years of age;*

43 (H) sexual exploitation of a child, as defined in subsection (a)(1) or

1 (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the  
2 offender is 18 years of age or older and the child is less than 14 years of  
3 age; or

4 (I) violations of the Kansas racketeer influenced and corrupt  
5 organization act, as described in section 3 of 2013 Senate Bill No. 16, and  
6 amendments thereto.

7 (e) Conspiracy to commit a felony which prescribes a sentence on the  
8 drug grid shall reduce the prison term prescribed in the drug grid block for  
9 an underlying or completed crime by six months.

10 (f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

11 Sec. 5. K.S.A. 2012 Supp. 21-5808 is hereby amended to read as  
12 follows: 21-5808. (a) Criminal trespass is entering or remaining upon or in  
13 any:

14 (1) Land, nonnavigable body of water, structure, vehicle, aircraft or  
15 watercraft by a person who knows such person is not authorized or  
16 privileged to do so, and:

17 (A) Such person enters or remains therein in defiance of an order not  
18 to enter or to leave such premises or property personally communicated to  
19 such person by the owner thereof or other authorized person;

20 (B) such premises or property are posted ~~in a~~ as provided in K.S.A.  
21 32-1013, and amendments thereto, or in any other manner reasonably  
22 likely to come to the attention of intruders, or are locked or fenced or  
23 otherwise enclosed, or shut or secured against passage or entry; or

24 (C) such person enters or remains therein in defiance of a restraining  
25 order issued pursuant to K.S.A. 60-3105, 60-3106, 60-3107, 60-31a05 or  
26 60-31a06 or K.S.A. 2012 Supp. 23-2707, 38-2243, 38-2244 or 38-2255,  
27 and amendments thereto, and the restraining order has been personally  
28 served upon the person so restrained; or

29 (2) public or private land or structure in a manner that interferes with  
30 access to or from any health care facility by a person who knows such  
31 person is not authorized or privileged to do so and such person enters or  
32 remains thereon or therein in defiance of an order not to enter or to leave  
33 such land or structure personally communicated to such person by the  
34 owner of the health care facility or other authorized person.

35 (b) Criminal trespass is a class B nonperson misdemeanor. Upon a  
36 conviction of a violation of subsection (a)(1)(C), a person shall be  
37 sentenced to not less than 48 consecutive hours of imprisonment which  
38 shall be served either before or as a condition of any grant of probation or  
39 suspension, reduction of sentence or parole.

40 (c) As used in this section:

41 (1) "Health care facility" means any licensed medical care facility,  
42 certificated health maintenance organization, licensed mental health center  
43 or mental health clinic, licensed psychiatric hospital or other facility or

- 1 office where services of a health care provider are provided directly to  
2 patients; and
- 3 (2) "health care provider" means any person:
- 4 (A) Licensed to practice a branch of the healing arts;
- 5 (B) licensed to practice psychology;
- 6 (C) licensed to practice professional or practical nursing;
- 7 (D) licensed to practice dentistry;
- 8 (E) licensed to practice optometry;
- 9 (F) licensed to practice pharmacy;
- 10 (G) registered to practice podiatry;
- 11 (H) licensed as a social worker; or
- 12 (I) registered to practice physical therapy.
- 13 (d) This section shall not apply to:
- 14 (1) A land surveyor, licensed pursuant to article 70 of chapter 74 of  
15 the Kansas Statutes Annotated, and amendments thereto, and such  
16 surveyor's authorized agents and employees who enter upon lands, waters  
17 and other premises in the making of a survey; or
- 18 (2) railroad property as defined in K.S.A. 2012 Supp. 21-5809, and  
19 amendments thereto, or nuclear generating facility as defined in K.S.A.  
20 2012 Supp. 66-2302, and amendments thereto.
- 21 Sec. 6. K.S.A. 2012 Supp. 21-5904 is hereby amended to read as  
22 follows: 21-5904. (a) Interference with law enforcement is:
- 23 (1) Falsely reporting to a law enforcement officer, *law enforcement*  
24 *agency* or state investigative agency:
- 25 (A) That a particular person has committed a crime, knowing that  
26 such information is false and intending that the officer or agency shall act  
27 in reliance upon such information; ~~or~~
- 28 (B) any information, knowing that such information is false and  
29 intending to influence, impede or obstruct such officer's or agency's duty;
- 30 (C) *that a crime has been committed or any information concerning a*  
31 *crime or suspected crime, knowing that such information is false and*  
32 *intending that the officer or agency shall act in reliance upon such*  
33 *information; or*
- 34 (D) *any information concerning the death, disappearance or*  
35 *potential death or disappearance of a child under the age of 13, knowing*  
36 *that such information is false and intending that the officer or agency shall*  
37 *act in reliance upon such information;*
- 38 (2) concealing, destroying or materially altering evidence with the  
39 intent to prevent or hinder the apprehension or prosecution of any person;  
40 or
- 41 (3) knowingly obstructing, resisting or opposing any person  
42 authorized by law to serve process in the service or execution or in the  
43 attempt to serve or execute any writ, warrant, process or order of a court,



1 or in the discharge of any official duty.

2 (b)(1) Interference with law enforcement as defined in:

3 (1) Subsection (a)(1)(A) is a:

4 (A) Class A nonperson misdemeanor in the case of a misdemeanor;  
5 and

6 (B) severity level 8, nonperson felony in the case of a felony;

7 (2) subsection (a)(1)(B) is a:

8 (A) Class A nonperson misdemeanor in the case of a misdemeanor;  
9 and

10 (B) severity level 9, nonperson felony in the case of a felony;

11 (3) subsection (a)(1)(C) is a class A misdemeanor; ~~or~~

12 (4) subsection (a)(1)(D) is a severity level 8, nonperson felony;

13 (5) subsection (a)(2) is a:

14 (A) Class A nonperson misdemeanor, ~~except as provided in~~  
15 ~~subsection (b)(2), in the case of a misdemeanor; and~~

16 (B) severity level 8, nonperson felony in the case of a felony; and

17 (6) subsection (a)(3) is a:

18 (A) Severity level 9, nonperson felony in the case of a felony, or  
19 resulting from parole or any authorized disposition for a felony; and

20 (B) class A nonperson misdemeanor in the case of a misdemeanor, or  
21 resulting from any authorized disposition for a misdemeanor, or a civil  
22 case.

23 (2) ~~Interference with law enforcement as defined in:~~

24 (A) ~~Subsection (a)(1)(A) or (a)(2) is a severity level 8, nonperson~~  
25 ~~felony in the case of a felony; and~~

26 (B) ~~subsection (a)(1)(B) is a severity level 9, nonperson felony in the~~  
27 ~~case of a felony.~~

28 (3) ~~Interference with law enforcement as defined in subsection (a)(3)~~  
29 ~~is a:~~

30 (A) ~~Severity level 9, nonperson felony in the case of a felony, or~~  
31 ~~resulting from parole or any authorized disposition for a felony; and~~

32 (B) ~~class A nonperson misdemeanor in the case of a misdemeanor, or~~  
33 ~~resulting from any authorized disposition for a misdemeanor, or a civil~~  
34 ~~case.~~

35 Sec. 7. K.S.A. 2012 Supp. 21-5924 is hereby amended to read as  
36 follows: 21-5924. (a) Violation of a protective order is knowingly  
37 violating:

38 (1) A protection from abuse order issued pursuant to K.S.A. 60-3105,  
39 60-3106 ~~and or~~ 60-3107, and amendments thereto;

40 (2) a protective order issued by a court or tribunal of any state or  
41 Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265, and  
42 amendments thereto;

43 (3) a restraining order issued pursuant to K.S.A. 2012 Supp. 23-2707,

1 38-2243, 38-2244 ~~and or~~ 38-2255, and amendments thereto, ~~and or~~ K.S.A.  
 2 60-1607, prior to its transfer;

3 (4) an order issued in this or any other state as a condition of pretrial  
 4 release, diversion, probation, suspended sentence, postrelease supervision  
 5 or at any other time during the criminal case that orders the person to  
 6 refrain from having any direct or indirect contact with another person;

7 (5) an order issued in this or any other state as a condition of release  
 8 after conviction or as a condition of a supersedeas bond pending  
 9 disposition of an appeal, that orders the person to refrain from having any  
 10 direct or indirect contact with another person; or

11 (6) a protection from stalking order issued pursuant to K.S.A. 60-  
 12 31a05 or 60-31a06, and amendments thereto.

13 (b) (1) Violation of a protective order is a class A person  
 14 misdemeanor, except as provided in subsection (b)(2).

15 (2) Violation of an extended protective order as described in  
 16 subsection (e)(2) of K.S.A. 60-3107, and amendments thereto, and  
 17 subsection (d) of K.S.A. 60-31a06, and amendments thereto, is a severity  
 18 level 6, person felony.

19 (c) No protective order, as set forth in this section, shall be construed  
 20 to prohibit an attorney, or any person acting on such attorney's behalf, who  
 21 is representing the defendant in any civil or criminal proceeding, from  
 22 contacting the protected party for a legitimate purpose within the scope of  
 23 the civil or criminal proceeding. The attorney, or person acting on such  
 24 attorney's behalf, shall be identified in any such contact.

25 (d) As used in this section, "order" includes any order issued by a  
 26 municipal or district court.

27 Sec. 8. K.S.A. 2012 Supp. 21-6302, as amended by section 4 of 2013  
 28 Senate Substitute for House Bill No. 2052, is hereby amended to read as  
 29 follows: 21-6302. (a) Criminal carrying of a weapon is knowingly  
 30 carrying:

31 (1) Any bludgeon, sandclub, metal knuckles or throwing star, ~~or any~~  
 32 ~~knife, commonly referred to as a switch-blade, which has a blade that~~  
 33 ~~opens automatically by hand pressure applied to a button, spring or other~~  
 34 ~~device in the handle of the knife, or any knife having a blade that opens or~~  
 35 ~~falls or is ejected into position by the force of gravity or by an outward,~~  
 36 ~~downward or centrifugal thrust or movement;~~

37 (2) concealed on one's person, a ~~dagger, dirk, billy, blackjack,~~  
 38 ~~slungshot, dangerous knife, straight-edged razor, stiletto or any other~~  
 39 ~~dangerous or deadly weapon or instrument of like character, except that an~~  
 40 ~~ordinary pocket knife with no blade more than four inches in length shall~~  
 41 ~~not be construed to be a dangerous knife, or a dangerous or deadly weapon~~  
 42 ~~or instrument;~~

43 (3) on one's person or in any land, water or air vehicle, with intent to

1 use the same unlawfully, a tear gas or smoke bomb or projector or any  
2 object containing a noxious liquid, gas or substance;

3 (4) any pistol, revolver or other firearm concealed on one's person  
4 except when on the person's land or in the person's abode or fixed place of  
5 business; or

6 (5) a shotgun with a barrel less than 18 inches in length or any other  
7 firearm designed to discharge or capable of discharging automatically  
8 more than once by a single function of the trigger whether the person  
9 knows or has reason to know the length of the barrel or that the firearm is  
10 designed or capable of discharging automatically.

11 (b) Criminal carrying of a weapon as defined in:

12 (1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson  
13 misdemeanor; and

14 (2) subsection (a)(5) is a severity level 9, nonperson felony.

15 (c) Subsection (a) shall not apply to:

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

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

23 (3) members of the armed services or reserve forces of the United  
24 States or the Kansas national guard while in the performance of their  
25 official duty; or

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

29 (d) Subsection (a)(4) shall not apply to:

30 (1) Watchmen, while actually engaged in the performance of the  
31 duties of their employment;

32 (2) licensed hunters or fishermen, while engaged in hunting or  
33 fishing;

34 (3) private detectives licensed by the state to carry the firearm  
35 involved, while actually engaged in the duties of their employment;

36 (4) detectives or special agents regularly employed by railroad  
37 companies or other corporations to perform full-time security or  
38 investigative service, while actually engaged in the duties of their  
39 employment;

40 (5) the state fire marshal, the state fire marshal's deputies or any  
41 member of a fire department authorized to carry a firearm pursuant to  
42 K.S.A. 31-157, and amendments thereto, while engaged in an investigation  
43 in which such fire marshal, deputy or member is authorized to carry a

1 firearm pursuant to K.S.A. 31-157, and amendments thereto;

2 (6) special deputy sheriffs described in K.S.A. 19-827, and  
3 amendments thereto, who have satisfactorily completed the basic course of  
4 instruction required for permanent appointment as a part-time law  
5 enforcement officer under K.S.A. 74-5607a, and amendments thereto;

6 (7) the United States attorney for the district of Kansas, the attorney  
7 general, any district attorney or county attorney, any assistant United  
8 States attorney if authorized by the United States attorney for the district  
9 of Kansas, any assistant attorney general if authorized by the attorney  
10 general, or any assistant district attorney or assistant county attorney if  
11 authorized by the district attorney or county attorney by whom such  
12 assistant is employed. The provisions of this paragraph shall not apply to  
13 any person not in compliance with K.S.A. 75-7c19, and amendments  
14 thereto;

15 (8) law enforcement officers from another state or a retired law  
16 enforcement officer meeting the requirements of the federal law  
17 enforcement officers safety act, 18 U.S.C. §§ 926B and 926C; or

18 (9) any person carrying a concealed handgun as authorized by K.S.A.  
19 2012 Supp. 75-7c01 through 75-7c17, and amendments thereto.

20 (e) Subsection (a)(5) shall not apply to:

21 (1) Any person who sells, purchases, possesses or carries a firearm,  
22 device or attachment which has been rendered unserviceable by steel weld  
23 in the chamber and marriage weld of the barrel to the receiver and which  
24 has been registered in the national firearms registration and transfer record  
25 in compliance with 26 U.S.C. § 5841 et seq. in the name of such person  
26 and, if such person transfers such firearm, device or attachment to another  
27 person, has been so registered in the transferee's name by the transferor;

28 (2) any person employed by a laboratory which is certified by the  
29 United States department of justice, national institute of justice, while  
30 actually engaged in the duties of their employment and on the premises of  
31 such certified laboratory. Subsection (a)(5) shall not affect the manufacture  
32 of, transportation to or sale of weapons to such certified laboratory; or

33 (3) any person or entity in compliance with the national firearms act,  
34 26 U.S.C. § 5801 et seq.

35 ~~(f) Subsection (a)(1) shall not apply to any ordinary pocket knife  
36 which has a spring, detent or other device which creates a bias towards  
37 closure of the blade and which requires hand pressure applied to such  
38 spring, detent or device through the blade of the knife to overcome the bias  
39 towards closure to assist in the opening of the knife.~~

40 ~~(g)~~ It shall not be a violation of this section if a person violates the  
41 provisions of K.S.A. 2012 Supp. 75-7c03, and amendments thereto, but  
42 has an otherwise valid license to carry a concealed handgun which is  
43 issued or recognized by this state.

1       (h) (g) As used in this section, "throwing star" means the same as  
2 prescribed by K.S.A. 2012 Supp. 21-6301, and amendments thereto.

3       Sec. 9. K.S.A. 2012 Supp. 21-6614, as amended by section 19 of  
4 2013 Senate Substitute for House Bill No. 2034, is hereby amended to  
5 read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c),  
6 (d), (e) and (f), any person convicted in this state of a traffic infraction,  
7 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or  
8 for crimes committed on or after July 1, 1993, nondrug crimes ranked in  
9 severity levels 6 through 10, or for crimes committed on or after July 1,  
10 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the  
11 drug grid, or for crimes committed on or after July 1, 2012, any felony  
12 ranked in severity level 5 of the drug grid may petition the convicting  
13 court for the expungement of such conviction or related arrest records if  
14 three or more years have elapsed since the person: (A) Satisfied the  
15 sentence imposed; or (B) was discharged from probation, a community  
16 correctional services program, parole, postrelease supervision, conditional  
17 release or a suspended sentence.

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

23       (b) Any person convicted of prostitution, as defined in K.S.A. 21-  
24 3512, prior to its repeal, convicted of a violation of K.S.A. 2012 Supp. 21-  
25 6419, and amendments thereto, or who entered into a diversion agreement  
26 in lieu of further criminal proceedings for such violation, may petition the  
27 convicting court for the expungement of such conviction or diversion  
28 agreement and related arrest records if:

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

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

39       (c) Except as provided in subsections (e) and (f), no person may  
40 petition for expungement until five or more years have elapsed since the  
41 person satisfied the sentence imposed or the terms of a diversion  
42 agreement or was discharged from probation, a community correctional  
43 services program, parole, postrelease supervision, conditional release or a

1 suspended sentence, if such person was convicted of a class A, B or C  
2 felony, or for crimes committed on or after July 1, 1993, if convicted of an  
3 off-grid felony or any nondrug crime ranked in severity levels 1 through 5,  
4 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,  
5 any felony ranked in severity levels 1 through 3 of the drug grid, or for  
6 crimes committed on or after July 1, 2012, any felony ranked in severity  
7 levels 1 through 4 of the drug grid, or:

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

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

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

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

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

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

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

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

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

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

43 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.

- 1 2012 Supp. 21-5503, and amendments thereto;
- 2 (2) indecent liberties with a child or aggravated indecent liberties
- 3 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
- 4 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;
- 5 (3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
- 6 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
- 7 2012 Supp. 21-5504, and amendments thereto;
- 8 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
- 9 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;
- 10 (5) indecent solicitation of a child or aggravated indecent solicitation
- 11 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
- 12 or K.S.A. 2012 Supp. 21-5508, and amendments thereto;
- 13 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
- 14 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;
- 15 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
- 16 repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;
- 17 (8) endangering a child or aggravated endangering a child, as defined
- 18 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp.
- 19 21-5601, and amendments thereto;
- 20 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
- 21 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;
- 22 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
- 23 or K.S.A. 2012 Supp. 21-5401, and amendments thereto;
- 24 (11) murder in the first degree, as defined in K.S.A. 21-3401, prior to
- 25 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;
- 26 (12) murder in the second degree, as defined in K.S.A. 21-3402, prior
- 27 to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;
- 28 (13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
- 29 its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;
- 30 (14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
- 31 its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;
- 32 (15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
- 33 or K.S.A. 2012 Supp. 21-5505, and amendments thereto, when the victim
- 34 was less than 18 years of age at the time the crime was committed;
- 35 (16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
- 36 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;
- 37 (17) a violation of K.S.A. 8-2,144, and amendments thereto,
- 38 including any diversion for such violation; or
- 39 (18) any conviction for any offense in effect at any time prior to July
- 40 1, 2011, that is comparable to any offense as provided in this subsection.
- 41 (f) Notwithstanding any other law to the contrary, for any offender
- 42 who is required to register as provided in the Kansas offender registration
- 43 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no

1 expungement of any conviction or any part of the offender's criminal  
2 record while the offender is required to register as provided in the Kansas  
3 offender registration act.

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

8 (A) Defendant's full name;

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

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

12 (D) crime for which the defendant was arrested, convicted or  
13 diverted;

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

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

17 (2) Except as otherwise provided by law, a petition for expungement  
18 shall be accompanied by a docket fee in the amount of \$100. On and after  
19 April 12, 2012, through June 30, 2013, the supreme court may impose a  
20 charge, not to exceed \$19 per case, to fund the costs of non-judicial  
21 personnel. The charge established in this section shall be the only fee  
22 collected or moneys in the nature of a fee collected for the case. Such  
23 charge shall only be established by an act of the legislature and no other  
24 authority is established by law or otherwise to collect a fee.

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

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

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

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

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

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



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

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

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

10 (A) In any application for licensure as a private detective, private  
11 detective agency, certification as a firearms trainer pursuant to K.S.A.  
12 2012 Supp. 75-7b21, and amendments thereto, or employment as a  
13 detective with a private detective agency, as defined by K.S.A. 75-7b01,  
14 and amendments thereto; as security personnel with a private patrol  
15 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with  
16 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of  
17 the department for children and families;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (k) (1) Subject to the disclosures required pursuant to subsection (i),  
25 in any application for employment, license or other civil right or privilege,  
26 or any appearance as a witness, a person whose arrest records, conviction  
27 or diversion of a crime has been expunged under this statute may state that  
28 such person has never been arrested, convicted or diverted of such crime;  
29 ~~but the expungement of a felony conviction does not relieve an individual~~  
30 ~~of complying with any state or federal law relating to the use or possession~~  
31 ~~of firearms by persons convicted of a felony.~~

32 (2) *Notwithstanding the provisions of subsection (k)(1), and except as*  
33 *provided in subsection (a)(3)(A) of K.S.A. 2012 Supp. 21-6304, and*  
34 *amendments thereto, the expungement of a prior felony conviction does*  
35 *not relieve the individual of complying with any state or federal law*  
36 *relating to the use, shipment, transportation, receipt or possession of*  
37 *firearms by persons previously convicted of a felony.*

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

43 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

42 (11) the Kansas sentencing commission;

43 (12) the state gaming agency, and the request is accompanied by a

1 statement that the request is being made to aid in determining  
2 qualifications: (A) To be an employee of the state gaming agency; or (B)  
3 to be an employee of a tribal gaming commission or to hold a license  
4 issued pursuant to a tribal-gaming compact;

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

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

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

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

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

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

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

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

32 Sec. 10. K.S.A. 2012 Supp. 22-2802 is hereby amended to read as  
33 follows: 22-2802. (1) Any person charged with a crime shall, at the  
34 person's first appearance before a magistrate, be ordered released pending  
35 preliminary examination or trial upon the execution of an appearance bond  
36 in an amount specified by the magistrate and sufficient to assure the  
37 appearance of such person before the magistrate when ordered and to  
38 assure the public safety. If the person is being bound over for a felony, the  
39 bond shall also be conditioned on the person's appearance in the district  
40 court or by way of a two-way electronic audio-video communication as  
41 provided in subsection (14) at the time required by the court to answer the  
42 charge against such person and at any time thereafter that the court  
43 requires. Unless the magistrate makes a specific finding otherwise, if the

1 person is being bonded out for a person felony or a person misdemeanor,  
2 the bond shall be conditioned on the person being prohibited from having  
3 any contact with the alleged victim of such offense for a period of at least  
4 72 hours. The magistrate may impose such of the following additional  
5 conditions of release as will reasonably assure the appearance of the  
6 person for preliminary examination or trial:

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

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

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

14 (d) place the person under a house arrest program pursuant to K.S.A.  
15 2012 Supp. 21-6609, and amendments thereto; or

16 (e) place the person under the supervision of a court services officer  
17 responsible for monitoring the person's compliance with any conditions of  
18 release ordered by the magistrate. The magistrate may order the person to  
19 pay for any costs associated with the supervision provided by the court  
20 services department in an amount not to exceed \$15 per week of such  
21 supervision. The magistrate may also order the person to pay for all other  
22 costs associated with the supervision and conditions for compliance in  
23 addition to the \$15 per week.

24 (2) In addition to any conditions of release provided in subsection (1),  
25 for any person charged with a felony, the magistrate may order such  
26 person to submit to a drug and alcohol abuse examination and evaluation  
27 in a public or private treatment facility or state institution and, if  
28 determined by the head of such facility or institution that such person is a  
29 drug or alcohol abuser or is incapacitated by drugs or alcohol, to submit to  
30 treatment for such drug or alcohol abuse, as a condition of release.

31 (3) The appearance bond shall be executed with sufficient solvent  
32 sureties who are residents of the state of Kansas, unless the magistrate  
33 determines, in the exercise of such magistrate's discretion, that requiring  
34 sureties is not necessary to assure the appearance of the person at the time  
35 ordered.

36 (4) A deposit of cash in the amount of the bond may be made in lieu  
37 of the execution of the bond pursuant to subsection (3). Except as provided  
38 in subsection (5), such deposit shall be in the full amount of the bond and  
39 in no event shall a deposit of cash in less than the full amount of bond be  
40 permitted. Any person charged with a crime who is released on a cash  
41 bond shall be entitled to a refund of all moneys paid for the cash bond,  
42 after deduction of any outstanding restitution, costs, fines and fees, after  
43 the final disposition of the criminal case if the person complies with all

1 requirements to appear in court. The court may not exclude the option of  
2 posting bond pursuant to subsection (3).

3 (5) Except as provided further, the amount of the appearance bond  
4 shall be the same whether executed as described in subsection (3) or  
5 posted with a deposit of cash as described in subsection (4). When the  
6 appearance bond has been set at \$2,500 or less and the most serious charge  
7 against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson  
8 felony, a drug severity level 4 felony committed prior to July 1, 2012, a  
9 drug severity level 5 felony committed on or after July 1, 2012, or a  
10 violation of K.S.A. 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments  
11 thereto, the magistrate may allow the person to deposit cash with the clerk  
12 in the amount of 10% of the bond, provided the person meets at least the  
13 following qualifications:

14 (A) Is a resident of the state of Kansas;

15 (B) has a criminal history score category of G, H or I;

16 (C) has no prior history of failure to appear for any court  
17 appearances;

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

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

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

22 (6) In the discretion of the court, a person charged with a crime may  
23 be released upon the person's own recognizance by guaranteeing payment  
24 of the amount of the bond for the person's failure to comply with all  
25 requirements to appear in court. The release of a person charged with a  
26 crime upon the person's own recognizance shall not require the deposit of  
27 any cash by the person.

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

29 (8) In determining which conditions of release will reasonably assure  
30 appearance and the public safety, the magistrate shall, on the basis of  
31 available information, take into account the nature and circumstances of  
32 the crime charged; the weight of the evidence against the defendant;  
33 whether the defendant is lawfully present in the United States; the  
34 defendant's family ties, employment, financial resources, character, mental  
35 condition, length of residence in the community, record of convictions,  
36 record of appearance or failure to appear at court proceedings or of flight  
37 to avoid prosecution; the likelihood or propensity of the defendant to  
38 commit crimes while on release, including whether the defendant will be  
39 likely to threaten, harass or cause injury to the victim of the crime or any  
40 witnesses thereto; and whether the defendant is on probation or parole  
41 from a previous offense at the time of the alleged commission of the  
42 subsequent offense.

43 (9) The appearance bond shall set forth all of the conditions of

1 release.

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

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

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

17 (13) The appearance bond and any security required as a condition of  
18 the defendant's release shall be deposited in the office of the magistrate or  
19 the clerk of the court where the release is ordered. If the defendant is  
20 bound to appear before a magistrate or court other than the one ordering  
21 the release, the order of release, together with the bond and security shall  
22 be transmitted to the magistrate or clerk of the court before whom the  
23 defendant is bound to appear.

24 (14) Proceedings before a magistrate as provided in this section to  
25 determine the release conditions of a person charged with a crime  
26 including release upon execution of an appearance bond may be conducted  
27 by two-way electronic audio-video communication between the defendant  
28 and the judge in lieu of personal presence of the defendant or defendant's  
29 counsel in the courtroom in the discretion of the court. The defendant may  
30 be accompanied by the defendant's counsel. The defendant shall be  
31 informed of the defendant's right to be personally present in the courtroom  
32 during such proceeding if the defendant so requests. Exercising the right to  
33 be present shall in no way prejudice the defendant.

34 (15) The magistrate may order the person to pay for any costs  
35 associated with the supervision of the conditions of release of the  
36 appearance bond in an amount not to exceed \$15 per week of such  
37 supervision. As a condition of sentencing under K.S.A. 2012 Supp. 21-  
38 6604, and amendments thereto, the court may impose the full amount of  
39 any such costs in addition to the \$15 per week, including, but not limited to,  
40 costs for treatment and evaluation under subsection (2).

41 Sec. 11. K.S.A. 2012 Supp. 22-2908 is hereby amended to read as  
42 follows: 22-2908. (a) In determining whether diversion of a defendant is in  
43 the interests of justice and of benefit to the defendant and the community,

1 the county or district attorney shall consider at least the following factors  
2 among all factors considered:

3 (1) The nature of the crime charged and the circumstances  
4 surrounding it;

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

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

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

12 (5) whether the available diversion program is appropriate to the  
13 needs of the defendant;

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

15 (7) recommendations, if any, of the involved law enforcement  
16 agency;

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

18 (9) provisions for restitution; and

19 (10) any mitigating circumstances.

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

22 (1) The complaint alleges a violation of K.S.A. 8-1567 *or* K.S.A.  
23 2012 Supp. 8-1025, and amendments thereto, and the defendant: (A) Has  
24 previously participated in diversion upon a complaint alleging a violation  
25 of that statute or an ordinance of a city in this state which prohibits the acts  
26 prohibited by that statute; (B) has previously been convicted of or pleaded  
27 nolo contendere to a violation of that statute or a violation of a law of  
28 another state or of a political subdivision of this or any other state, which  
29 law prohibits the acts prohibited by that statute; or (C) during the time of  
30 the alleged violation was involved in a motor vehicle accident or collision  
31 resulting in personal injury or death;

32 (2) the complaint alleges that the defendant committed a class A or B  
33 felony or for crimes committed on or after July 1, 1993, an off-grid crime,  
34 a severity level 1, 2 or 3 felony for nondrug crimes, a drug severity level 1  
35 or 2 felony for drug crimes committed on or after July 1, 1993, but prior to  
36 July 1, 2012, or a drug severity level 1, 2 or 3 felony committed on or after  
37 July 1, 2012; or

38 (3) the complaint alleges a domestic violence offense, as defined in  
39 K.S.A. 2012 Supp. 21-5111, and amendments thereto, and the defendant  
40 has participated in two or more diversions in the previous five year period  
41 upon complaints alleging a domestic violence offense.

42 (c) A county or district attorney may enter into a diversion agreement  
43 in lieu of further criminal proceedings on a complaint for violations of



1 article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments  
2 thereto, if such diversion carries the same penalties as the conviction for  
3 the corresponding violations. If the defendant has previously participated  
4 in one or more diversions for violations of article 10 of chapter 32 of the  
5 Kansas Statutes Annotated, and amendments thereto, then each subsequent  
6 diversion shall carry the same penalties as the conviction for the  
7 corresponding violations.

8 Sec. 12. K.S.A. 2012 Supp. 22-3212 is hereby amended to read as  
9 follows: 22-3212. (a) Upon request, the prosecuting attorney shall permit  
10 the defendant to inspect and copy or photograph the following, if relevant:  
11 (1) Written or recorded statements or confessions made by the defendant,  
12 or copies thereof, which are or have been in the possession, custody or  
13 control of the prosecution, the existence of which is known, or by the  
14 exercise of due diligence may become known, to the prosecuting attorney;  
15 (2) results or reports of physical or mental examinations, and of scientific  
16 tests or experiments made in connection with the particular case, or copies  
17 thereof, the existence of which is known, or by the exercise of due  
18 diligence may become known, to the prosecuting attorney; (3) recorded  
19 testimony of the defendant before a grand jury or at an inquisition; and (4)  
20 memoranda of any oral confession made by the defendant and a list of the  
21 witnesses to such confession, the existence of which is known, or by the  
22 exercise of due diligence may become known to the prosecuting attorney.

23 (b) (1) Except as provided in subsection—(f) (l), upon request, the  
24 prosecuting attorney shall permit the defendant to inspect and copy or  
25 photograph books, papers, documents, tangible objects, buildings or  
26 places, or copies, or portions thereof, which are or have been within the  
27 possession, custody or control of the prosecution, and which are material  
28 to the case and will not place an unreasonable burden upon the  
29 prosecution.

30 (2) Except as provided in subsections (a)(2) and (a)(4), *and as*  
31 *otherwise provided by law*, this section does not authorize the discovery or  
32 inspection of reports, memoranda or other internal government documents  
33 made by officers in connection with the investigation or prosecution of the  
34 case, or of statements made by state witnesses or prospective state  
35 witnesses, other than the defendant, ~~except as may be provided by law.~~

36 (3) Except as provided in subsection—(e) (g), this section does not  
37 require the prosecuting attorney to provide unredacted vehicle  
38 identification numbers or personal identifiers of persons mentioned in such  
39 books, papers or documents.

40 (4) As used in this subsection, personal identifiers include, but are not  
41 limited to, birthdates, social security numbers, taxpayer identification  
42 numbers, drivers license numbers, account numbers of active financial  
43 accounts, home addresses and personal telephone numbers of any victims

1 or material witnesses.

2 (5) If the prosecuting attorney does provide the defendant's counsel  
3 with unredacted vehicle identification numbers or personal identifiers, the  
4 defendant's counsel shall not further disclose the unredacted numbers or  
5 identifiers to the defendant or any other person, directly or indirectly,  
6 except as authorized by order of the court.

7 (6) If the prosecuting attorney provides books, papers or documents  
8 to the defendant's counsel with vehicle identification numbers or personal  
9 identifiers redacted by the prosecuting attorney, the prosecuting attorney  
10 shall provide notice to the defendant's counsel that such books, papers or  
11 documents had such numbers or identifiers redacted by the prosecuting  
12 attorney.

13 (7) Any redaction of vehicle identification numbers or personal  
14 identifiers by the prosecuting attorney shall be by alteration or truncation  
15 of such numbers or identifiers and shall not be by removal.

16 (c) If the defendant seeks discovery and inspection under subsection  
17 (a)(2) or subsection (b), the defendant shall:

18 (1) Permit the attorney for the prosecution to inspect and copy or  
19 photograph scientific or medical reports, books, papers, documents,  
20 tangible objects, or copies or portions thereof, which the defendant intends  
21 to produce at any hearing, ~~and which~~ are material to the case and will not  
22 place an unreasonable burden on the defense; *and*

23 (2) *provide for the attorney for the prosecution, no less than 30 days*  
24 *prior to trial, a summary or written report of what any expert witness*  
25 *intends to testify, including the witness' qualifications, the witness'*  
26 *opinions and the bases and reasons for such opinions.*

27 (d) Except as to scientific or medical reports, ~~this~~ subsection (c) does  
28 not authorize the discovery or inspection of reports, memoranda or other  
29 internal defense documents made by the defendant, or the defendant's  
30 attorneys or agents in connection with the investigation or defense of the  
31 case, or of statements made by the defendant, or by prosecution or defense  
32 witnesses, or by prospective prosecution or defense witnesses, to the  
33 defendant, the defendant's agents or attorneys.

34 (e) *All disclosures shall be made at the times and in the sequence*  
35 *directed by the court. In the absence of other directions from the court or*  
36 *stipulation by the parties, such disclosures shall be made as provided in*  
37 *this section.*

38 ~~(d)~~ (f) The prosecuting attorney and the defendant shall cooperate in  
39 discovery and reach agreement on the time, place and manner of making  
40 the discovery and inspection permitted, so as to avoid the necessity for  
41 court intervention.

42 ~~(e)~~ (g) Upon a sufficient showing the court may at any time order that  
43 the discovery or inspection be denied, restricted, enlarged or deferred or

1 make such other order as is appropriate. Upon motion, the court may  
2 permit either party to make such showing, in whole or in part, in the form  
3 of a written statement to be inspected privately by the court. If the court  
4 enters an order granting relief following such a private showing, the entire  
5 text of the statement shall be sealed and preserved in the records of the  
6 court to be made available to the appellate court in the event of an appeal.

7 ~~(g)~~ (h) Discovery under this section must be completed no later than  
8 21 days after arraignment or at such reasonable later time as the court may  
9 permit.

10 ~~(g)~~ (i) If, subsequent to compliance with an order issued pursuant to  
11 this section, and prior to or during trial, a party discovers additional  
12 material previously requested or ordered which is subject to discovery or  
13 inspection under this section, the party shall promptly notify the other  
14 party or the party's attorney or the court of the existence of the additional  
15 material. If at any time during the course of the proceedings it is brought  
16 to the attention of the court that a party has failed to comply with this section  
17 or with an order issued pursuant to this section, the court may order such  
18 party to permit the discovery or inspection of materials not previously  
19 disclosed, grant a continuance, or prohibit the party from introducing in  
20 evidence the material not disclosed, or it may enter such other order as it  
21 deems just under the circumstances.

22 ~~(h)~~ (j) For crimes committed on or after July 1, 1993, the prosecuting  
23 attorney shall provide all prior convictions of the defendant known to the  
24 prosecuting attorney that would affect the determination of the defendant's  
25 criminal history for purposes of sentencing under a presumptive  
26 sentencing guidelines system as provided in K.S.A. 21-4701 et seq., prior  
27 to their repeal, or the revised Kansas sentencing guidelines act, article 68  
28 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

29 ~~(i)~~ (k) The prosecuting attorney and defendant shall be permitted to  
30 inspect and copy any juvenile files and records of the defendant for the  
31 purpose of discovering and verifying the criminal history of the defendant.

32 ~~(j)~~ (l) (1) In any criminal proceeding, any property or material that  
33 constitutes a visual depiction, as defined in subsection (a)(2) of K.S.A.  
34 2012 Supp. 21-5510, and amendments thereto, shall remain in the care,  
35 custody and control of either the prosecution, law enforcement or the  
36 court.

37 (2) Notwithstanding subsection (b), if the state makes property or  
38 material described in this subsection reasonably available to the defendant,  
39 the court shall deny any request by the defendant to copy, photograph,  
40 duplicate or otherwise reproduce any such property or material submitted  
41 as evidence.

42 (3) For the purpose of this subsection, property or material described  
43 in this subsection shall be deemed to be reasonably available to the

1 defendant if the prosecution provides ample and liberal opportunity for  
2 inspection, viewing and examination of such property or material at a  
3 government facility, whether inside or outside the state of Kansas, by the  
4 defendant, the defendant's attorney and any individual the defendant may  
5 seek to qualify to furnish expert testimony at trial.

6 Sec. 13. K.S.A. 2012 Supp. 22-3717, as amended by section 27 of  
7 2013 Senate Substitute for House Bill No. 2034, is hereby amended to  
8 read as follows: 22-3717. (a) Except as otherwise provided by this section;  
9 K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through  
10 21-4638, prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A.  
11 21-4642, prior to its repeal; K.S.A. 2012 Supp. 21-6617, 21-6620, 21-  
12 6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; and  
13 K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate  
14 sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2012  
15 Supp. 21-6707, and amendments thereto, shall be eligible for parole after  
16 serving the entire minimum sentence imposed by the court, less good time  
17 credits.

18 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior  
19 to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-  
20 6625, and amendments thereto, an inmate sentenced to imprisonment for  
21 the crime of capital murder, or an inmate sentenced for the crime of  
22 murder in the first degree based upon a finding of premeditated murder,  
23 committed on or after July 1, 1994, shall be eligible for parole after  
24 serving 25 years of confinement, without deduction of any good time  
25 credits.

26 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993  
27 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior  
28 to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-  
29 6625, and amendments thereto, an inmate sentenced to imprisonment for  
30 an off-grid offense committed on or after July 1, 1993, but prior to July 1,  
31 1999, shall be eligible for parole after serving 15 years of confinement,  
32 without deduction of any good time credits and an inmate sentenced to  
33 imprisonment for an off-grid offense committed on or after July 1, 1999,  
34 shall be eligible for parole after serving 20 years of confinement without  
35 deduction of any good time credits.

36 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its  
37 repeal, an inmate sentenced for a class A felony committed before July 1,  
38 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to  
39 its repeal, or K.S.A. 2012 Supp. 21-6707, and amendments thereto, shall  
40 be eligible for parole after serving 15 years of confinement, without  
41 deduction of any good time credits.

42 (4) An inmate sentenced to imprisonment for a violation of  
43 subsection (a) of K.S.A. 21-3402, prior to its repeal, committed on or after

1 July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after  
2 serving 10 years of confinement without deduction of any good time  
3 credits.

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

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

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

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

19 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-  
20 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments  
21 thereto, for crimes committed on or after July 1, 2006, the inmate shall be  
22 eligible for parole after serving the mandatory term of imprisonment.

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

28 (A) Except as provided in subparagraphs (D) and (E), persons  
29 sentenced for nondrug severity levels 1 through 4 crimes, drug severity  
30 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July  
31 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after  
32 July 1, 2012, must serve 36 months, ~~plus the amount of good time and  
33 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its  
34 repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto,~~ on  
35 postrelease supervision.

36 (B) Except as provided in subparagraphs (D) and (E), persons  
37 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3  
38 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and  
39 drug severity level 4 crimes committed on or after July 1, 2012, must serve  
40 24 months, ~~plus the amount of good time and program credit earned and  
41 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012  
42 Supp. 21-6821, and amendments thereto,~~ on postrelease supervision.

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

1 sentenced for nondrug severity levels 7 through 10 crimes, drug severity  
2 level 4 crimes committed on or after July 1, 1993, but prior to July 1,  
3 2012, and drug severity level 5 crimes committed on or after July 1, 2012,  
4 must serve 12 months, ~~plus the amount of good time and program credit~~  
5 ~~earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or~~  
6 ~~K.S.A. 2012 Supp. 21-6821, and amendments thereto,~~ on postrelease  
7 supervision.

8 (D) *Persons sentenced to a term of imprisonment that includes a*  
9 *sentence for a sexually violent crime as defined in K.S.A. 22-3717, and*  
10 *amendments thereto, a sexually motivated crime in which the offender has*  
11 *been ordered to register pursuant to subsection (d)(1)(D)(vii) of K.S.A. 22-*  
12 *3717, and amendments thereto, electronic solicitation, K.S.A. 21-3523,*  
13 *prior to its repeal, or K.S.A. 2012 Supp. 21-5509, and amendments*  
14 *thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal,*  
15 *or K.S.A. 2012 Supp. 21-5512, and amendments thereto, shall serve the*  
16 *period of postrelease supervision as provided in subsections (d)(1)(A), (d)*  
17 *(1)(B) or (d)(1)(C) plus the amount of good time and program credit*  
18 *earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or*  
19 *K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease*  
20 *supervision.*

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

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

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

35 (a) Written briefs or oral arguments submitted by either the defendant  
36 or the state;

37 (b) any evidence received during the proceeding;

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

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

43 (iv) The sentencing judge may order that a psychological evaluation

1 be prepared and the recommended programming be completed by the  
2 offender. The department of corrections or the prisoner review board shall  
3 ensure that court ordered sex offender treatment be carried out.

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

7 (vi) Upon petition *and payment of any restitution ordered pursuant to*  
8 *K.S.A. 2012 Supp. 21-6604, and amendments thereto*, the prisoner review  
9 board may provide for early discharge from the postrelease supervision  
10 period *imposed pursuant to subsection (d)(1)(D)(i)* 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~~ subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge  
14 from 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) *Persons serving a period of postrelease supervision pursuant to*  
39 *subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner*  
40 *review board for early discharge. Upon payment of restitution, the*  
41 *prisoner review board may provide for early discharge.*

42 (3) *Persons serving a period of incarceration for a supervision*  
43 *violation shall not have the period of postrelease supervision modified*

1 *until such person is released and returned to postrelease supervision.*

2 *(4) Offenders whose crime of conviction was committed on or after*  
3 *July 1, 2013, and whose probation, assignment to a community*  
4 *correctional services program, suspension of sentence or nonprison*  
5 *sanction is revoked pursuant to subsection (c) of K.S.A. 22-3716, and*  
6 *amendments thereto, or whose underlying prison term expires while*  
7 *-serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) of K.S.A.*  
8 *22-3716, and amendments thereto, shall serve a period of postrelease*  
9 *supervision upon the completion of the underlying prison term.*

10 ~~(2)~~ (5) As used in this subsection, "sexually violent crime" means:

11 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp.  
12 21-5503, and amendments thereto;

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

15 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior  
16 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and  
17 amendments thereto;

18 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,  
19 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2012 Supp. 21-  
20 5504, and amendments thereto;

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

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

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

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

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

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

34 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,  
35 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and  
36 amendments thereto, if committed in whole or in part for the purpose of  
37 the sexual gratification of the defendant or another;

38 (L) commercial sexual exploitation of a child, as defined in section 4  
39 of 2013 Senate Substitute for House Bill No. 2034, and amendments  
40 thereto; or

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



1 sexually violent crime as defined in this section.

2 ~~(3)~~ (6) As used in this subsection, "sexually motivated" means that  
3 one of the purposes for which the defendant committed the crime was for  
4 the purpose of the defendant's sexual gratification.

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

12 (f) If a person is sentenced to prison for a crime committed on or after  
13 July 1, 1993, while on probation, parole, conditional release or in a  
14 community corrections program, for a crime committed prior to July 1,  
15 1993, and the person is not eligible for retroactive application of the  
16 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-  
17 4724, prior to its repeal, the new sentence shall not be aggregated with the  
18 old sentence, but shall begin when the person is paroled or reaches the  
19 conditional release date on the old sentence. If the offender was past the  
20 offender's conditional release date at the time the new offense was  
21 committed, the new sentence shall not be aggregated with the old sentence  
22 but shall begin when the person is ordered released by the prisoner review  
23 board or reaches the maximum sentence expiration date on the old  
24 sentence, whichever is earlier. The new sentence shall then be served as  
25 otherwise provided by law. The period of postrelease supervision shall be  
26 based on the new sentence, except that those offenders whose old sentence  
27 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.  
28 21-4628, prior to its repeal, or an indeterminate sentence with a maximum  
29 term of life imprisonment, for which there is no conditional release or  
30 maximum sentence expiration date, shall remain on postrelease  
31 supervision for life or until discharged from supervision by the prisoner  
32 review board.

33 (g) Subject to the provisions of this section, the prisoner review board  
34 may release on parole those persons confined in institutions who are  
35 eligible for parole when: (1) The board believes that the inmate should be  
36 released for hospitalization, deportation or to answer the warrant or other  
37 process of a court and is of the opinion that there is reasonable probability  
38 that the inmate can be released without detriment to the community or to  
39 the inmate; or (2) the secretary of corrections has reported to the board in  
40 writing that the inmate has satisfactorily completed the programs required  
41 by any agreement entered under K.S.A. 75-5210a, and amendments  
42 thereto, or any revision of such agreement, and the board believes that the  
43 inmate is able and willing to fulfill the obligations of a law abiding citizen

1 and is of the opinion that there is reasonable probability that the inmate  
2 can be released without detriment to the community or to the inmate.  
3 Parole shall not be granted as an award of clemency and shall not be  
4 considered a reduction of sentence or a pardon.

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

1 facility where the inmate is incarcerated; proportionality of the time the  
2 inmate has served to the sentence a person would receive under the Kansas  
3 sentencing guidelines for the conduct that resulted in the inmate's  
4 incarceration; and capacity of state correctional institutions.

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

15 (j) (1) Before ordering the parole of any inmate, the prisoner review  
16 board shall have the inmate appear either in person or via a video  
17 conferencing format and shall interview the inmate unless impractical  
18 because of the inmate's physical or mental condition or absence from the  
19 institution. Every inmate while on parole shall remain in the legal custody  
20 of the secretary of corrections and is subject to the orders of the secretary.  
21 Whenever the board formally considers placing an inmate on parole and no  
22 agreement has been entered into with the inmate under K.S.A. 75-  
23 5210a, and amendments thereto, the board shall notify the inmate in  
24 writing of the reasons for not granting parole. If an agreement has been  
25 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate  
26 has not satisfactorily completed the programs specified in the agreement,  
27 or any revision of such agreement, the board shall notify the inmate in  
28 writing of the specific programs the inmate must satisfactorily complete  
29 before parole will be granted. If parole is not granted only because of a  
30 failure to satisfactorily complete such programs, the board shall grant  
31 parole upon the secretary's certification that the inmate has successfully  
32 completed such programs. If an agreement has been entered under K.S.A.  
33 75-5210a, and amendments thereto, and the secretary of corrections has  
34 reported to the board in writing that the inmate has satisfactorily  
35 completed the programs required by such agreement, or any revision  
36 thereof, the board shall not require further program participation.  
37 However, if the board determines that other pertinent information  
38 regarding the inmate warrants the inmate's not being released on parole,  
39 the board shall state in writing the reasons for not granting the parole. If  
40 parole is denied for an inmate sentenced for a crime other than a class A or  
41 class B felony or an off-grid felony, the board shall hold another parole  
42 hearing for the inmate not later than one year after the denial unless the  
43 board finds that it is not reasonable to expect that parole would be granted

1 at a hearing if held in the next three years or during the interim period of a  
2 deferral. In such case, the board may defer subsequent parole hearings for  
3 up to three years but any such deferral by the board shall require the board  
4 to state the basis for its findings. If parole is denied for an inmate  
5 sentenced for a class A or class B felony or an off-grid felony, the board  
6 shall hold another parole hearing for the inmate not later than three years  
7 after the denial unless the board finds that it is not reasonable to expect  
8 that parole would be granted at a hearing if held in the next 10 years or  
9 during the interim period of a deferral. In such case, the board may defer  
10 subsequent parole hearings for up to 10 years, but any such deferral shall  
11 require the board to state the basis for its findings.

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

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

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

30 (3) Parolees and persons on postrelease supervision are, and shall  
31 agree in writing to be, subject to search or seizure by any law enforcement  
32 officer based on reasonable suspicion of the person violating conditions of  
33 parole or postrelease supervision or reasonable suspicion of criminal  
34 activity. Any law enforcement officer who conducts such a search shall  
35 submit a written report to the appropriate parole officer no later than the  
36 close of the next business day after such search. The written report shall  
37 include the facts leading to such search, the scope of such search and any  
38 findings resulting from such search.

39 (l) The prisoner review board shall promulgate rules and regulations  
40 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not  
41 inconsistent with the law and as it may deem proper or necessary, with  
42 respect to the conduct of parole hearings, postrelease supervision reviews,  
43 revocation hearings, orders of restitution, reimbursement of expenditures

1 by the state board of indigents' defense services and other conditions to be  
2 imposed upon parolees or releasees. Whenever an order for parole or  
3 postrelease supervision is issued it shall recite the conditions thereof.

4 (m) Whenever the prisoner review board orders the parole of an  
5 inmate or establishes conditions for an inmate placed on postrelease  
6 supervision, the board:

7 (1) Unless it finds compelling circumstances which would render a  
8 plan of payment unworkable, shall order as a condition of parole or  
9 postrelease supervision that the parolee or the person on postrelease  
10 supervision pay any transportation expenses resulting from returning the  
11 parolee or the person on postrelease supervision to this state to answer  
12 criminal charges or a warrant for a violation of a condition of probation,  
13 assignment to a community correctional services program, parole,  
14 conditional release or postrelease supervision;

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

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

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

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

41 (6) shall order that the parolee or person on postrelease supervision  
42 agree in writing to be subject to search or seizure by a parole officer or a  
43 department of corrections enforcement, apprehension and investigation

1 officer, at any time of the day or night, with or without a search warrant  
2 and with or without cause. Nothing in this subsection shall be construed to  
3 authorize such officers to conduct arbitrary or capricious searches or  
4 searches for the sole purpose of harassment; and

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

10 (n) If the court which sentenced an inmate specified at the time of  
11 sentencing the amount and the recipient of any restitution ordered as a  
12 condition of parole or postrelease supervision, the prisoner review board  
13 shall order as a condition of parole or postrelease supervision that the  
14 inmate pay restitution in the amount and manner provided in the journal  
15 entry unless the board finds compelling circumstances which would render  
16 a plan of restitution unworkable.

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

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

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

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

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

38 (t) For offenders sentenced prior to ~~May 25, 2000~~ *July 1, 2013*, who  
39 are eligible for modification of their postrelease supervision obligation, the  
40 department of corrections shall modify the period of postrelease  
41 supervision as provided for by this section:

42 (1) *On or before September 1, 2013*, for offenders convicted of:

43 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid

1 for nondrug crimes ~~and~~;

2 (B) severity level 4 crimes *on the sentencing guidelines grid for drug*  
3 *crimes committed prior to July 1, 2012; and*

4 (C) *severity level 5 crimes on the sentencing guidelines grid for drug*  
5 *crimes ~~on or before September 1, 2000~~ committed on and after July 1,*  
6 *2012;*

7 (2) *on or before November 1, 2013, for offenders convicted of:*

8 (A) severity levels 6, 7 and 8 crimes on the sentencing guidelines grid  
9 for nondrug crimes ~~on or before November 1, 2000; and~~;

10 (B) *level 3 crimes on the sentencing guidelines grid for drug crimes*  
11 *committed prior to July 1, 2012; and*

12 (C) *level 4 crimes on the sentencing guidelines grid for drug crimes*  
13 *committed on or after July 1, 2012; and*

14 (3) *on or before January 1, 2014, for offenders convicted of:*

15 (A) Severity levels 1, 2, 3, 4 and 5 ~~and 6~~ crimes on the sentencing  
16 guidelines grid for nondrug crimes ~~and~~;

17 (B) ~~severity level 3~~ *levels 1 and 2 crimes on the sentencing guidelines*  
18 *grid for drug crimes committed at any time; and*

19 (C) *severity level 3 crimes on the sentencing guidelines grid for drug*  
20 *crimes ~~on or before January 1, 2001~~ committed on or after July 1, 2012.*

21 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-  
22 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments  
23 thereto, for crimes committed on or after July 1, 2006, shall be placed on  
24 parole for life and shall not be discharged from supervision by the prisoner  
25 review board. When the board orders the parole of an inmate pursuant to  
26 this subsection, the board shall order as a condition of parole that the  
27 inmate be electronically monitored for the duration of the inmate's natural  
28 life.

29 (v) Whenever the prisoner review board orders a person to be  
30 electronically monitored pursuant to this section, or the court orders a  
31 person to be electronically monitored pursuant to subsection (r) of K.S.A.  
32 2012 Supp. 21-6604, and amendments thereto, the board shall order the  
33 person to reimburse the state for all or part of the cost of such monitoring.  
34 In determining the amount and method of payment of such sum, the board  
35 shall take account of the financial resources of the person and the nature of  
36 the burden that the payment of such sum will impose.

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

42 (A) As used in this subsection, "pornographic materials" means: Any  
43 obscene material or performance depicting sexual conduct, sexual contact

1 or a sexual performance; and any visual depiction of sexually explicit  
2 conduct.

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

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

10 Sec. 14. K.S.A. 2012 Supp. 32-1438 is hereby amended to read as  
11 follows: 32-1438. (a) For taxable years commencing on and after  
12 December 31, 2003, December 31, 2004, December 31, 2005, December  
13 31, 2006, and December 31, 2007, there shall be allowed as a credit  
14 against the tax liability of a taxpayer imposed under the Kansas income tax  
15 act, an amount equal to 20% of the cost of liability insurance paid by a  
16 registered agritourism operator who operates an agritourism activity on the  
17 effective date of this act. No tax credit claimed pursuant to this subsection  
18 shall exceed \$2,000. If the amount of such tax credit exceeds the  
19 taxpayer's income tax liability for such taxable year, the amount thereof  
20 which exceeds such tax liability may be carried over for deduction from  
21 the taxpayer's income tax liability in the next succeeding taxable year or  
22 years until the total amount of tax credit has been deducted from tax  
23 liability, except that no such tax credit shall be carried forward for  
24 deduction after the third taxable year succeeding the taxable year in which  
25 the tax credit is claimed.

26 (b) For the first five taxable years commencing after a taxpayer opens  
27 such taxpayer's business, after the effective date of this act, there shall be  
28 allowed as a credit against the tax liability of a taxpayer imposed under the  
29 Kansas income tax act, an amount equal to 20% of the cost of liability  
30 insurance paid by a registered agritourism operator who starts an  
31 agritourism activity after the effective date of this act. No tax credit  
32 claimed pursuant to this subsection shall exceed \$2,000. If the amount of  
33 such tax credit exceeds the taxpayer's income tax liability for such taxable  
34 year, the amount thereof which exceeds such tax liability may be carried  
35 over for deduction from the taxpayer's income tax liability in the next  
36 succeeding taxable year or years until the total amount of tax credit has  
37 been deducted from tax liability, except that no such tax credit shall be  
38 carried forward for deduction after the third taxable year succeeding the  
39 taxable year in which the tax credit is claimed.

40 (c) The secretary of ~~commerce~~ *wildlife, parks and tourism* shall adopt  
41 rules and regulations establishing criteria for determining those costs  
42 which qualify as costs of liability insurance for agritourism activities of a  
43 registered agritourism operator.



1 (d) On or before the 15<sup>th</sup> day of the regular legislative session in  
2 2006, the secretary of commerce shall submit to the senate standing  
3 committee on commerce and the house standing committee on tourism and  
4 parks a report on the implementation and use of the tax credit provided by  
5 this section.

6 (e) As used in this section, terms have the meanings provided by  
7 K.S.A. 2012 Supp. 32-1432, and amendments thereto.

8 (f) For tax year 2013 and all tax years thereafter, the income tax  
9 credit provided by this section shall only be available to taxpayers subject  
10 to the income tax on corporations imposed pursuant to subsection (c) of  
11 K.S.A. 79-32,110, and amendments thereto, and shall be applied only  
12 against such taxpayer's corporate income tax liability.

13 Sec. 15. K.S.A. 2012 Supp. 39-709, as amended by section 1 of 2013  
14 Senate Bill No. 149, is hereby amended to read as follows: 39-709. (a)  
15 *General eligibility requirements for assistance for which federal moneys*  
16 *are expended.* Subject to the additional requirements below, assistance in  
17 accordance with plans under which federal moneys are expended may be  
18 granted to any needy person who:

19 (1) Has insufficient income or resources to provide a reasonable  
20 subsistence compatible with decency and health. Where a husband and  
21 wife are living together, the combined income or resources of both shall be  
22 considered in determining the eligibility of either or both for such  
23 assistance unless otherwise prohibited by law. The secretary, in  
24 determining need of any applicant for or recipient of assistance shall not  
25 take into account the financial responsibility of any individual for any  
26 applicant or recipient of assistance unless such applicant or recipient is  
27 such individual's spouse or such individual's minor child or minor  
28 stepchild if the stepchild is living with such individual. The secretary in  
29 determining need of an individual may provide such income and resource  
30 exemptions as may be permitted by federal law. For purposes of eligibility  
31 for aid for families with dependent children, for food stamp assistance and  
32 for any other assistance provided through the ~~department of social and~~  
33 ~~rehabilitation services~~ *Kansas department for children and families* under  
34 which federal moneys are expended, the secretary ~~of social and~~  
35 ~~rehabilitation services~~ *for children and families* shall consider one motor  
36 vehicle owned by the applicant for assistance, regardless of the value of  
37 such vehicle, as exempt personal property and shall consider any equity in  
38 any additional motor vehicle owned by the applicant for assistance to be a  
39 nonexempt resource of the applicant for assistance.

40 (2) Is a citizen of the United States or is an alien lawfully admitted to  
41 the United States and who is residing in the state of Kansas.

42 (b) *Assistance to families with dependent children.* Assistance may be  
43 granted under this act to any dependent child, or relative, subject to the

1 general eligibility requirements as set out in subsection (a), who resides in  
2 the state of Kansas or whose parent or other relative with whom the child  
3 is living resides in the state of Kansas. Such assistance shall be known as  
4 aid to families with dependent children. Where husband and wife are  
5 living together both shall register for work under the program  
6 requirements for aid to families with dependent children in accordance  
7 with criteria and guidelines prescribed by rules and regulations of the  
8 secretary.

9 (c) *Aid to families with dependent children; assignment of support*  
10 *rights and limited power of attorney.* By applying for or receiving aid to  
11 families with dependent children such applicant or recipient shall be  
12 deemed to have assigned to the secretary on behalf of the state any  
13 accrued, present or future rights to support from any other person such  
14 applicant may have in such person's own behalf or in behalf of any other  
15 family member for whom the applicant is applying for or receiving aid. In  
16 any case in which an order for child support has been established and the  
17 legal custodian and obligee under the order surrenders physical custody of  
18 the child to a caretaker relative without obtaining a modification of legal  
19 custody and support rights on behalf of the child are assigned pursuant to  
20 this section, the surrender of physical custody and the assignment shall  
21 transfer, by operation of law, the child's support rights under the order to  
22 the secretary on behalf of the state. Such assignment shall be of all  
23 accrued, present or future rights to support of the child surrendered to the  
24 caretaker relative. The assignment of support rights shall automatically  
25 become effective upon the date of approval for or receipt of such aid  
26 without the requirement that any document be signed by the applicant,  
27 recipient or obligee. By applying for or receiving aid to families with  
28 dependent children, or by surrendering physical custody of a child to a  
29 caretaker relative who is an applicant or recipient of such assistance on the  
30 child's behalf, the applicant, recipient or obligee is also deemed to have  
31 appointed the secretary, or the secretary's designee, as an attorney in fact  
32 perform the specific act of negotiating and endorsing all drafts, checks,  
33 money orders or other negotiable instruments representing support  
34 payments received by the secretary in behalf of any person applying for,  
35 receiving or having received such assistance. This limited power of  
36 attorney shall be effective from the date the secretary approves the  
37 application for aid and shall remain in effect until the assignment of  
38 support rights has been terminated in full.

39 (d) *Eligibility requirements for general assistance, the cost of which*  
40 *is not shared by the federal government.* (1) General assistance may be  
41 granted to eligible persons who do not qualify for financial assistance in a  
42 program in which the federal government participates and who satisfy the  
43 additional requirements prescribed by or under this subsection (d).

1 (A) To qualify for general assistance in any form a needy person must  
2 have insufficient income or resources to provide a reasonable subsistence  
3 compatible with decency and health and, except as provided for  
4 transitional assistance, be a member of a family in which a minor child or  
5 a pregnant woman resides or be unable to engage in employment. The  
6 secretary shall adopt rules and regulations prescribing criteria for  
7 establishing when a minor child may be considered to be living with a  
8 family and whether a person is able to engage in employment, including  
9 such factors as age or physical or mental condition. Eligibility for general  
10 assistance, other than transitional assistance, is limited to families in which  
11 a minor child or a pregnant woman resides or to an adult or family in  
12 which all legally responsible family members are unable to engage in  
13 employment. Where a husband and wife are living together the combined  
14 income or resources of both shall be considered in determining the  
15 eligibility of either or both for such assistance unless otherwise prohibited  
16 by law. The secretary in determining need of any applicant for or recipient  
17 of general assistance shall not take into account the financial responsibility  
18 of any individual for any applicant or recipient of general assistance unless  
19 such applicant or recipient is such individual's spouse or such individual's  
20 minor child or a minor stepchild if the stepchild is living with such  
21 individual. In determining the need of an individual, the secretary may  
22 provide for income and resource exemptions.

23 (B) To qualify for general assistance in any form a needy person must  
24 be a citizen of the United States or an alien lawfully admitted to the United  
25 States and must be residing in the state of Kansas.

26 (2) General assistance in the form of transitional assistance may be  
27 granted to eligible persons who do not qualify for financial assistance in a  
28 program in which the federal government participates and who satisfy the  
29 additional requirements prescribed by or under this subsection (d), but who  
30 do not meet the criteria prescribed by rules and regulations of the secretary  
31 relating to inability to engage in employment or are not a member of a  
32 family in which a minor or a pregnant woman resides.

33 (3) In addition to the other requirements prescribed under this  
34 subsection (d), the secretary shall adopt rules and regulations which  
35 establish community work experience program requirements for eligibility  
36 for the receipt of general assistance in any form and which establish  
37 penalties to be imposed when a work assignment under a community work  
38 experience program requirement is not completed without good cause. The  
39 secretary may adopt rules and regulations establishing exemptions from  
40 any such community work experience program requirements. A first time  
41 failure to complete such a work assignment requirement shall result in  
42 ineligibility to receive general assistance for a period fixed by such rules  
43 and regulations of not more than three calendar months. A subsequent

1 failure to complete such a work assignment requirement shall result in a  
2 period fixed by such rules and regulations of ineligibility of not more than  
3 six calendar months.

4 (4) If any person is found guilty of the crime of theft under the  
5 provisions of K.S.A. 39-720, and amendments thereto, such person shall  
6 thereby become forever ineligible to receive any form of general  
7 assistance under the provisions of this subsection (d) unless the conviction  
8 is the person's first conviction under the provisions of K.S.A. 39-720, and  
9 amendments thereto, or the law of any other state concerning welfare  
10 fraud. First time offenders convicted of a misdemeanor under the  
11 provisions of such statute shall become ineligible to receive any form of  
12 general assistance for a period of 12 calendar months from the date of  
13 conviction. First time offenders convicted of a felony under the provisions  
14 of such statute shall become ineligible to receive any form of general  
15 assistance for a period of 60 calendar months from the date of conviction.  
16 If any person is found guilty by a court of competent jurisdiction of any  
17 state other than the state of Kansas of a crime involving welfare fraud,  
18 such person shall thereby become forever ineligible to receive any form of  
19 general assistance under the provisions of this subsection (d) unless the  
20 conviction is the person's first conviction under the law of any other state  
21 concerning welfare fraud. First time offenders convicted of a misdemeanor  
22 under the law of any other state concerning welfare fraud shall become  
23 ineligible to receive any form of general assistance for a period of 12  
24 calendar months from the date of conviction. First time offenders  
25 convicted of a felony under the law of any other state concerning welfare  
26 fraud shall become ineligible to receive any form of general assistance for  
27 a period of 60 calendar months from the date of conviction.

28 (e) *Requirements for medical assistance for which federal moneys or*  
29 *state moneys or both are expended.* (1) When the secretary has adopted a  
30 medical care plan under which federal moneys or state moneys or both are  
31 expended, medical assistance in accordance with such plan shall be  
32 granted to any person who is a citizen of the United States or who is an  
33 alien lawfully admitted to the United States and who is residing in the state  
34 of Kansas, whose resources and income do not exceed the levels  
35 prescribed by the secretary. In determining the need of an individual, the  
36 secretary may provide for income and resource exemptions and protected  
37 income and resource levels. Resources from inheritance shall be counted.  
38 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and  
39 amendments thereto, shall constitute a transfer of resources. The secretary  
40 shall exempt principal and interest held in irrevocable trust pursuant to  
41 subsection (c) of K.S.A. 16-303, and amendments thereto, from the  
42 eligibility requirements of applicants for and recipients of medical  
43 assistance. Such assistance shall be known as medical assistance.

1 (2) For the purposes of medical assistance eligibility determinations  
2 on or after July 1, 2004, if an applicant or recipient owns property in joint  
3 tenancy with some other party and the applicant or recipient of medical  
4 assistance has restricted or conditioned their interest in such property to a  
5 specific and discrete property interest less than 100%, then such  
6 designation will cause the full value of the property to be considered an  
7 available resource to the applicant or recipient.

8 (3) (A) Resources from trusts shall be considered when determining  
9 eligibility of a trust beneficiary for medical assistance. Medical assistance  
10 is to be secondary to all resources, including trusts, that may be available  
11 to an applicant or recipient of medical assistance.

12 (B) If a trust has discretionary language, the trust shall be considered  
13 to be an available resource to the extent, using the full extent of discretion,  
14 the trustee may make any of the income or principal available to the  
15 applicant or recipient of medical assistance. Any such discretionary trust  
16 shall be considered an available resource unless: (i) At the time of creation  
17 or amendment of the trust, the trust states a clear intent that the trust is  
18 supplemental to public assistance; and (ii) the trust: (a) Is funded from  
19 resources of a person who, at the time of such funding, owed no duty of  
20 support to the applicant or recipient of medical assistance; or (b) is funded  
21 not more than nominally from resources of a person while that person  
22 owed a duty of support to the applicant or recipient of medical assistance.

23 (C) For the purposes of this paragraph, "public assistance" includes,  
24 but is not limited to, medicaid, medical assistance or title XIX of the social  
25 security act.

26 (4) (A) When an applicant or recipient of medical assistance is a party  
27 to a contract, agreement or accord for personal services being provided by  
28 a nonlicensed individual or provider and such contract, agreement or  
29 accord involves health and welfare monitoring, pharmacy assistance, case  
30 management, communication with medical, health or other professionals,  
31 or other activities related to home health care, long term care, medical  
32 assistance benefits, or other related issues, any moneys paid under such  
33 contract, agreement or accord shall be considered to be an available  
34 resource unless the following restrictions are met: (i) The contract,  
35 agreement or accord must be in writing and executed prior to any services  
36 being provided; (ii) the moneys paid are in direct relationship with the fair  
37 market value of such services being provided by similarly situated and  
38 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed  
39 individuals or situations can be found, the value of services will be based  
40 on federal hourly minimum wage standards; (iv) such individual providing  
41 the services will report all receipts of moneys as income to the appropriate  
42 state and federal governmental revenue agencies; (v) any amounts due  
43 under such contract, agreement or accord shall be paid after the services

1 are rendered; (vi) the applicant or recipient shall have the power to revoke  
2 the contract, agreement or accord; and (vii) upon the death of the applicant  
3 or recipient, the contract, agreement or accord ceases.

4 (B) When an applicant or recipient of medical assistance is a party to  
5 a written contract for personal services being provided by a licensed health  
6 professional or facility and such contract involves health and welfare  
7 monitoring, pharmacy assistance, case management, communication with  
8 medical, health or other professionals, or other activities related to home  
9 health care, long term care, medical assistance benefits or other related  
10 issues, any moneys paid in advance of receipt of services for such  
11 contracts shall be considered to be an available resource.

12 (5) Any trust may be amended if such amendment is permitted by the  
13 Kansas uniform trust code.

14 (f) *Eligibility for medical assistance of resident receiving medical*  
15 *care outside state.* A person who is receiving medical care including long-  
16 term care outside of Kansas whose health would be endangered by the  
17 postponement of medical care until return to the state or by travel to return  
18 to Kansas, may be determined eligible for medical assistance if such  
19 individual is a resident of Kansas and all other eligibility factors are met.  
20 Persons who are receiving medical care on an ongoing basis in a long-term  
21 medical care facility in a state other than Kansas and who do not return to  
22 a care facility in Kansas when they are able to do so, shall no longer be  
23 eligible to receive assistance in Kansas unless such medical care is not  
24 available in a comparable facility or program providing such medical care  
25 in Kansas. For persons who are minors or who are under guardianship, the  
26 actions of the parent or guardian shall be deemed to be the actions of the  
27 child or ward in determining whether or not the person is remaining  
28 outside the state voluntarily.

29 (g) *Medical assistance; assignment of rights to medical support and*  
30 *limited power of attorney; recovery from estates of deceased recipients.* (1)  
31 Except as otherwise provided in K.S.A. 39-786 and 39-787, and  
32 amendments thereto, or as otherwise authorized on and after September  
33 30, 1989, under section 303, ~~and amendments thereto~~, of the federal  
34 medicare catastrophic coverage act of 1988, whichever is applicable, by  
35 applying for or receiving medical assistance under a medical care plan in  
36 which federal funds are expended, any accrued, present or future rights to  
37 support and any rights to payment for medical care from a third party of an  
38 applicant or recipient and any other family member for whom the  
39 applicant is applying shall be deemed to have been assigned to the  
40 secretary on behalf of the state. The assignment shall automatically  
41 become effective upon the date of approval for such assistance without the  
42 requirement that any document be signed by the applicant or recipient. By  
43 applying for or receiving medical assistance the applicant or recipient is

1 also deemed to have appointed the secretary, or the secretary's designee, as  
2 an attorney in fact to perform the specific act of negotiating and endorsing  
3 all drafts, checks, money orders or other negotiable instruments,  
4 representing payments received by the secretary in behalf of any person  
5 applying for, receiving or having received such assistance. This limited  
6 power of attorney shall be effective from the date the secretary approves  
7 the application for assistance and shall remain in effect until the  
8 assignment has been terminated in full. The assignment of any rights to  
9 payment for medical care from a third party under this subsection shall not  
10 prohibit a health care provider from directly billing an insurance carrier for  
11 services rendered if the provider has not submitted a claim covering such  
12 services to the secretary for payment. Support amounts collected on behalf  
13 of persons whose rights to support are assigned to the secretary only under  
14 this subsection and no other shall be distributed pursuant to subsection (d)  
15 of K.S.A. 39-756, and amendments thereto, except that any amounts  
16 designated as medical support shall be retained by the secretary for  
17 repayment of the unreimbursed portion of assistance. Amounts collected  
18 pursuant to the assignment of rights to payment for medical care from a  
19 third party shall also be retained by the secretary for repayment of the  
20 unreimbursed portion of assistance.

21 (2) The amount of any medical assistance paid after June 30, 1992,  
22 under the provisions of subsection (e) is (A) a claim against the property or  
23 any interest therein belonging to and a part of the estate of any deceased  
24 recipient or, if there is no estate, the estate of the surviving spouse, if any,  
25 shall be charged for such medical assistance paid to either or both, and (B)  
26 a claim against any funds of such recipient or spouse in any account under  
27 K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and  
28 amendments thereto. There shall be no recovery of medical assistance  
29 correctly paid to or on behalf of an individual under subsection (e) except  
30 after the death of the surviving spouse of the individual, if any, and only at  
31 a time when the individual has no surviving child who is under 21 years of  
32 age or is blind or permanently and totally disabled. Transfers of real or  
33 personal property by recipients of medical assistance without adequate  
34 consideration are voidable and may be set aside. Except where there is a  
35 surviving spouse, or a surviving child who is under 21 years of age or is  
36 blind or permanently and totally disabled, the amount of any medical  
37 assistance paid under subsection (e) is a claim against the estate in any  
38 guardianship or conservatorship proceeding. The monetary value of any  
39 benefits received by the recipient of such medical assistance under long-  
40 term care insurance, as defined by K.S.A. 40-2227, and amendments  
41 thereto, shall be a credit against the amount of the claim provided for such  
42 medical assistance under this subsection (g). The secretary is authorized to  
43 enforce each claim provided for under this subsection (g). The secretary

1 shall not be required to pursue every claim, but is granted discretion to  
2 determine which claims to pursue. All moneys received by the secretary  
3 from claims under this subsection (g) shall be deposited in the social  
4 welfare fund. The secretary may adopt rules and regulations for the  
5 implementation and administration of the medical assistance recovery  
6 program under this subsection (g).

7 (3) By applying for or receiving medical assistance under the  
8 provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, *and*  
9 *amendments thereto*, such individual or such individual's agent, fiduciary,  
10 guardian, conservator, representative payee or other person acting on  
11 behalf of the individual consents to the following definitions of estate and  
12 the results therefrom:

13 (A) If an individual receives any medical assistance before July 1,  
14 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
15 *and amendments thereto*, which forms the basis for a claim under  
16 subsection (g)(2), such claim is limited to the individual's probatable estate  
17 as defined by applicable law; and

18 (B) if an individual receives any medical assistance on or after July 1,  
19 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
20 *and amendments thereto*, which forms the basis for a claim under  
21 subsection (g)(2), such claim shall apply to the individual's medical  
22 assistance estate. The medical assistance estate is defined as including all  
23 real and personal property and other assets in which the deceased  
24 individual had any legal title or interest immediately before or at the time  
25 of death to the extent of that interest or title. The medical assistance estate  
26 includes, without limitation assets conveyed to a survivor, heir or assign of  
27 the deceased recipient through joint tenancy, tenancy in common,  
28 survivorship, transfer-on-death deed, payable-on-death contract, life estate,  
29 trust, annuities or similar arrangement.

30 (4) ~~The secretary of social and rehabilitation services of health and~~  
31 ~~environment or the secretary's designee is authorized to file and enforce a~~  
32 ~~lien against the real property of a recipient of medical assistance in certain~~  
33 ~~situations, subject to all prior liens of record and transfers for value to a~~  
34 ~~bona fide purchaser of record. The lien must be filed in the office of the~~  
35 ~~register of deeds of the county where the real property is located within~~  
36 ~~one year from the date of death of the recipient and must contain the legal~~  
37 ~~description of all real property in the county subject to the lien. This lien is~~  
38 ~~for payments of medical assistance made by the department of social and~~  
39 ~~rehabilitation services to the recipient who is an inpatient in a nursing~~  
40 ~~home or other medical institution.~~

41 (A) *After the death of a recipient of medical assistance, the secretary*  
42 *of health and environment or the secretary's designee may place a lien on*  
43 *any interest in real property owned by such recipient.*



1       (B) *The secretary of health and environment or the secretary's*  
2 *designee may place a lien on any interest in real property owned by a*  
3 *recipient of medical assistance during the lifetime of such recipient. Such*  
4 *lien may be filed only after notice and an opportunity for a hearing has*  
5 *been given. Such lien may be enforced only upon competent medical*  
6 *testimony that the recipient cannot reasonably be expected to be*  
7 *discharged and returned home. A six-month period of compensated*  
8 *inpatient care at a nursing home, ~~nursing homes~~ or other medical*  
9 *institution shall constitute a determination by the department of ~~social and~~*  
10 *~~rehabilitation services~~ health and environment that the recipient cannot*  
11 *reasonably be expected to be discharged and returned home. To return*  
12 *home means the recipient leaves the nursing or medical facility and resides*  
13 *in the home on which the lien has been placed for a continuous period of at*  
14 *least 90 days without being readmitted as an inpatient to a nursing or*  
15 *medical facility. The amount of the lien shall be for the amount of*  
16 *assistance paid by the department of ~~social and rehabilitation services~~ after*  
17 *~~the expiration of six months from the date the recipient became eligible for~~*  
18 *~~compensated inpatient care at a nursing home, nursing homes or other~~*  
19 *~~medical institution~~ of health and environment until the time of the filing of*  
20 *the lien and for any amount paid thereafter for such medical assistance to*  
21 *the recipient. After the lien is filed against any real property owned by the*  
22 *recipient, such lien will be dissolved if the recipient is discharged, returns*  
23 *home and resides upon the real property to which the lien is attached for a*  
24 *continuous period of at least 90 days without being readmitted as an*  
25 *inpatient to a nursing or medical facility. If the recipient is readmitted as*  
26 *an inpatient to a nursing or medical facility for a continuous period of less*  
27 *than 90 days, another continuous period of at least 90 days shall be*  
28 *completed prior to dissolution of the lien.*

29       (5) The lien filed by the secretary of health and environment or the  
30 secretary's designee for medical assistance correctly received may be  
31 enforced before or after the death of the recipient by the filing of an action  
32 to foreclose such lien in the Kansas district court or through an estate  
33 probate court action in the county where the real property of the recipient  
34 is located. However, it may be enforced only:

35       (A) After the death of the surviving spouse of the recipient;

36       (B) when there is no child of the recipient, natural or adopted, who is  
37 20 years of age or less residing in the home;

38       (C) when there is no adult child of the recipient, natural or adopted,  
39 who is blind or disabled residing in the home; or

40       (D) when no brother or sister of the recipient is lawfully residing in  
41 the home, who has resided there for at least one year immediately before  
42 the date of the recipient's admission to the nursing or medical facility, and  
43 has resided there on a continuous basis since that time.

1 (6) The lien remains on the property even after a transfer of the title  
2 by conveyance, sale, succession, inheritance or will unless one of the  
3 following events occur:

4 (A) The lien is satisfied. The recipient, the heirs, personal  
5 representative or assigns of the recipient may discharge such lien at any  
6 time by paying the amount of the lien to the secretary or the secretary's  
7 designee;

8 (B) the lien is terminated by foreclosure of prior lien of record or  
9 settlement action taken in lieu of foreclosure; *or*

10 (C) the value of the real property is consumed by the lien, at which  
11 time the secretary or the secretary's designee may force the sale for the real  
12 property to satisfy the lien; *or*

13 ~~(D) after a lien is filed against the real property, it will be dissolved if  
14 the recipient leaves the nursing or medical facility and resides in the  
15 property to which the lien is attached for a period of more than 90 days  
16 without being readmitted as an inpatient to a nursing or medical facility,  
17 even though there may have been no reasonable expectation that this  
18 would occur. If the recipient is readmitted to a nursing or medical facility  
19 during this period, and does return home after being released, another 90  
20 days must be completed before the lien can be dissolved.~~

21 ~~(7) If the secretary of social and rehabilitation for aging and  
22 disability services or the secretary of health and environment, or both, or  
23 such secretary's designee has not filed an action to foreclose the lien in the  
24 Kansas district court in the county where the real property is located  
25 within 10 years from the date of the filing of the lien, then the lien shall  
26 become dormant, and shall cease to operate as a lien on the real estate of  
27 the recipient. Such dormant lien may be revived in the same manner as a  
28 dormant judgment lien is revived under K.S.A. 60-2403 et seq., and  
29 amendments thereto.~~

30 *(8) Within seven days of receipt of notice by the secretary for children  
31 and families or the secretary's designee of the death of a recipient of  
32 medical assistance under this subsection, the secretary for children and  
33 families or the secretary's designee shall give notice of such recipient's  
34 death to the secretary of health and environment or the secretary's  
35 designee.*

36 *(h) Placement under the revised Kansas code for care of children or  
37 revised Kansas juvenile justice code; assignment of support rights and  
38 limited power of attorney. In any case in which the secretary of social and  
39 rehabilitation services for children and families pays for the expenses of  
40 care and custody of a child pursuant to K.S.A. 2012 Supp. 38-2201 et seq.  
41 or 38-2301 et seq., and amendments thereto, including the expenses of any  
42 foster care placement, an assignment of all past, present and future support  
43 rights of the child in custody possessed by either parent or other person*

1 entitled to receive support payments for the child is, by operation of law,  
2 conveyed to the secretary. Such assignment shall become effective upon  
3 placement of a child in the custody of the secretary or upon payment of the  
4 expenses of care and custody of a child by the secretary without the  
5 requirement that any document be signed by the parent or other person  
6 entitled to receive support payments for the child. When the secretary pays  
7 for the expenses of care and custody of a child or a child is placed in the  
8 custody of the secretary, the parent or other person entitled to receive  
9 support payments for the child is also deemed to have appointed the  
10 secretary, or the secretary's designee, as attorney in fact to perform the  
11 specific act of negotiating and endorsing all drafts, checks, money orders  
12 or other negotiable instruments representing support payments received by  
13 the secretary on behalf of the child. This limited power of attorney shall be  
14 effective from the date the assignment to support rights becomes effective  
15 and shall remain in effect until the assignment of support rights has been  
16 terminated in full.

17 (i) No person who voluntarily quits employment or who is fired from  
18 employment due to gross misconduct as defined by rules and regulations  
19 of the secretary or who is a fugitive from justice by reason of a felony  
20 conviction or charge shall be eligible to receive public assistance benefits  
21 in this state. Any recipient of public assistance who fails to timely comply  
22 with monthly reporting requirements under criteria and guidelines  
23 prescribed by rules and regulations of the secretary shall be subject to a  
24 penalty established by the secretary by rules and regulations.

25 (j) If the applicant or recipient of aid to families with dependent  
26 children is a mother of the dependent child, as a condition of the mother's  
27 eligibility for aid to families with dependent children the mother shall  
28 identify by name and, if known, by current address the father of the  
29 dependent child except that the secretary may adopt by rules and  
30 regulations exceptions to this requirement in cases of undue hardship. Any  
31 recipient of aid to families with dependent children who fails to cooperate  
32 with requirements relating to child support enforcement under criteria and  
33 guidelines prescribed by rules and regulations of the secretary shall be  
34 subject to a penalty established by the secretary by rules and regulations  
35 which penalty shall progress to ineligibility for the family after three  
36 months of noncooperation.

37 (k) By applying for or receiving child care benefits or food stamps,  
38 the applicant or recipient shall be deemed to have assigned, pursuant to  
39 K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the  
40 state only accrued, present or future rights to support from any other  
41 person such applicant may have in such person's own behalf or in behalf of  
42 any other family member for whom the applicant is applying for or  
43 receiving aid. The assignment of support rights shall automatically become

1 effective upon the date of approval for or receipt of such aid without the  
2 requirement that any document be signed by the applicant or recipient. By  
3 applying for or receiving child care benefits or food stamps, the applicant  
4 or recipient is also deemed to have appointed the secretary, or the  
5 secretary's designee, as an attorney in fact to perform the specific act of  
6 negotiating and endorsing all drafts, checks, money orders or other  
7 negotiable instruments representing support payments received by the  
8 secretary in behalf of any person applying for, receiving or having  
9 received such assistance. This limited power of attorney shall be effective  
10 from the date the secretary approves the application for aid and shall  
11 remain in effect until the assignment of support rights has been terminated  
12 in full. An applicant or recipient who has assigned support rights to the  
13 secretary pursuant to this subsection shall cooperate in establishing and  
14 enforcing support obligations to the same extent required of applicants for  
15 or recipients of aid to families with dependent children.

16 (1) (1) A program of drug screening for applicants for cash assistance  
17 as a condition of eligibility for cash assistance and persons receiving cash  
18 assistance as a condition of continued receipt of cash assistance shall be  
19 established, subject to applicable federal law, by the secretary for children  
20 and families on or before January 1, 2014. Under such program of drug  
21 screening, the secretary for children and families shall order a drug  
22 screening of an applicant for or a recipient of cash assistance at any time  
23 when reasonable suspicion exists that such applicant for or recipient of  
24 cash assistance is unlawfully using a controlled substance or controlled  
25 substance analog. The secretary for children and families may use any  
26 information obtained by the secretary for children and families to  
27 determine whether such reasonable suspicion exists, including, but not  
28 limited to, an applicant's or recipient's demeanor, missed appointments and  
29 arrest or other police records, previous employment or application for  
30 employment in an occupation or industry that regularly conducts drug  
31 screening, termination from previous employment due to unlawful use of a  
32 controlled substance or controlled substance analog or prior drug screening  
33 records of the applicant or recipient indicating unlawful use of a controlled  
34 substance or controlled substance analog.

35 (2) Any applicant for or recipient of cash assistance whose drug  
36 screening results in a positive test may request that the drug screening  
37 specimen be sent to a different drug testing facility for an additional drug  
38 screening. Any applicant for or recipient of cash assistance who requests  
39 an additional drug screening at a different drug testing facility shall be  
40 required to pay the cost of drug screening. Such applicant or recipient who  
41 took the additional drug screening and who tested negative for unlawful  
42 use of a controlled substance and controlled substance analog shall be  
43 reimbursed for the cost of such additional drug screening.

1 (3) Any applicant for or recipient of cash assistance who tests  
2 positive for unlawful use of a controlled substance or controlled substance  
3 analog shall be required to complete a substance abuse treatment program  
4 approved by the secretary for children and families, secretary of labor or  
5 secretary of commerce, and a job skills program approved by the secretary  
6 for children and families, secretary of labor or secretary of commerce.  
7 Subject to applicable federal laws, any applicant for or recipient of cash  
8 assistance who fails to complete or refuses to participate in the substance  
9 abuse treatment program or job skills program as required under this  
10 subsection shall be ineligible to receive cash assistance until completion of  
11 such substance abuse treatment and job skills programs. Upon completion  
12 of both substance abuse treatment and job skills programs, such applicant  
13 for or recipient of cash assistance may be subject to periodic drug  
14 screening, as determined by the secretary for children and families. Upon a  
15 second positive test for unlawful use of a controlled substance or  
16 controlled substance analog, a recipient of cash assistance shall be ordered  
17 to complete again a substance abuse treatment program and job skills  
18 program, and shall be terminated from cash assistance for a period of 12  
19 months, or until such recipient of cash assistance completes both substance  
20 abuse treatment and job skills programs, whichever is later. Upon a third  
21 positive test for unlawful use of a controlled substance or controlled  
22 substance analog, a recipient of cash assistance shall be terminated from  
23 cash assistance, subject to applicable federal law.

24 (4) If an applicant for or recipient of cash assistance is ineligible for  
25 or terminated from cash assistance as a result of a positive test for  
26 unlawful use of a controlled substance or controlled substance analog, and  
27 such applicant for or recipient of cash assistance is the parent or legal  
28 guardian of a minor child, an appropriate protective payee shall be  
29 designated to receive cash assistance on behalf of such child. Such parent  
30 or legal guardian of the minor child may choose to designate an individual  
31 to receive cash assistance for such parent's or legal guardian's minor child,  
32 as approved by the secretary for children and families. Prior to the  
33 designated individual receiving any cash assistance, the secretary for  
34 children and families shall review whether reasonable suspicion exists that  
35 such designated individual is unlawfully using a controlled substance or  
36 controlled substance analog.

37 (A) In addition, any individual designated to receive cash assistance  
38 on behalf of an eligible minor child shall be subject to drug screening at  
39 any time when reasonable suspicion exists that such designated individual  
40 is unlawfully using a controlled substance or controlled substance analog.  
41 The secretary for children and families may use any information obtained  
42 by the secretary for children and families to determine whether such  
43 reasonable suspicion exists, including, but not limited to, the designated

1 individual's demeanor, missed appointments and arrest or other police  
2 records, previous employment or application for employment in an  
3 occupation or industry that regularly conducts drug screening, termination  
4 from previous employment due to unlawful use of a controlled substance  
5 or controlled substance analog or prior drug screening records of the  
6 designated individual indicating unlawful use of a controlled substance or  
7 controlled substance analog.

8 (B) Any designated individual whose drug screening results in a  
9 positive test may request that the drug screening specimen be sent to a  
10 different drug testing facility for an additional drug screening. Any  
11 designated individual who requests an additional drug screening at a  
12 different drug testing facility shall be required to pay the cost of drug  
13 screening. Such designated individual who took the additional drug  
14 screening and who tested negative for unlawful use of a controlled  
15 substance and controlled substance analog shall be reimbursed for the cost  
16 of such additional drug screening.

17 (C) Upon any positive test for unlawful use of a controlled substance  
18 or controlled substance analog, the designated individual shall not receive  
19 cash assistance on behalf of the parent's or legal guardian's minor child,  
20 and another designated individual shall be selected by the secretary for  
21 children and families to receive cash assistance on behalf of such parent's  
22 or legal guardian's minor child.

23 (5) If a person has been convicted under federal or state law of any  
24 offense which is classified as a felony by the law of the jurisdiction and  
25 which has as an element of such offense the manufacture, cultivation,  
26 distribution, possession or use of a controlled substance or controlled  
27 substance analog, and the date of conviction is on or after July 1, 2013,  
28 such person shall thereby become forever ineligible to receive any cash  
29 assistance under this subsection unless such conviction is the person's first  
30 conviction. First-time offenders convicted under federal or state law of any  
31 offense which is classified as a felony by the law of the jurisdiction and  
32 which has as an element of such offense the manufacture, cultivation,  
33 distribution, possession or use of a controlled substance or controlled  
34 substance analog, and the date of conviction is on or after July 1, 2013,  
35 such person shall become ineligible to receive cash assistance for five  
36 years from the date of conviction.

37 (6) Except for hearings before the Kansas department for children  
38 and families or, the results of any drug screening administered as part of  
39 the drug screening program authorized by this subsection shall be  
40 confidential and shall not be disclosed publicly.

41 (7) The secretary for children and families may adopt such rules and  
42 regulations as are necessary to carry out the provisions of this subsection.

43 (8) Any authority granted to the secretary for children and families

1 under this subsection shall be in addition to any other penalties prescribed  
2 by law.

3 (9) As used in this subsection:

4 (A) "Cash assistance" means cash assistance provided to individuals  
5 under the provisions of article 7 of chapter 39 of the Kansas Statutes  
6 Annotated, and amendments thereto, and any rules and regulations adopted  
7 pursuant to such statutes.

8 (B) "Controlled substance" means the same as in K.S.A. 2012 Supp.  
9 21-5701, and amendments thereto, and 21 U.S.C. § 802.

10 (C) "Controlled substance analog" means the same as in K.S.A. 2012  
11 Supp. 21-5701, and amendments thereto.

12 Sec. 16. K.S.A. 2012 Supp. 44-706, as amended by section 5 of 2013  
13 Substitute for House Bill No. 2105, is hereby amended to read as follows:  
14 44-706. An individual shall be disqualified for benefits:

15 (a) If the individual left work voluntarily without good cause  
16 attributable to the work or the employer, subject to the other provisions of  
17 this subsection. For purposes of this subsection, "good cause" is cause of  
18 such gravity that would impel a reasonable, not supersensitive, individual  
19 exercising ordinary common sense to leave employment. Good cause  
20 requires a showing of good faith of the individual leaving work, including  
21 the presence of a genuine desire to work. Failure to return to work after  
22 expiration of approved personal or medical leave, or both, shall be  
23 considered a voluntary resignation. After a temporary job assignment,  
24 failure of an individual to affirmatively request an additional assignment  
25 on the next succeeding workday, if required by the employment  
26 agreement, after completion of a given work assignment, shall constitute  
27 leaving work voluntarily. The disqualification shall begin the day  
28 following the separation and shall continue until after the individual has  
29 become reemployed and has had earnings from insured work of at least  
30 three times the individual's weekly benefit amount. An individual shall not  
31 be disqualified under this subsection if:

32 (1) The individual was forced to leave work because of illness or  
33 injury upon the advice of a licensed and practicing health care provider  
34 and, upon learning of the necessity for absence, immediately notified the  
35 employer thereof, or the employer consented to the absence, and after  
36 recovery from the illness or injury, when recovery was certified by a  
37 practicing health care provider, the individual returned to the employer and  
38 offered to perform services and the individual's regular work or  
39 comparable and suitable work was not available. As used in this paragraph  
40 "health care provider" means any person licensed by the proper licensing  
41 authority of any state to engage in the practice of medicine and surgery,  
42 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

43 (2) the individual left temporary work to return to the regular

1 employer;

2 (3) the individual left work to enlist in the armed forces of the United  
3 States, but was rejected or delayed from entry;

4 (4) the spouse of an individual who is a member of the armed forces  
5 of the United States who left work because of the voluntary or involuntary  
6 transfer of the individual's spouse from one job to another job, which is for  
7 the same employer or for a different employer, at a geographic location  
8 which makes it unreasonable for the individual to continue work at the  
9 individual's job. For the purposes of this provision the term "armed forces"  
10 means active duty in the army, navy, marine corps, air force, coast guard or  
11 any branch of the military reserves of the United States;

12 (5) the individual left work because of hazardous working conditions;  
13 in determining whether or not working conditions are hazardous for an  
14 individual, the degree of risk involved to the individual's health, safety and  
15 morals, the individual's physical fitness and prior training and the working  
16 conditions of workers engaged in the same or similar work for the same  
17 and other employers in the locality shall be considered; as used in this  
18 paragraph, "hazardous working conditions" means working conditions that  
19 could result in a danger to the physical or mental well-being of the  
20 individual; each determination as to whether hazardous working  
21 conditions exist shall include, but shall not be limited to, a consideration  
22 of: (A) The safety measures used or the lack thereof; and (B) the condition  
23 of equipment or lack of proper equipment; no work shall be considered  
24 hazardous if the working conditions surrounding the individual's work are  
25 the same or substantially the same as the working conditions generally  
26 prevailing among individuals performing the same or similar work for  
27 other employers engaged in the same or similar type of activity;

28 (6) the individual left work to enter training approved under section  
29 236(a)(1) of the federal trade act of 1974, provided the work left is not of a  
30 substantially equal or higher skill level than the individual's past adversely  
31 affected employment (as defined for purposes of the federal trade act of  
32 1974), and wages for such work are not less than 80% of the individual's  
33 average weekly wage as determined for the purposes of the federal trade  
34 act of 1974;

35 (7) the individual left work because of unwelcome harassment of the  
36 individual by the employer or another employee of which the employing  
37 unit had knowledge and that would impel the average worker to give up  
38 such worker's employment;

39 (8) the individual left work to accept better work; each determination  
40 as to whether or not the work accepted is better work shall include, but  
41 shall not be limited to, consideration of: (A) The rate of pay, the hours of  
42 work and the probable permanency of the work left as compared to the  
43 work accepted; (B) the cost to the individual of getting to the work left in



1 comparison to the cost of getting to the work accepted; and (C) the  
2 distance from the individual's place of residence to the work accepted in  
3 comparison to the distance from the individual's residence to the work left;

4 (9) the individual left work as a result of being instructed or requested  
5 by the employer, a supervisor or a fellow employee to perform a service or  
6 commit an act in the scope of official job duties which is in violation of an  
7 ordinance or statute;

8 (10) the individual left work because of a substantial violation of the  
9 work agreement by the employing unit and, before the individual left, the  
10 individual had exhausted all remedies provided in such agreement for the  
11 settlement of disputes before terminating. For the purposes of this  
12 paragraph, a demotion based on performance does not constitute a  
13 violation of the work agreement;

14 (11) after making reasonable efforts to preserve the work, the  
15 individual left work due to a personal emergency of such nature and  
16 compelling urgency that it would be contrary to good conscience to  
17 impose a disqualification; or

18 (12) (A) the individual left work due to circumstances resulting from  
19 domestic violence, including:

20 (i) The individual's reasonable fear of future domestic violence at or  
21 en route to or from the individual's place of employment;

22 (ii) the individual's need to relocate to another geographic area in  
23 order to avoid future domestic violence;

24 (iii) the individual's need to address the physical, psychological and  
25 legal impacts of domestic violence;

26 (iv) the individual's need to leave employment as a condition of  
27 receiving services or shelter from an agency which provides support  
28 services or shelter to victims of domestic violence; or

29 (v) the individual's reasonable belief that termination of employment  
30 is necessary to avoid other situations which may cause domestic violence  
31 and to provide for the future safety of the individual or the individual's  
32 family.

33 (B) An individual may prove the existence of domestic violence by  
34 providing one of the following:

35 (i) A restraining order or other documentation of equitable relief by a  
36 court of competent jurisdiction;

37 (ii) a police record documenting the abuse;

38 (iii) documentation that the abuser has been convicted of one or more  
39 of the offenses enumerated in articles 34 and 35 of chapter 21 of the  
40 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of  
41 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-  
42 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments  
43 thereto, where the victim was a family or household member;

1 (iv) medical documentation of the abuse;

2 (v) a statement provided by a counselor, social worker, health care  
3 provider, clergy, shelter worker, legal advocate, domestic violence or  
4 sexual assault advocate or other professional who has assisted the  
5 individual in dealing with the effects of abuse on the individual or the  
6 individual's family; or

7 (vi) a sworn statement from the individual attesting to the abuse.

8 (C) No evidence of domestic violence experienced by an individual,  
9 including the individual's statement and corroborating evidence, shall be  
10 disclosed by the department of labor unless consent for disclosure is given  
11 by the individual.

12 (b) If the individual has been discharged or suspended for misconduct  
13 connected with the individual's work. The disqualification shall begin the  
14 day following the separation and shall continue until after the individual  
15 becomes reemployed and in cases where the disqualification is due to  
16 discharge for misconduct has had earnings from insured work of at least  
17 three times the individual's determined weekly benefit amount, except that  
18 if an individual is discharged for gross misconduct connected with the  
19 individual's work, such individual shall be disqualified for benefits until  
20 such individual again becomes employed and has had earnings from  
21 insured work of at least eight times such individual's determined weekly  
22 benefit amount. In addition, all wage credits attributable to the  
23 employment from which the individual was discharged for gross  
24 misconduct connected with the individual's work shall be canceled. No  
25 such cancellation of wage credits shall affect prior payments made as a  
26 result of a prior separation.

27 (1) For the purposes of this subsection, "misconduct" is defined as a  
28 violation of a duty or obligation reasonably owed the employer as a  
29 condition of employment including, but not limited to, a violation of a  
30 company rule, including a safety rule, if: (A) The individual knew or  
31 should have known about the rule; (B) the rule was lawful and reasonably  
32 related to the job; and (C) the rule was fairly and consistently enforced.

33 (2) (A) Failure of the employee to notify the employer of an absence  
34 and an individual's leaving work prior to the end of such individual's  
35 assigned work period without permission shall be considered prima facie  
36 evidence of a violation of a duty or obligation reasonably owed the  
37 employer as a condition of employment.

38 (B) For the purposes of this subsection, misconduct shall include, but  
39 not be limited to, violation of the employer's reasonable attendance  
40 expectations if the facts show:

41 (i) The individual was absent or tardy without good cause;

42 (ii) the individual had knowledge of the employer's attendance  
43 expectation; and

1 (iii) the employer gave notice to the individual that future absence or  
2 tardiness may or will result in discharge.

3 (C) For the purposes of this subsection, if an employee disputes being  
4 absent or tardy without good cause, the employee shall present evidence  
5 that a majority of the employee's absences or tardiness were for good  
6 cause. If the employee alleges that the employee's repeated absences or  
7 tardiness were the result of health related issues, such evidence shall  
8 include documentation from a licensed and practicing health care provider  
9 as defined in subsection (a)(1).

10 (3) (A) The term "gross misconduct" as used in this subsection shall  
11 be construed to mean conduct evincing extreme, willful or wanton  
12 misconduct as defined by this subsection. Gross misconduct shall include,  
13 but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to  
14 property; (iv) intentional infliction of personal injury; or (v) any conduct  
15 that constitutes a felony.

16 (B) For the purposes of this subsection, the following shall be  
17 conclusive evidence of gross misconduct:

18 (i) The use of alcoholic liquor, cereal malt beverage or a  
19 nonprescribed controlled substance by an individual while working;

20 (ii) the impairment caused by alcoholic liquor, cereal malt beverage  
21 or a nonprescribed controlled substance by an individual while working;

22 (iii) a positive breath alcohol test or a positive chemical test,  
23 provided:

24 (a) The test was either:

25 (1) Required by law and was administered pursuant to the drug free  
26 workplace act, 41 U.S.C. § 701 et seq.;

27 (2) administered as part of an employee assistance program or other  
28 drug or alcohol treatment program in which the employee was  
29 participating voluntarily or as a condition of further employment;

30 (3) requested pursuant to a written policy of the employer of which  
31 the employee had knowledge and was a required condition of  
32 employment;

33 (4) required by law and the test constituted a required condition of  
34 employment for the individual's job; or

35 (5) there was reasonable suspicion to believe that the individual used,  
36 had possession of, or was impaired by alcoholic liquor, cereal malt  
37 beverage or a nonprescribed controlled substance while working;

38 (b) the test sample was collected either:

39 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et  
40 seq.;

41 (2) as prescribed by an employee assistance program or other drug or  
42 alcohol treatment program in which the employee was participating  
43 voluntarily or as a condition of further employment;

1 (3) as prescribed by the written policy of the employer of which the  
2 employee had knowledge and which constituted a required condition of  
3 employment;

4 (4) as prescribed by a test which was required by law and which  
5 constituted a required condition of employment for the individual's job; or

6 (5) at a time contemporaneous with the events establishing probable  
7 cause;

8 (c) the collecting and labeling of a chemical test sample was  
9 performed by a licensed health care professional or any other individual  
10 certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or  
11 label test samples by federal or state law, or a federal or state rule or  
12 regulation having the force or effect of law, including law enforcement  
13 personnel;

14 (d) the chemical test was performed by a laboratory approved by the  
15 United States department of health and human services or licensed by the  
16 department of health and environment, except that a blood sample may be  
17 tested for alcohol content by a laboratory commonly used for that purpose  
18 by state law enforcement agencies;

19 (e) the chemical test was confirmed by gas chromatography, gas  
20 chromatography-mass spectroscopy or other comparably reliable  
21 analytical method, except that no such confirmation is required for a blood  
22 alcohol sample or a breath alcohol test;

23 (f) the breath alcohol test was administered by an individual trained  
24 to perform breath tests, the breath testing instrument used was certified  
25 and operated strictly according to a description provided by the  
26 manufacturers and the reliability of the instrument performance was  
27 assured by testing with alcohol standards; and

28 (g) the foundation evidence establishes, beyond a reasonable doubt,  
29 that the test results were from the sample taken from the individual;

30 (iv) an individual's refusal to submit to a chemical test or breath  
31 alcohol test, provided:

32 (a) The test meets the standards of the drug free workplace act, 41  
33 U.S.C. § 701 et seq.;

34 (b) the test was administered as part of an employee assistance  
35 program or other drug or alcohol treatment program in which the  
36 employee was participating voluntarily or as a condition of further  
37 employment;

38 (c) the test was otherwise required by law and the test constituted a  
39 required condition of employment for the individual's job;

40 (d) the test was requested pursuant to a written policy of the employer  
41 of which the employee had knowledge and was a required condition of  
42 employment; or

43 (e) there was reasonable suspicion to believe that the individual used,

1 possessed or was impaired by alcoholic liquor, cereal malt beverage or a  
2 nonprescribed controlled substance while working;

3 (v) an individual's dilution or other tampering of a chemical test.

4 ~~(B)~~ (C) For purposes of this subsection:

5 (i) "Alcohol concentration" means the number of grams of alcohol  
6 per 210 liters of breath;

7 (ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102,  
8 and amendments thereto;

9 (iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-  
10 2701, and amendments thereto;

11 (iv) "chemical test" shall include, but is not limited to, tests of urine,  
12 blood or saliva;

13 (v) "controlled substance" shall be defined as provided in K.S.A.  
14 2012 Supp. 21-5701, and amendments thereto;

15 (vi) "required by law" means required by a federal or state law, a  
16 federal or state rule or regulation having the force and effect of law, a  
17 county resolution or municipal ordinance, or a policy relating to public  
18 safety adopted in an open meeting by the governing body of any special  
19 district or other local governmental entity;

20 (vii) "positive breath test" shall mean a test result showing an alcohol  
21 concentration of .04 or greater, or the levels listed in 49 C.F.R. Part 40, if  
22 applicable, unless the test was administered as part of an employee  
23 assistance program or other drug or alcohol treatment program in which  
24 the employee was participating voluntarily or as a condition of further  
25 employment, in which case "positive chemical test" shall mean a test result  
26 showing an alcohol concentration at or above the levels provided for in the  
27 assistance or treatment program;

28 (viii) "positive chemical test" shall mean a chemical result showing a  
29 concentration at or above the levels listed in K.S.A. 44-501, and  
30 amendments thereto, or 49 C.F.R. Part 40, as applicable, for the drugs or  
31 abuse listed therein, unless the test was administered as part of an  
32 employee assistance program or other drug or alcohol treatment program  
33 in which the employee was participating voluntarily or as a condition of  
34 further employment, in which case "positive chemical test" shall mean a  
35 chemical result showing a concentration at or above the levels provided for  
36 in the assistance or treatment program.

37 (4) An individual shall not be disqualified under this subsection if the  
38 individual is discharged under the following circumstances:

39 (A) The employer discharged the individual after learning the  
40 individual was seeking other work or when the individual gave notice of  
41 future intent to quit, except that the individual shall be disqualified after  
42 the time at which such individual intended to quit and any individual who  
43 commits misconduct after such individual gives notice to such individual's

1 intent to quit shall be disqualified;

2 (B) the individual was making a good-faith effort to do the assigned  
3 work but was discharged due to: (i) Inefficiency; (ii) unsatisfactory  
4 performance due to inability, incapacity or lack of training or experience;  
5 (iii) isolated instances of ordinary negligence or inadvertence; (iv) good-  
6 faith errors in judgment or discretion; or (v) unsatisfactory work or  
7 conduct due to circumstances beyond the individual's control; or

8 (C) the individual's refusal to perform work in excess of the contract  
9 of hire.

10 (c) If the individual has failed, without good cause, to either apply for  
11 suitable work when so directed by the employment office of the secretary  
12 of labor, or to accept suitable work when offered to the individual by the  
13 employment office, the secretary of labor, or an employer, such  
14 disqualification shall begin with the week in which such failure occurred  
15 and shall continue until the individual becomes reemployed and has had  
16 earnings from insured work of at least three times such individual's  
17 determined weekly benefit amount. In determining whether or not any  
18 work is suitable for an individual, the secretary of labor, or a person or  
19 persons designated by the secretary, shall consider the degree of risk  
20 involved to health, safety and morals, physical fitness and prior training,  
21 experience and prior earnings, length of unemployment and prospects for  
22 securing local work in the individual's customary occupation or work for  
23 which the individual is reasonably fitted by training or experience, and the  
24 distance of the available work from the individual's residence.  
25 Notwithstanding any other provisions of this act, an otherwise eligible  
26 individual shall not be disqualified for refusing an offer of suitable  
27 employment, or failing to apply for suitable employment when notified by  
28 an employment office, or for leaving the individual's most recent work  
29 accepted during approved training, including training approved under  
30 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying  
31 for suitable employment or continuing such work would require the  
32 individual to terminate approved training and no work shall be deemed  
33 suitable and benefits shall not be denied under this act to any otherwise  
34 eligible individual for refusing to accept new work under any of the  
35 following conditions: (1) If the position offered is vacant due directly to a  
36 strike, lockout or other labor dispute; (2) if the remuneration, hours or  
37 other conditions of the work offered are substantially less favorable to the  
38 individual than those prevailing for similar work in the locality; (3) if as a  
39 condition of being employed, the individual would be required to join or  
40 resign from or refrain from joining any labor organization; and (4) if the  
41 individual left employment as a result of domestic violence, and the  
42 position offered does not reasonably accommodate the individual's  
43 physical, psychological, safety, or legal needs relating to such domestic

1 violence.

2 (d) For any week with respect to which the secretary of labor, or a  
3 person or persons designated by the secretary, finds that the individual's  
4 unemployment is due to a stoppage of work which exists because of a  
5 labor dispute or there would have been a work stoppage had normal  
6 operations not been maintained with other personnel previously and  
7 currently employed by the same employer at the factory, establishment or  
8 other premises at which the individual is or was last employed, except that  
9 this subsection (d) shall not apply if it is shown to the satisfaction of the  
10 secretary of labor, or a person or persons designated by the secretary, that:  
11 (1) The individual is not participating in or financing or directly interested  
12 in the labor dispute which caused the stoppage of work; and (2) the  
13 individual does not belong to a grade or class of workers of which,  
14 immediately before the commencement of the stoppage, there were  
15 members employed at the premises at which the stoppage occurs any of  
16 whom are participating in or financing or directly interested in the dispute.  
17 If in any case separate branches of work which are commonly conducted  
18 as separate businesses in separate premises are conducted in separate  
19 departments of the same premises, each such department shall, for the  
20 purpose of this subsection be deemed to be a separate factory,  
21 establishment or other premises. For the purposes of this subsection,  
22 failure or refusal to cross a picket line or refusal for any reason during the  
23 continuance of such labor dispute to accept the individual's available and  
24 customary work at the factory, establishment or other premises where the  
25 individual is or was last employed shall be considered as participation and  
26 interest in the labor dispute.

27 (e) For any week with respect to which or a part of which the  
28 individual has received or is seeking unemployment benefits under the  
29 unemployment compensation law of any other state or of the United  
30 States, except that if the appropriate agency of such other state or the  
31 United States finally determines that the individual is not entitled to such  
32 unemployment benefits, this disqualification shall not apply.

33 (f) For any week with respect to which the individual is entitled to  
34 receive any unemployment allowance or compensation granted by the  
35 United States under an act of congress to ex-service men and women in  
36 recognition of former service with the military or naval services of the  
37 United States.

38 (g) For the period of five years beginning with the first day following  
39 the last week of unemployment for which the individual received benefits,  
40 or for five years from the date the act was committed, whichever is the  
41 later, if the individual, or another in such individual's behalf with the  
42 knowledge of the individual, has knowingly made a false statement or  
43 representation, or has knowingly failed to disclose a material fact to obtain

1 or increase benefits under this act or any other unemployment  
2 compensation law administered by the secretary of labor. In addition to the  
3 penalties set forth in K.S.A. 44-719, and amendments thereto, an  
4 individual who has knowingly made a false statement or representation or  
5 who has knowingly failed to disclose a material fact to obtain or increase  
6 benefits under this act or any other unemployment compensation law  
7 administered by the secretary of labor shall be liable for a penalty in the  
8 amount equal to 25% of the amount of benefits unlawfully received.

9 (h) For any week with respect to which the individual is receiving  
10 compensation for temporary total disability or permanent total disability  
11 under the workmen's compensation law of any state or under a similar law  
12 of the United States.

13 (i) For any week of unemployment on the basis of service in an  
14 instructional, research or principal administrative capacity for an  
15 educational institution as defined in subsection (v) of K.S.A. 44-703, and  
16 amendments thereto, if such week begins during the period between two  
17 successive academic years or terms or, when an agreement provides  
18 instead for a similar period between two regular but not successive terms  
19 during such period or during a period of paid sabbatical leave provided for  
20 in the individual's contract, if the individual performs such services in the  
21 first of such academic years or terms and there is a contract or a reasonable  
22 assurance that such individual will perform services in any such capacity  
23 for any educational institution in the second of such academic years or  
24 terms.

25 (j) For any week of unemployment on the basis of service in any  
26 capacity other than service in an instructional, research, or administrative  
27 capacity in an educational institution, as defined in subsection (v) of  
28 K.S.A. 44-703, and amendments thereto, if such week begins during the  
29 period between two successive academic years or terms if the individual  
30 performs such services in the first of such academic years or terms and  
31 there is a reasonable assurance that the individual will perform such  
32 services in the second of such academic years or terms, except that if  
33 benefits are denied to the individual under this subsection and the  
34 individual was not offered an opportunity to perform such services for the  
35 educational institution for the second of such academic years or terms,  
36 such individual shall be entitled to a retroactive payment of benefits for  
37 each week for which the individual filed a timely claim for benefits and for  
38 which benefits were denied solely by reason of this subsection.

39 (k) For any week of unemployment on the basis of service in any  
40 capacity for an educational institution as defined in subsection (v) of  
41 K.S.A. 44-703, and amendments thereto, if such week begins during an  
42 established and customary vacation period or holiday recess, if the  
43 individual performs services in the period immediately before such



1 vacation period or holiday recess and there is a reasonable assurance that  
2 such individual will perform such services in the period immediately  
3 following such vacation period or holiday recess.

4 (l) For any week of unemployment on the basis of any services,  
5 substantially all of which consist of participating in sports or athletic  
6 events or training or preparing to so participate, if such week begins during  
7 the period between two successive sport seasons or similar period if such  
8 individual performed services in the first of such seasons or similar periods  
9 and there is a reasonable assurance that such individual will perform such  
10 services in the later of such seasons or similar periods.

11 (m) For any week on the basis of services performed by an alien  
12 unless such alien is an individual who was lawfully admitted for  
13 permanent residence at the time such services were performed, was  
14 lawfully present for purposes of performing such services, or was  
15 permanently residing in the United States under color of law at the time  
16 such services were performed, including an alien who was lawfully present  
17 in the United States as a result of the application of the provisions of  
18 section 212(d)(5) of the federal immigration and nationality act. Any data  
19 or information required of individuals applying for benefits to determine  
20 whether benefits are not payable to them because of their alien status shall  
21 be uniformly required from all applicants for benefits. In the case of an  
22 individual whose application for benefits would otherwise be approved, no  
23 determination that benefits to such individual are not payable because of  
24 such individual's alien status shall be made except upon a preponderance  
25 of the evidence.

26 (n) For any week in which an individual is receiving a governmental  
27 or other pension, retirement or retired pay, annuity or other similar  
28 periodic payment under a plan maintained by a base period employer and  
29 to which the entire contributions were provided by such employer, except  
30 that: (1) If the entire contributions to such plan were provided by the base  
31 period employer but such individual's weekly benefit amount exceeds such  
32 governmental or other pension, retirement or retired pay, annuity or other  
33 similar periodic payment attributable to such week, the weekly benefit  
34 amount payable to the individual shall be reduced, but not below zero, by  
35 an amount equal to the amount of such pension, retirement or retired pay,  
36 annuity or other similar periodic payment which is attributable to such  
37 week; or (2) if only a portion of contributions to such plan were provided  
38 by the base period employer, the weekly benefit amount payable to such  
39 individual for such week shall be reduced, but not below zero, by the  
40 prorated weekly amount of the pension, retirement or retired pay, annuity  
41 or other similar periodic payment after deduction of that portion of the  
42 pension, retirement or retired pay, annuity or other similar periodic  
43 payment that is directly attributable to the percentage of the contributions

1 made to the plan by such individual; or (3) if the entire contributions to the  
2 plan were provided by such individual, or by the individual and an  
3 employer, or any person or organization, who is not a base period  
4 employer, no reduction in the weekly benefit amount payable to the  
5 individual for such week shall be made under this subsection; or (4)  
6 whatever portion of contributions to such plan were provided by the base  
7 period employer, if the services performed for the employer by such  
8 individual during the base period, or remuneration received for the  
9 services, did not affect the individual's eligibility for, or increased the  
10 amount of, such pension, retirement or retired pay, annuity or other similar  
11 periodic payment, no reduction in the weekly benefit amount payable to  
12 the individual for such week shall be made under this subsection. No  
13 reduction shall be made for payments made under the social security act or  
14 railroad retirement act of 1974.

15 (o) For any week of unemployment on the basis of services  
16 performed in any capacity and under any of the circumstances described in  
17 subsection (i), (j) or (k) which an individual performed in an educational  
18 institution while in the employ of an educational service agency. For the  
19 purposes of this subsection, the term "educational service agency" means a  
20 governmental agency or entity which is established and operated  
21 exclusively for the purpose of providing such services to one or more  
22 educational institutions.

23 (p) For any week of unemployment on the basis of service as a school  
24 bus or other motor vehicle driver employed by a private contractor to  
25 transport pupils, students and school personnel to or from school-related  
26 functions or activities for an educational institution, as defined in  
27 subsection (v) of K.S.A. 44-703, and amendments thereto, if such week  
28 begins during the period between two successive academic years or during  
29 a similar period between two regular terms, whether or not successive, if  
30 the individual has a contract or contracts, or a reasonable assurance  
31 thereof, to perform services in any such capacity with a private contractor  
32 for any educational institution for both such academic years or both such  
33 terms. An individual shall not be disqualified for benefits as provided in  
34 this subsection for any week of unemployment on the basis of service as a  
35 bus or other motor vehicle driver employed by a private contractor to  
36 transport persons to or from nonschool-related functions or activities.

37 (q) For any week of unemployment on the basis of services  
38 performed by the individual in any capacity and under any of the  
39 circumstances described in subsection (i), (j), (k) or (o) which are provided  
40 to or on behalf of an educational institution, as defined in subsection (v) of  
41 K.S.A. 44-703, and amendments thereto, while the individual is in the  
42 employ of an employer which is a governmental entity, Indian tribe or any  
43 employer described in section 501(c)(3) of the federal internal revenue

1 code of 1986 which is exempt from income under section 501(a) of the  
2 code.

3 (r) For any week in which an individual is registered at and attending  
4 an established school, training facility or other educational institution, or is  
5 on vacation during or between two successive academic years or terms. An  
6 individual shall not be disqualified for benefits as provided in this  
7 subsection provided:

8 (1) The individual was engaged in full-time employment concurrent  
9 with the individual's school attendance;

10 (2) the individual is attending approved training as defined in  
11 subsection (s) of K.S.A. 44-703, and amendments thereto; or

12 (3) the individual is attending evening, weekend or limited day time  
13 classes, which would not affect availability for work, and is otherwise  
14 eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

15 (s) For any week with respect to which an individual is receiving or  
16 has received remuneration in the form of a back pay award or settlement.  
17 The remuneration shall be allocated to the week or weeks in the manner as  
18 specified in the award or agreement, or in the absence of such specificity  
19 in the award or agreement, such remuneration shall be allocated to the  
20 week or weeks in which such remuneration, in the judgment of the  
21 secretary, would have been paid.

22 (1) For any such weeks that an individual receives remuneration in  
23 the form of a back pay award or settlement, an overpayment will be  
24 established in the amount of unemployment benefits paid and shall be  
25 collected from the claimant.

26 (2) If an employer chooses to withhold from a back pay award or  
27 settlement, amounts paid to a claimant while they claimed unemployment  
28 benefits, such employer shall pay the department the amount withheld.  
29 With respect to such amount, the secretary shall have available all of the  
30 collection remedies authorized or provided in K.S.A. 44-717, and  
31 amendments thereto.

32 ~~(t) If the individual has been discharged for failing a preemployment  
33 drug screen required by the employer and if such discharge occurs not later  
34 than seven days after the employer is notified of the results of such drug  
35 screen. The disqualification shall begin the day following the separation  
36 and shall continue until after the individual becomes reemployed and has  
37 had earnings from insured work of at least three times the individual's  
38 determined weekly benefit amount.~~

39 *(1) Any applicant for or recipient of unemployment benefits who tests  
40 positive for unlawful use of a controlled substance or controlled substance  
41 analog shall be required to complete a substance abuse treatment program  
42 approved by the secretary of labor, secretary of commerce or secretary for  
43 children and families, and a job skills program approved by the secretary*

1 of labor, secretary of commerce or the secretary for children and families.  
2 Subject to applicable federal laws, any applicant for or recipient of  
3 unemployment benefits who fails to complete or refuses to participate in  
4 the substance abuse treatment program or job skills program as required  
5 under this subsection shall be ineligible to receive unemployment benefits  
6 until completion of such substance abuse treatment and job skills  
7 programs. Upon completion of both substance abuse treatment and job  
8 skills programs, such applicant for or recipient of unemployment benefits  
9 may be subject to periodic drug screening, as determined by the secretary  
10 of labor. Upon a second positive test for unlawful use of a controlled  
11 substance or controlled substance analog, an applicant for or recipient of  
12 unemployment benefits shall be ordered to complete again a substance  
13 abuse treatment program and job skills program, and shall be terminated  
14 from unemployment benefits for a period of 12 months, or until such  
15 applicant for or recipient of unemployment benefits completes both  
16 substance abuse treatment and job skills programs, whichever is later.  
17 Upon a third positive test for unlawful use of a controlled substance or  
18 controlled substance analog, an applicant for or a recipient of  
19 unemployment benefits shall be terminated from receiving unemployment  
20 benefits, subject to applicable federal law.

21 (2) Any individual who has been discharged or refused employment  
22 for failing a preemployment drug screen required by an employer may  
23 request that the drug screening specimen be sent to a different drug testing  
24 facility for an additional drug screening. Any such individual who requests  
25 an additional drug screening at a different drug testing facility shall be  
26 required to pay the cost of drug screening.

27 (u) If the individual was found not to have a disqualifying  
28 adjudication or conviction under K.S.A. 39-970, and amendments thereto,  
29 or K.S.A. 65-5117, and amendments thereto, was hired and then was  
30 subsequently convicted of a disqualifying felony under K.S.A. 39-970, and  
31 amendments thereto, or K.S.A. 65-5117, and amendments thereto, and  
32 discharged pursuant to K.S.A. 39-970, and amendments thereto, or K.S.A.  
33 65-5117, and amendments thereto. The disqualification shall begin the day  
34 following the separation and shall continue until after the individual  
35 becomes reemployed and has had earnings from insured work of at least  
36 three times the individual's determined weekly benefit amount.

37 Sec. 17. K.S.A. 2012 Supp. 44-709, as amended by section 3 of 2013  
38 Senate Bill No. 187, is hereby amended to read as follows: 44-709. (a)  
39 *Filing*. Claims for benefits shall be made in accordance with rules and  
40 regulations adopted by the secretary. The secretary shall furnish a copy of  
41 such rules and regulations to any individual requesting them. Each  
42 employer shall post and maintain printed statements furnished by the  
43 secretary without cost to the employer in places readily accessible to

1 individuals in the service of the employer.

2 (b) *Determination.* (1) Except as otherwise provided in this  
3 ~~subsection (b)(1) paragraph~~, a representative designated by the secretary,  
4 and hereinafter referred to as an examiner, shall promptly examine the  
5 claim and, on the basis of the facts found by the examiner, shall determine  
6 whether or not the claim is valid. If the examiner determines that the claim  
7 is valid, the examiner shall determine the first day of the benefit year, the  
8 weekly benefit amount and the total amount of benefits payable with  
9 respect to the benefit year. If the claim is determined to be valid, the  
10 examiner shall send a notice to the last employing unit who shall respond  
11 within 10 days by providing the examiner all requested information  
12 including all information required for a decision under K.S.A. 44-706, and  
13 amendments thereto. The information may be submitted by the employing  
14 unit in person at an employment office of the secretary or by mail, by  
15 telefacsimile machine or by electronic mail. If the required information is  
16 not submitted or postmarked within a response time limit of 10 days after  
17 the examiner's notice was sent, the employing unit shall be deemed to have  
18 waived its standing as a party to the proceedings arising from the claim  
19 and shall be barred from protesting any subsequent decisions about the  
20 claim by the secretary, a referee, the employment security board of review  
21 or any court, except that the employing unit's response time limit may be  
22 waived or extended by the examiner or upon appeal, if timely response  
23 was impossible due to excusable neglect. In any case in which the payment  
24 or denial of benefits will be determined by the provisions of subsection (d)  
25 of K.S.A. 44-706, and amendments thereto, the examiner shall promptly  
26 transmit the claim to a special examiner designated by the secretary to  
27 make a determination on the claim after the investigation as the special  
28 examiner deems necessary. The parties shall be promptly notified of the  
29 special examiner's decision and any party aggrieved by the decision may  
30 appeal to the referee as provided in subsection (c). The claimant and the  
31 claimant's most recent employing unit shall be promptly notified of the  
32 examiner's or special examiner's decision.

33 (2) The examiner may for good cause reconsider the examiner's  
34 decision and shall promptly notify the claimant and the most recent  
35 employing unit of the claimant, that the decision of the examiner is to be  
36 reconsidered, except that no reconsideration shall be made after the  
37 termination of the benefit year.

38 (3) Notwithstanding the provisions of any other statute, a decision of  
39 an examiner or special examiner shall be final unless the claimant or the  
40 most recent employing unit of the claimant files an appeal from the  
41 decision as provided in subsection (c), *except that the time limit for appeal*  
42 *may be waived or extended by the referee or board of review if a timely*  
43 *response was impossible due to excusable neglect.* The appeal must be

1 filed within 16 calendar days after the mailing of notice to the last known  
2 addresses of the claimant and employing unit or, if notice is not by mail,  
3 within 16 calendar days after the delivery of the notice to the parties.

4 (c) *Appeals*. Unless the appeal is withdrawn, a referee, after affording  
5 the parties reasonable opportunity for fair hearing, shall affirm or modify  
6 the findings of fact and decision of the examiner or special examiner. The  
7 parties shall be duly notified of the referee's decision, together with the  
8 reasons for the decision. The decision shall be final, notwithstanding the  
9 provisions of any other statute, unless a further appeal to the employment  
10 security board of review is filed within 16 calendar days after the mailing  
11 of the decision to the parties' last known addresses or, if notice is not by  
12 mail, within 16 calendar days after the delivery of the decision, *except that*  
13 *the time limit for appeal may be waived or extended by the referee or*  
14 *board of review if a timely response was impossible due to excusable*  
15 *neglect.*

16 (d) *Referees*. The secretary shall appoint, in accordance with  
17 subsection (c) of K.S.A. 44-714, and amendments thereto, one or more  
18 referees to hear and decide disputed claims.

19 (e) *Time, computation and extension*. In computing the period of time  
20 for an employing unit response or for appeals under this section from the  
21 examiner's or the special examiner's determination or from the referee's  
22 decision, the day of the act, event or default from which the designated  
23 period of time begins to run shall not be included. The last day of the  
24 period shall be included unless it is a Saturday, Sunday or legal holiday, in  
25 which event the period runs until the end of the next day which is not a  
26 Saturday, Sunday or legal holiday.

27 (f) *Board of review*. (1) There is hereby created an employment  
28 security board of review, hereinafter referred to as the board, consisting of  
29 three members. Each member of the board shall be appointed for a term of  
30 four years as provided in this subsection. Not more than two members of  
31 the board shall belong to the same political party.

32 (2) When a vacancy on the employment security board of review  
33 occurs, the workers compensation and employment security boards  
34 nominating committee established under K.S.A. 44-551, and amendments  
35 thereto, shall convene and submit a nominee to the governor for  
36 appointment to each vacancy on the employment security board of review,  
37 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and  
38 amendments thereto. The governor shall either: (A) Accept and submit to  
39 the senate for confirmation the person nominated by the nominating  
40 committee; or (B) reject the nomination and request the nominating  
41 committee to nominate another person for that position. Except as  
42 provided by K.S.A. 46-2601, and amendments thereto, no person  
43 appointed to the employment security board of review, whose appointment

1 is subject to confirmation by the senate, shall exercise any power, duty or  
2 function as a member until confirmed by the senate.

3 (3) No member of the employment security board of review shall  
4 serve more than two consecutive terms.

5 (4) Each member of the employment security board shall serve until a  
6 successor has been appointed and confirmed. Any vacancy in the  
7 membership of the board occurring prior to expiration of a term shall be  
8 filled by appointment for the unexpired term in the same manner as  
9 provided for original appointment of the member.

10 (5) Each member of the employment security board of review shall  
11 be entitled to receive as compensation for the member's services at the rate  
12 of \$15,000 per year, together with the member's travel and other necessary  
13 expenses actually incurred in the performance of the member's official  
14 duties in accordance with rules and regulations adopted by the secretary.  
15 Members' compensation and expenses shall be paid from the employment  
16 security administration fund.

17 (6) The employment security board of review shall organize annually  
18 by the election of a chairperson from among its members. The chairperson  
19 shall serve in that capacity for a term of one year and until a successor is  
20 elected. The board shall meet on the first Monday of each month or on the  
21 call of the chairperson or any two members of the board at the place  
22 designated. The secretary of labor shall appoint an executive secretary of  
23 the board and the executive secretary shall attend the meetings of the  
24 board.

25 (7) The employment security board of review, on its own motion,  
26 may affirm, modify or set aside any decision of a referee on the basis of  
27 the evidence previously submitted in the case; may direct the taking of  
28 additional evidence; or may permit any of the parties to initiate further  
29 appeal before it. The board shall permit such further appeal by any of the  
30 parties interested in a decision of a referee which overrules or modifies the  
31 decision of an examiner. The board may remove to itself the proceedings  
32 on any claim pending before a referee. Any proceedings so removed to the  
33 board shall be heard in accordance with the requirements of subsection (c).  
34 The board shall promptly notify the interested parties of its findings and  
35 decision.

36 (8) Two members of the employment security board of review shall  
37 constitute a quorum and no action of the board shall be valid unless it has  
38 the concurrence of at least two members. A vacancy on the board shall not  
39 impair the right of a quorum to exercise all the rights and perform all the  
40 duties of the board.

41 (g) *Procedure.* The manner in which disputed claims are presented,  
42 the reports on claims required from the claimant and from employers and  
43 the conduct of hearings and appeals shall be in accordance with rules of

1 procedure prescribed by the employment security board of review for  
2 determining the rights of the parties, whether or not such rules conform to  
3 common law or statutory rules of evidence and other technical rules of  
4 procedure. A full and complete record shall be kept of all proceedings and  
5 decisions in connection with a disputed claim. All testimony at any hearing  
6 upon a disputed claim shall be recorded, but need not be transcribed unless  
7 the disputed claim is further appealed. In the performance of its official  
8 duties, the board shall have access to all of the records which pertain to the  
9 disputed claim and are in the custody of the secretary of labor and shall  
10 receive the assistance of the secretary upon request.

11 (h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall  
12 be allowed fees and necessary travel expenses at rates fixed by the board.  
13 Such fees and expenses shall be deemed a part of the expense of  
14 administering this act.

15 (i) *Court review.* Any action of the employment security board of  
16 review is subject to review in accordance with the Kansas judicial review  
17 act. No bond shall be required for commencing an action for such review.  
18 In the absence of an action for such review, the action of such board shall  
19 become final 16 calendar days after the date of the mailing of the decision.  
20 In addition to those persons having standing pursuant to K.S.A. 77-611,  
21 and amendments thereto, the examiner shall have standing to obtain  
22 judicial review of an action of such board. The review proceeding, and the  
23 questions of law certified, shall be heard in a summary manner and shall  
24 be given precedence over all other civil cases except cases arising under  
25 the workers compensation act.

26 (j) Any finding of fact or law, judgment, determination, conclusion or  
27 final order made by the employment security board of review or any  
28 examiner, special examiner, referee or other person with authority to make  
29 findings of fact or law pursuant to the employment security law is not  
30 admissible or binding in any separate or subsequent action or proceeding,  
31 between a person and a present or previous employer brought before an  
32 arbitrator, court or judge of the state or the United States, regardless of  
33 whether the prior action was between the same or related parties or  
34 involved the same facts.

35 (k) In any proceeding or hearing conducted under this section, a party  
36 to the proceeding or hearing may appear before a referee or the  
37 employment security board of review either personally or by means of a  
38 designated representative to present evidence and to state the position of  
39 the party. Hearings may be conducted in person, by telephone or other  
40 means of electronic communication. The hearing shall be conducted by  
41 telephone or other means of electronic communication if none of the  
42 parties requests an in-person hearing. If only one party requests an in-  
43 person hearing, the referee shall have the discretion of requiring all parties



1 to appear in person or allow the party not requesting an in-person hearing  
2 to appear by telephone or other means of electronic communication. The  
3 notice of hearing shall include notice to the parties of their right to request  
4 an in-person hearing and instructions on how to make the request.

5 Sec. 18. K.S.A. 2012 Supp. 45-221, as amended by section 2 of 2013  
6 Senate Bill No. 81, is hereby amended to read as follows: 45-221. (a)  
7 Except to the extent disclosure is otherwise required by law, a public  
8 agency shall not be required to disclose:

9 (1) Records the disclosure of which is specifically prohibited or  
10 restricted by federal law, state statute or rule of the Kansas supreme court  
11 or rule of the senate committee on confirmation oversight relating to  
12 information submitted to the committee pursuant to K.S.A. 2012 Supp. 75-  
13 4315d, and amendments thereto, or the disclosure of which is prohibited or  
14 restricted pursuant to specific authorization of federal law, state statute or  
15 rule of the Kansas supreme court or rule of the senate committee on  
16 confirmation oversight relating to information submitted to the committee  
17 pursuant to K.S.A. 2012 Supp. 75-4315d, and amendments thereto, to  
18 restrict or prohibit disclosure.

19 (2) Records which are privileged under the rules of evidence, unless  
20 the holder of the privilege consents to the disclosure.

21 (3) Medical, psychiatric, psychological or alcoholism or drug  
22 dependency treatment records which pertain to identifiable patients.

23 (4) Personnel records, performance ratings or individually identifiable  
24 records pertaining to employees or applicants for employment, except that  
25 this exemption shall not apply to the names, positions, salaries or actual  
26 compensation employment contracts or employment-related contracts or  
27 agreements and lengths of service of officers and employees of public  
28 agencies once they are employed as such.

29 (5) Information which would reveal the identity of any undercover  
30 agent or any informant reporting a specific violation of law.

31 (6) Letters of reference or recommendation pertaining to the character  
32 or qualifications of an identifiable individual, except documents relating to  
33 the appointment of persons to fill a vacancy in an elected office.

34 (7) Library, archive and museum materials contributed by private  
35 persons, to the extent of any limitations imposed as conditions of the  
36 contribution.

37 (8) Information which would reveal the identity of an individual who  
38 lawfully makes a donation to a public agency, if anonymity of the donor is  
39 a condition of the donation, except if the donation is intended for or  
40 restricted to providing remuneration or personal tangible benefit to a  
41 named public officer or employee.

42 (9) Testing and examination materials, before the test or examination  
43 is given or if it is to be given again, or records of individual test or

1 examination scores, other than records which show only passage or failure  
2 and not specific scores.

3 (10) Criminal investigation records, except as provided herein. The  
4 district court, in an action brought pursuant to K.S.A. 45-222, and  
5 amendments thereto, may order disclosure of such records, subject to such  
6 conditions as the court may impose, if the court finds that disclosure:

7 (A) Is in the public interest;

8 (B) would not interfere with any prospective law enforcement action,  
9 criminal investigation or prosecution;

10 (C) would not reveal the identity of any confidential source or  
11 undercover agent;

12 (D) would not reveal confidential investigative techniques or  
13 procedures not known to the general public;

14 (E) would not endanger the life or physical safety of any person; and

15 (F) would not reveal the name, address, phone number or any other  
16 information which specifically and individually identifies the victim of any  
17 sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated,  
18 prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes  
19 Annotated, and amendments thereto.

20 If a public record is discretionarily closed by a public agency pursuant  
21 to this subsection, the record custodian, upon request, shall provide a  
22 written citation to the specific provisions of paragraphs (A) through (F)  
23 that necessitate closure of that public record.

24 (11) Records of agencies involved in administrative adjudication or  
25 civil litigation, compiled in the process of detecting or investigating  
26 violations of civil law or administrative rules and regulations, if disclosure  
27 would interfere with a prospective administrative adjudication or civil  
28 litigation or reveal the identity of a confidential source or undercover  
29 agent.

30 (12) Records of emergency or security information or procedures of a  
31 public agency, or plans, drawings, specifications or related information for  
32 any building or facility which is used for purposes requiring security  
33 measures in or around the building or facility or which is used for the  
34 generation or transmission of power, water, fuels or communications, if  
35 disclosure would jeopardize security of the public agency, building or  
36 facility.

37 (13) The contents of appraisals or engineering or feasibility estimates  
38 or evaluations made by or for a public agency relative to the acquisition of  
39 property, prior to the award of formal contracts therefor.

40 (14) Correspondence between a public agency and a private  
41 individual, other than correspondence which is intended to give notice of  
42 an action, policy or determination relating to any regulatory, supervisory or  
43 enforcement responsibility of the public agency or which is widely

1 distributed to the public by a public agency and is not specifically in  
2 response to communications from such a private individual.

3 (15) Records pertaining to employer-employee negotiations, if  
4 disclosure would reveal information discussed in a lawful executive  
5 session under K.S.A. 75-4319, and amendments thereto.

6 (16) Software programs for electronic data processing and  
7 documentation thereof, but each public agency shall maintain a register,  
8 open to the public, that describes:

9 (A) The information which the agency maintains on computer  
10 facilities; and

11 (B) the form in which the information can be made available using  
12 existing computer programs.

13 (17) Applications, financial statements and other information  
14 submitted in connection with applications for student financial assistance  
15 where financial need is a consideration for the award.

16 (18) Plans, designs, drawings or specifications which are prepared by  
17 a person other than an employee of a public agency or records which are  
18 the property of a private person.

19 (19) Well samples, logs or surveys which the state corporation  
20 commission requires to be filed by persons who have drilled or caused to  
21 be drilled, or are drilling or causing to be drilled, holes for the purpose of  
22 discovery or production of oil or gas, to the extent that disclosure is  
23 limited by rules and regulations of the state corporation commission.

24 (20) Notes, preliminary drafts, research data in the process of  
25 analysis, unfunded grant proposals, memoranda, recommendations or  
26 other records in which opinions are expressed or policies or actions are  
27 proposed, except that this exemption shall not apply when such records are  
28 publicly cited or identified in an open meeting or in an agenda of an open  
29 meeting.

30 (21) Records of a public agency having legislative powers, which  
31 records pertain to proposed legislation or amendments to proposed  
32 legislation, except that this exemption shall not apply when such records  
33 are:

34 (A) Publicly cited or identified in an open meeting or in an agenda of  
35 an open meeting; or

36 (B) distributed to a majority of a quorum of any body which has  
37 authority to take action or make recommendations to the public agency  
38 with regard to the matters to which such records pertain.

39 (22) Records of a public agency having legislative powers, which  
40 records pertain to research prepared for one or more members of such  
41 agency, except that this exemption shall not apply when such records are:

42 (A) Publicly cited or identified in an open meeting or in an agenda of  
43 an open meeting; or

1 (B) distributed to a majority of a quorum of any body which has  
2 authority to take action or make recommendations to the public agency  
3 with regard to the matters to which such records pertain.

4 (23) Library patron and circulation records which pertain to  
5 identifiable individuals.

6 (24) Records which are compiled for census or research purposes and  
7 which pertain to identifiable individuals.

8 (25) Records which represent and constitute the work product of an  
9 attorney.

10 (26) Records of a utility or other public service pertaining to  
11 individually identifiable residential customers of the utility or service,  
12 ~~except that information concerning billings for specific individual~~  
13 ~~customers named by the requester shall be subject to disclosure as~~  
14 ~~provided by this act.~~

15 (27) Specifications for competitive bidding, until the specifications  
16 are officially approved by the public agency.

17 (28) Sealed bids and related documents, until a bid is accepted or all  
18 bids rejected.

19 (29) Correctional records pertaining to an identifiable inmate or  
20 release, except that:

21 (A) The name; photograph and other identifying information;  
22 sentence data; parole eligibility date; custody or supervision level;  
23 disciplinary record; supervision violations; conditions of supervision,  
24 excluding requirements pertaining to mental health or substance abuse  
25 counseling; location of facility where incarcerated or location of parole  
26 office maintaining supervision and address of a releasee whose crime was  
27 committed after the effective date of this act shall be subject to disclosure  
28 to any person other than another inmate or releasee, except that the  
29 disclosure of the location of an inmate transferred to another state pursuant  
30 to the interstate corrections compact shall be at the discretion of the  
31 secretary of corrections;

32 (B) the attorney general, law enforcement agencies, counsel for the  
33 inmate to whom the record pertains and any county or district attorney  
34 shall have access to correctional records to the extent otherwise permitted  
35 by law;

36 (C) the information provided to the law enforcement agency pursuant  
37 to the sex offender registration act, K.S.A. 22-4901 et seq., and  
38 amendments thereto, shall be subject to disclosure to any person, except  
39 that the name, address, telephone number or any other information which  
40 specifically and individually identifies the victim of any offender required  
41 to register as provided by the Kansas offender registration act, K.S.A. 22-  
42 4901 et seq., and amendments thereto, shall not be disclosed; and

43 (D) records of the department of corrections regarding the financial

1 assets of an offender in the custody of the secretary of corrections shall be  
2 subject to disclosure to the victim, or such victim's family, of the crime for  
3 which the inmate is in custody as set forth in an order of restitution by the  
4 sentencing court.

5 (30) Public records containing information of a personal nature where  
6 the public disclosure thereof would constitute a clearly unwarranted  
7 invasion of personal privacy.

8 (31) Public records pertaining to prospective location of a business or  
9 industry where no previous public disclosure has been made of the  
10 business' or industry's interest in locating in, relocating within or  
11 expanding within the state. This exception shall not include those records  
12 pertaining to application of agencies for permits or licenses necessary to  
13 do business or to expand business operations within this state, except as  
14 otherwise provided by law.

15 (32) Engineering and architectural estimates made by or for any  
16 public agency relative to public improvements.

17 (33) Financial information submitted by contractors in qualification  
18 statements to any public agency.

19 (34) Records involved in the obtaining and processing of intellectual  
20 property rights that are expected to be, wholly or partially vested in or  
21 owned by a state educational institution, as defined in K.S.A. 76-711, and  
22 amendments thereto, or an assignee of the institution organized and  
23 existing for the benefit of the institution.

24 (35) Any report or record which is made pursuant to K.S.A. 65-4922,  
25 65-4923 or 65-4924, and amendments thereto, and which is privileged  
26 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

27 (36) Information which would reveal the precise location of an  
28 archeological site.

29 (37) Any financial data or traffic information from a railroad  
30 company, to a public agency, concerning the sale, lease or rehabilitation of  
31 the railroad's property in Kansas.

32 (38) Risk-based capital reports, risk-based capital plans and  
33 corrective orders including the working papers and the results of any  
34 analysis filed with the commissioner of insurance in accordance with  
35 K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

36 (39) Memoranda and related materials required to be used to support  
37 the annual actuarial opinions submitted pursuant to subsection (b) of  
38 K.S.A. 40-409, and amendments thereto.

39 (40) Disclosure reports filed with the commissioner of insurance  
40 under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

41 (41) All financial analysis ratios and examination synopses  
42 concerning insurance companies that are submitted to the commissioner by  
43 the national association of insurance commissioners' insurance regulatory

1 information system.

2 (42) Any records the disclosure of which is restricted or prohibited by  
3 a tribal-state gaming compact.

4 (43) Market research, market plans, business plans and the terms and  
5 conditions of managed care or other third-party contracts, developed or  
6 entered into by the university of Kansas medical center in the operation  
7 and management of the university hospital which the chancellor of the  
8 university of Kansas or the chancellor's designee determines would give an  
9 unfair advantage to competitors of the university of Kansas medical center.

10 (44) The amount of franchise tax paid to the secretary of revenue or  
11 the secretary of state by domestic corporations, foreign corporations,  
12 domestic limited liability companies, foreign limited liability companies,  
13 domestic limited partnership, foreign limited partnership, domestic limited  
14 liability partnerships and foreign limited liability partnerships.

15 (45) Records, other than criminal investigation records, the disclosure  
16 of which would pose a substantial likelihood of revealing security  
17 measures that protect: (A) Systems, facilities or equipment used in the  
18 production, transmission or distribution of energy, water or  
19 communications services; (B) transportation and sewer or wastewater  
20 treatment systems, facilities or equipment; or (C) private property or  
21 persons, if the records are submitted to the agency. For purposes of this  
22 paragraph, security means measures that protect against criminal acts  
23 intended to intimidate or coerce the civilian population, influence  
24 government policy by intimidation or coercion or to affect the operation of  
25 government by disruption of public services, mass destruction,  
26 assassination or kidnapping. Security measures include, but are not limited  
27 to, intelligence information, tactical plans, resource deployment and  
28 vulnerability assessments.

29 (46) Any information or material received by the register of deeds of  
30 a county from military discharge papers, DD Form 214. Such papers shall  
31 be disclosed: To the military dischargee; to such dischargee's immediate  
32 family members and lineal descendants; to such dischargee's heirs, agents  
33 or assigns; to the licensed funeral director who has custody of the body of  
34 the deceased dischargee; when required by a department or agency of the  
35 federal or state government or a political subdivision thereof; when the  
36 form is required to perfect the claim of military service or honorable  
37 discharge or a claim of a dependent of the dischargee; and upon the written  
38 approval of the commissioner of veterans affairs, to a person conducting  
39 research.

40 (47) Information that would reveal the location of a shelter or a  
41 safehouse or similar place where persons are provided protection from  
42 abuse or the name, address, location or other contact information of  
43 alleged victims of stalking, domestic violence or sexual assault.

1 (48) Policy information provided by an insurance carrier in  
2 accordance with subsection (h)(1) of K.S.A. 44-532, and amendments  
3 thereto. This exemption shall not be construed to preclude access to an  
4 individual employer's record for the purpose of verification of insurance  
5 coverage or to the department of labor for their business purposes.

6 (49) An individual's e-mail address, cell phone number and other  
7 contact information which has been given to the public agency for the  
8 purpose of public agency notifications or communications which are  
9 widely distributed to the public.

10 (50) Information provided by providers to the local collection point  
11 administrator or to the 911 coordinating council pursuant to the Kansas  
12 911 act, and amendments thereto, upon request of the party submitting  
13 such records.

14 (51) Records of a public agency on a public website which are  
15 searchable by a keyword search and identify the home address or home  
16 ownership of a law enforcement officer as defined in K.S.A. 2012 Supp.  
17 21-5111, and amendments thereto, parole officer, probation officer, court  
18 services officer or community correctional services officer. Such  
19 individual officer shall file with the custodian of such record a request to  
20 have such officer's identifying information restricted from public access on  
21 such public website. Within 10 business days of receipt of such requests,  
22 the public agency shall restrict such officer's identifying information from  
23 such public access. Such restriction shall expire after five years and such  
24 officer may file with the custodian of such record a new request for  
25 restriction at any time.

26 (52) Records of a public agency on a public website which are  
27 searchable by a keyword search and identify the home address or home  
28 ownership of a federal judge, a justice of the supreme court, a judge of the  
29 court of appeals, a district judge, a district magistrate judge, the United  
30 States attorney for the district of Kansas, an assistant United States  
31 attorney, the attorney general, an assistant attorney general, a district  
32 attorney or county attorney or an assistant district attorney or assistant  
33 county attorney. Such person shall file with the custodian of such record a  
34 request to have such person's identifying information restricted from  
35 public access on such public website. Within 10 business days of receipt of  
36 such requests, the public agency shall restrict such person's identifying  
37 information from such public access. Such restriction shall expire after  
38 five years and such person may file with the custodian of such record a  
39 new request for restriction at any time.

40 (53) Records of a public agency that would disclose the name, home  
41 address, *zip code*, e-mail address, phone number or cell phone number or  
42 other contact information for any person licensed to carry concealed  
43 handguns or of any person who enrolled in or completed any weapons

1 training in order to be licensed or has made application for such license  
2 under the personal and family protection act, K.S.A. 2012 Supp. 75-7c01  
3 et seq., and amendments thereto, shall not be disclosed unless otherwise  
4 required by law.

5 (54) *Records of a utility concerning information about cyber security*  
6 *threats, attacks or general attempts to attack utility operations provided to*  
7 *law enforcement agencies, the state corporation commission, the federal*  
8 *energy regulatory commission, the department of energy, the southwest*  
9 *power pool, the North American electric reliability corporation, the*  
10 *federal communications commission or any other federal, state or*  
11 *regional organization that has a responsibility for the safeguarding of*  
12 *telecommunications, electric, potable water, waste water disposal or*  
13 *treatment, motor fuel or natural gas energy supply systems.*

14 (b) Except to the extent disclosure is otherwise required by law or as  
15 appropriate during the course of an administrative proceeding or on appeal  
16 from agency action, a public agency or officer shall not disclose financial  
17 information of a taxpayer which may be required or requested by a county  
18 appraiser or the director of property valuation to assist in the determination  
19 of the value of the taxpayer's property for ad valorem taxation purposes; or  
20 any financial information of a personal nature required or requested by a  
21 public agency or officer, including a name, job description or title  
22 revealing the salary or other compensation of officers, employees or  
23 applicants for employment with a firm, corporation or agency, except a  
24 public agency. Nothing contained herein shall be construed to prohibit the  
25 publication of statistics, so classified as to prevent identification of  
26 particular reports or returns and the items thereof.

27 (c) As used in this section, the term "cited or identified" shall not  
28 include a request to an employee of a public agency that a document be  
29 prepared.

30 (d) If a public record contains material which is not subject to  
31 disclosure pursuant to this act, the public agency shall separate or delete  
32 such material and make available to the requester that material in the  
33 public record which is subject to disclosure pursuant to this act. If a public  
34 record is not subject to disclosure because it pertains to an identifiable  
35 individual, the public agency shall delete the identifying portions of the  
36 record and make available to the requester any remaining portions which  
37 are subject to disclosure pursuant to this act, unless the request is for a  
38 record pertaining to a specific individual or to such a limited group of  
39 individuals that the individuals' identities are reasonably ascertainable, the  
40 public agency shall not be required to disclose those portions of the record  
41 which pertain to such individual or individuals.

42 (e) The provisions of this section shall not be construed to exempt  
43 from public disclosure statistical information not descriptive of any



1 identifiable person.

2 (f) Notwithstanding the provisions of subsection (a), any public  
3 record which has been in existence more than 70 years shall be open for  
4 inspection by any person unless disclosure of the record is specifically  
5 prohibited or restricted by federal law, state statute or rule of the Kansas  
6 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and  
7 amendments thereto.

8 (g) Any confidential records or information relating to security  
9 measures provided or received under the provisions of subsection (a)(45)  
10 shall not be subject to subpoena, discovery or other demand in any  
11 administrative, criminal or civil action.

12 Sec. 19. K.S.A. 2012 Supp. 45-229, as amended by section 1 of 2013  
13 House Bill No. 2012, is hereby amended to read as follows: 45-229. (a) It  
14 is the intent of the legislature that exceptions to disclosure under the open  
15 records act shall be created or maintained only if:

16 (1) The public record is of a sensitive or personal nature concerning  
17 individuals;

18 (2) the public record is necessary for the effective and efficient  
19 administration of a governmental program; or

20 (3) the public record affects confidential information.

21 The maintenance or creation of an exception to disclosure must be  
22 compelled as measured by these criteria. Further, the legislature finds that  
23 the public has a right to have access to public records unless the criteria in  
24 this section for restricting such access to a public record are met and the  
25 criteria are considered during legislative review in connection with the  
26 particular exception to disclosure to be significant enough to override the  
27 strong public policy of open government. To strengthen the policy of open  
28 government, the legislature shall consider the criteria in this section before  
29 enacting an exception to disclosure.

30 (b) Subject to the provisions of subsections (g) and (h), any new  
31 exception to disclosure or substantial amendment of an existing exception  
32 shall expire on July 1 of the fifth year after enactment of the new  
33 exception or substantial amendment, unless the legislature acts to continue  
34 the exception. A law that enacts a new exception or substantially amends  
35 an existing exception shall state that the exception expires at the end of  
36 five years and that the exception shall be reviewed by the legislature  
37 before the scheduled date.

38 (c) For purposes of this section, an exception is substantially  
39 amended if the amendment expands the scope of the exception to include  
40 more records or information. An exception is not substantially amended if  
41 the amendment narrows the scope of the exception.

42 (d) This section is not intended to repeal an exception that has been  
43 amended following legislative review before the scheduled repeal of the

1 exception if the exception is not substantially amended as a result of the  
2 review.

3 (e) In the year before the expiration of an exception, the revisor of  
4 statutes shall certify to the president of the senate and the speaker of the  
5 house of representatives, by July 15, the language and statutory citation of  
6 each exception which will expire in the following year which meets the  
7 criteria of an exception as defined in this section. Any exception that is not  
8 identified and certified to the president of the senate and the speaker of the  
9 house of representatives is not subject to legislative review and shall not  
10 expire. If the revisor of statutes fails to certify an exception that the revisor  
11 subsequently determines should have been certified, the revisor shall  
12 include the exception in the following year's certification after that  
13 determination.

14 (f) "Exception" means any provision of law which creates an  
15 exception to disclosure or limits disclosure under the open records act  
16 pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any  
17 other provision of law.

18 (g) A provision of law which creates or amends an exception to  
19 disclosure under the open records law shall not be subject to review and  
20 expiration under this act if such provision:

- 21 (1) Is required by federal law;  
22 (2) applies solely to the legislature or to the state court system;  
23 (3) has been reviewed and continued in existence twice by the  
24 legislature; or  
25 (4) has been reviewed and continued in existence by the legislature  
26 during the 2013 legislative session and thereafter.

27 (h) (1) The legislature shall review the exception before its scheduled  
28 expiration and consider as part of the review process the following:

- 29 (A) What specific records are affected by the exception;  
30 (B) whom does the exception uniquely affect, as opposed to the  
31 general public;  
32 (C) what is the identifiable public purpose or goal of the exception;  
33 (D) whether the information contained in the records may be obtained  
34 readily by alternative means and how it may be obtained;

35 (2) an exception may be created or maintained only if it serves an  
36 identifiable public purpose and may be no broader than is necessary to  
37 meet the public purpose it serves. An identifiable public purpose is served  
38 if the legislature finds that the purpose is sufficiently compelling to  
39 override the strong public policy of open government and cannot be  
40 accomplished without the exception and if the exception:

- 41 (A) Allows the effective and efficient administration of a  
42 governmental program, which administration would be significantly  
43 impaired without the exception;

1 (B) protects information of a sensitive personal nature concerning  
2 individuals, the release of which information would be defamatory to such  
3 individuals or cause unwarranted damage to the good name or reputation  
4 of such individuals or would jeopardize the safety of such individuals.  
5 Only information that would identify the individuals may be excepted  
6 under this paragraph; or

7 (C) protects information of a confidential nature concerning entities,  
8 including, but not limited to, a formula, pattern, device, combination of  
9 devices, or compilation of information which is used to protect or further a  
10 business advantage over those who do not know or use it, the disclosure of  
11 which information would injure the affected entity in the marketplace.

12 (3) Records made before the date of the expiration of an exception  
13 shall be subject to disclosure as otherwise provided by law. In deciding  
14 whether the records shall be made public, the legislature shall consider  
15 whether the damage or loss to persons or entities uniquely affected by the  
16 exception of the type specified in paragraph (2)(B) or (2)(C) of this  
17 subsection (h) would occur if the records were made public.

18 (i) (1) Exceptions contained in the following statutes as continued in  
19 existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas  
20 and which have been reviewed and continued in existence twice by the  
21 legislature as provided in subsection (g) are hereby continued in existence:  
22 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189,  
23 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-  
24 1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-  
25 2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312,  
26 25-4161, 25-4165, 31-405, 34-251, ~~38-1664~~, 38-2212, 39-709b, 39-719e,  
27 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20,  
28 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308,  
29 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-  
30 594, 44-635, 44-714, 44-817, 44-1005, 44-1019, subsections (a)(1)  
31 through (43) of 45-221, 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849,  
32 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135, 59-2802,  
33 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b, 65-118, 65-119, 65-153f,  
34 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-  
35 1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507,  
36 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d,  
37 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-  
38 34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003,  
39 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151,  
40 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-996, 72-4311, 72-4452, 72-  
41 5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-2433f, 74-  
42 4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-8104, 74-8307,  
43 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943,

1 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355,  
2 76-359, 76-493, 76-12b11, 76-3305, 79-1119, 79-1437f, 79-3234, 79-  
3 3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-  
4 5206.

5 (2) Exceptions contained in the following statutes as certified by the  
6 revisor of statutes to the president of the senate and the speaker of the  
7 house of representatives pursuant to subsection (e) during 2009 are hereby  
8 continued in existence until July 1, 2015, at which time such exceptions  
9 shall expire: 17-2036, 40-5301, subsections (a)(45) and (a)(46) of 45-221,  
10 60-3351, 72-972a, 74-99d05 and 75-53,105.

11 (j) (1) Exceptions contained in the following statutes as continued in  
12 existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas  
13 and which have been reviewed and continued in existence twice by the  
14 legislature as provided in subsection (g) are hereby continued in existence:  
15 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and  
16 74-7508.

17 (2) Exceptions contained in the following statutes as certified by the  
18 revisor of statutes to the president of the senate and the speaker of the  
19 house of representatives pursuant to subsection (e) during 2010 are hereby  
20 continued in existence until July 1, 2016, at which time such exceptions  
21 shall expire: 12-5358, 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-  
22 2326, 44-1132, 60-3333, 65-6154, 71-218, 75-457, 75-712c, 75-723 and  
23 75-7c06.

24 (k) Exceptions contained in the following statutes as certified by the  
25 revisor of statutes to the president of the senate and the speaker of the  
26 house of representatives pursuant to subsection (e) during 2006, 2007 and  
27 2008 are hereby continued in existence until July 1, 2014, at which time  
28 such exceptions shall expire: 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-  
29 17,150, 12-2001, 12-5332, 17-12a607, 38-1008, 38-2209, 40-5006, 40-  
30 5108, 41-2905, 41-2906, 44-706, 44-1518, subsections (a)(44), (45), (46)  
31 and (47) of 45-221, 56-1a610, 56a-1204, 65-1,243, 65-3239, 66-1233, 74-  
32 50,184, 74-8134, 74-99b06 and 82a-2210.

33 (l) Exceptions contained in the following statutes as certified by the  
34 revisor of statutes to the president of the senate and the speaker of the  
35 house of representatives pursuant to subsection (e) during 2011 are hereby  
36 continued in existence until July 1, 2017, at which time such exceptions  
37 shall expire: 12-5711, 21-2511, 38-2313, 65-516, 74-8745, 74-8752, 74-  
38 8772 and 75-7427.

39 (m) Exceptions contained in the following statutes as certified by the  
40 revisor of statutes to the president of the senate and the speaker of the  
41 house of representatives pursuant to subsection (e) during 2012 and which  
42 have been reviewed during the 2013 legislative session and continued in  
43 existence by the legislature as provided in subsection (g) are hereby

1 continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a,  
2 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-  
3 712 and 75-5366.

4 Sec. 20. K.S.A. 2012 Supp. 47-422 is hereby amended to read as  
5 follows: 47-422. (a) Any brand registered with the animal health  
6 commissioner of the Kansas department of agriculture in compliance with  
7 the requirements of this act shall be the property of the person causing  
8 such record to be made. Such brand shall be subject to sale, assignment,  
9 transfer, devise and descent as other personal property. Instruments of  
10 writing evidencing the sale, assignment or transfer of such brand shall be  
11 recorded by the animal health commissioner. The fee for recording such  
12 instruments of writing shall be \$15. Such instruments shall have the same  
13 force and effect as recorded instruments affecting real estate. A certified  
14 copy of the record of any such instrument may be introduced in evidence  
15 the same as ~~is now provided for~~ certified copies of instruments affecting  
16 real estate. Any brand recorded with the Kansas department of agriculture  
17 division of animal health shall not be used by any person other than the  
18 recorded owner.

19 (b) Any person violating any provision of this section shall be guilty  
20 of a class C misdemeanor.

21 Sec. 21. K.S.A. 2012 Supp. 47-1804 is hereby amended to read as  
22 follows: 47-1804. As used in K.S.A. 47-1804 through 47-1808, and  
23 amendments thereto, unless the context otherwise requires:

24 (a) "Commissioner" means the animal health commissioner of the  
25 Kansas department of agriculture.

26 (b) "Livestock" means cattle, bison, swine, horses, sheep, goats,  
27 camelids and all creatures of the ratite family that are not indigenous to  
28 this state, including, but not limited to, ostriches, emus and rheas and  
29 domesticated deer.

30 (c) "Livestock dealer" means any person engaged in the business of  
31 buying or selling livestock in commerce, either on that person's own  
32 account or as the employee or agent of the seller or purchaser, or any  
33 person engaged in the business of buying or selling livestock in commerce  
34 on a commission basis and shall include any person who buys or sells  
35 livestock with the use of a video. "Livestock dealer" does not include any  
36 person who buys or sells livestock as part of that person's own breeding,  
37 feeding or dairy operation, nor any person who receives livestock  
38 exclusively for immediate slaughter.

39 (d) "Person" means any individual, partnership, corporation,  
40 company, firm or association. "Person" does not include any public  
41 livestock market operator licensed under K.S.A. 47-1001 et seq., and  
42 amendments thereto, or any feedlot operator licensed under K.S.A. 47-  
43 1501 et seq., and amendments thereto.

1 (e) "Domesticated deer" means any member of the family cervidae  
2 which was legally obtained and is being sold or raised in a confined area  
3 for: (1) Breeding stock; ~~for~~ (2) any carcass, skin or part of such animal; ~~for~~  
4 (3) exhibition; or ~~for~~ (4) companionship.

5 Sec. 22. K.S.A. 2012 Supp. 60-3107 is hereby amended to read as  
6 follows: 60-3107. (a) The court may approve any consent agreement to  
7 bring about a cessation of abuse of the plaintiff or minor children or grant  
8 any of the following orders:

9 (1) Restraining the defendant from abusing, molesting or interfering  
10 with the privacy or rights of the plaintiff or of any minor children of the  
11 parties. Such order shall contain a statement that if such order is violated,  
12 such violation may constitute assault as defined in subsection (a) of K.S.A.  
13 2012 Supp. 21-5412, and amendments thereto, battery as defined in  
14 subsection (a) of K.S.A. 2012 Supp. 21-5413, and amendments thereto,  
15 domestic battery as defined in K.S.A. 2012 Supp. 21-5414, and  
16 amendments thereto, and violation of a protective order as defined in  
17 K.S.A. 2012 Supp. 21-5924, and amendments thereto.

18 (2) Granting possession of the residence or household to the plaintiff  
19 to the exclusion of the defendant, and further restraining the defendant  
20 from entering or remaining upon or in such residence or household,  
21 subject to the limitation of subsection (d). Such order shall contain a  
22 statement that if such order is violated, such violation shall constitute  
23 criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 2012 Supp.  
24 21-5808, and amendments thereto, and violation of a protective order as  
25 defined in K.S.A. 2012 Supp. 21-5924, and amendments thereto. The court  
26 may grant an order, which shall expire 60 days following the date of  
27 issuance, restraining the defendant from cancelling utility service to the  
28 residence or household.

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

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

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

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

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

43 (8) Making provision for the possession of personal property of the

1 parties and ordering a law enforcement officer to assist in securing  
2 possession of that property, if necessary.

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

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

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

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

11 (2) the plaintiff had reasonable notice of the written cross or counter  
12 petition by personal service as provided in subsection (d) of K.S.A. 60-  
13 3104, and amendments thereto; and

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

17 (c) Any order entered under the protection from abuse act shall not be  
18 subject to modification on ex parte application or on motion for temporary  
19 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their  
20 transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes  
21 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and  
22 amendments thereto. Orders previously issued in an action filed pursuant  
23 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or  
24 27 of chapter 23 of the Kansas Statutes Annotated, and amendments  
25 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be  
26 subject to modification under the protection from abuse act only as to  
27 those matters subject to modification by the terms of K.S.A. 2012 Supp.  
28 ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3001~~  
29 ~~through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~ *and*  
30 *article 27 of chapter 23 of the Kansas Statutes Annotated*, and  
31 amendments thereto, and on sworn testimony to support a showing of  
32 good cause. Immediate and present danger of abuse to the plaintiff or  
33 minor children shall constitute good cause. If an action is filed pursuant to  
34 K.S.A. 2012 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through~~  
35 ~~23-2905, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216~~  
36 ~~and or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes~~  
37 *Annotated*, and amendments thereto, during the pendency of a proceeding  
38 filed under the protection from abuse act or while an order issued under  
39 the protection from abuse act is in effect, the court, on final hearing or on  
40 agreement of the parties, may issue final orders authorized by K.S.A. 2012  
41 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-~~  
42 ~~3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~  
43 *and articles 22 and 27 of chapter 23 of the Kansas Statutes Annotated*, and

1 amendments thereto, that are inconsistent with orders entered under the  
2 protection from abuse act. Any inconsistent order entered pursuant to this  
3 subsection shall be specific in its terms, reference the protection from  
4 abuse order and parts thereof being modified and a copy thereof shall be  
5 filed in both actions. The court shall consider whether the actions should  
6 be consolidated in accordance with K.S.A. 60-242, and amendments  
7 thereto. Any custody or parenting time order, or order relating to the best  
8 interests of a child, issued pursuant to the revised Kansas code for care of  
9 children or the revised Kansas juvenile justice code, shall be binding and  
10 shall take precedence over any such custody or parenting order involving  
11 the same child issued under the protection from abuse act, until  
12 jurisdiction under the revised Kansas code for care of children or the  
13 revised Kansas juvenile justice code is terminated. Any inconsistent  
14 custody or parenting order issued in the revised Kansas code for care of  
15 children case or the revised Kansas juvenile justice code case shall be  
16 specific in its terms, reference any preexisting protection from abuse order  
17 and the custody being modified, and a copy of such order shall be filed in  
18 the preexisting protection from abuse case.

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

24 (e) Subject to the provisions of subsections (b), (c) and (d), a  
25 protective order or approved consent agreement shall remain in effect until  
26 modified or dismissed by the court and shall be for a fixed period of time  
27 not to exceed one year, except as provided in subsection (e)(1) and (e)(2).

28 (1) Upon motion of the plaintiff, such period may be extended for one  
29 additional year.

30 (2) Upon verified motion of the plaintiff and after the defendant has  
31 been personally served with a copy of the motion and has had an  
32 opportunity to present evidence and cross-examine witnesses at a hearing  
33 on the motion, if the court determines by a preponderance of the evidence  
34 that the defendant has violated a valid protection order or (A) has  
35 previously violated a valid protection order, or (B) has been convicted of a  
36 person felony or any conspiracy, criminal solicitation or attempt thereof,  
37 under the laws of Kansas or the laws of any other jurisdiction which are  
38 substantially similar to such person felony, committed against the plaintiff  
39 or any member of the plaintiff's household, the court shall extend a  
40 protective order for not less than two additional years and may extend the  
41 protective order up to the lifetime of the defendant. No service fee shall be  
42 required for a motion filed pursuant to this subsection.

43 (f) The court may amend its order or agreement at any time upon



1 motion filed by either party.

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

4 (h) If a person enters or remains on premises or property violating an  
5 order issued pursuant to subsection (a)(2), such violation shall constitute  
6 criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 2012 Supp.  
7 21-5808, and amendments thereto, and violation of a protective order as  
8 defined in K.S.A. 2012 Supp. 21-5924, and amendments thereto. If a  
9 person abuses, molests or interferes with the privacy or rights of another  
10 violating an order issued pursuant to subsection (a)(1), such violation may  
11 constitute assault as defined in subsection (a) of K.S.A. 2012 Supp. 21-  
12 5412, and amendments thereto, battery as defined in subsection (a) of  
13 K.S.A. 2012 Supp. 21-5413, and amendments thereto, domestic battery as  
14 defined in K.S.A. 2012 Supp. 21-5414, and amendments thereto, and  
15 violation of a protective order as defined in K.S.A. 2012 Supp. 21-5924,  
16 and amendments thereto.

17 Sec. 23. K.S.A. 2012 Supp. 60-4104, as amended by section 41 of  
18 2013 Senate Substitute for House Bill No. 2034, is hereby amended to  
19 read as follows: 60-4104. Conduct and offenses giving rise to forfeiture  
20 under this act, whether or not there is a prosecution or conviction related to  
21 the offense, are:

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

23 (b) violations involving controlled substances, as described in K.S.A.  
24 2012 Supp. 21-5701 through 21-5717, and amendments thereto;

25 (c) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments  
26 thereto;

27 (d) criminal discharge of a firearm, as defined in subsections (a)(1)  
28 and (a)(2) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;

29 (e) gambling, as defined in K.S.A. 2012 Supp. 21-6404, and  
30 amendments thereto, and commercial gambling, as defined in subsection  
31 (a)(1) of K.S.A. 2012 Supp. 21-6406, and amendments thereto;

32 (f) counterfeiting, as defined in K.S.A. 2012 Supp. 21-5825, and  
33 amendments thereto;

34 (g) unlawful possession or use of a scanning device or reencoder, as  
35 described in K.S.A. 2012 Supp. 21-6108, and amendments thereto;

36 (h) medicaid fraud, as described in K.S.A. 2012 Supp. 21-5925  
37 through 21-5934, and amendments thereto;

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

41 (j) an act or omission committed in furtherance of any act or omission  
42 described in this section including any inchoate or preparatory offense,  
43 whether or not there is a prosecution or conviction related to the act or

1 omission;

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

5 (l) furtherance of terrorism or illegal use of weapons of mass  
6 destruction, as described in K.S.A. 2012 Supp. 21-5423, and amendments  
7 thereto;

8 (m) unlawful conduct of dog fighting and unlawful possession of dog  
9 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.  
10 2012 Supp. 21-6414, and amendments thereto;

11 (n) unlawful conduct of cockfighting and unlawful possession of  
12 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.  
13 2012 Supp. 21-6417, and amendments thereto;

14 (o) selling sexual relations, as defined in K.S.A. 2012 Supp. 21-6419,  
15 and amendments thereto, promoting the sale of sexual relations, as defined  
16 in K.S.A. 2012 Supp. 21-6420, and amendments thereto, and buying  
17 sexual relations, as defined in K.S.A. 2012 Supp. 21-6421, and  
18 amendments thereto;

19 (p) human trafficking and aggravated human trafficking, as defined in  
20 K.S.A. 2012 Supp. 21-5426, and amendments thereto;

21 (q) violations of the banking code, as described in K.S.A. 9-2012, and  
22 amendments thereto;

23 (r) mistreatment of a dependent adult, as defined in K.S.A. 2012  
24 Supp. 21-5417, and amendments thereto;

25 (s) giving a worthless check, as defined in K.S.A. 2012 Supp. 21-  
26 5821, and amendments thereto;

27 (t) forgery, as defined in K.S.A. 2012 Supp. 21-5823, and  
28 amendments thereto;

29 (u) making false information, as defined in K.S.A. 2012 Supp. 21-  
30 5824, and amendments thereto;

31 (v) criminal use of a financial card, as defined in K.S.A. 2012 Supp.  
32 21-5828, and amendments thereto;

33 (w) unlawful acts concerning computers, as described in K.S.A. 2012  
34 Supp. 21-5839, and amendments thereto;

35 (x) identity theft and identity fraud, as defined in subsections (a) and  
36 (b) of K.S.A. 2012 Supp. 21-6107, and amendments thereto;

37 (y) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509,  
38 and amendments thereto;

39 (z) felony violations of fleeing or attempting to elude a police officer,  
40 as described in K.S.A. 8-1568, and amendments thereto; ~~and~~

41 (aa) commercial sexual exploitation of a child, as defined in section 4  
42 *of 2013 Senate Substitute for House Bill No. 2034*, and amendments  
43 thereto; *and*

1        *(bb) violations of the Kansas racketeer influenced and corrupt*  
2 *organization act, as described in section 3 of 2013 Senate Bill No. 16, and*  
3 *amendments thereto.*

4        Sec. 24. K.S.A. 2012 Supp. 65-4101 is hereby amended to read as  
5 follows: 65-4101. As used in this act: (a) "Administer" means the direct  
6 application of a controlled substance, whether by injection, inhalation,  
7 ingestion or any other means, to the body of a patient or research subject  
8 by: (1) A practitioner or pursuant to the lawful direction of a practitioner;  
9 or

10        (2) the patient or research subject at the direction and in the presence  
11 of the practitioner.

12        (b) "Agent" means an authorized person who acts on behalf of or at  
13 the direction of a manufacturer, distributor or dispenser. It does not include  
14 a common carrier, public warehouseman or employee of the carrier or  
15 warehouseman.

16        (c) *"Application service provider" means an entity that sells*  
17 *electronic prescription or pharmacy prescription applications as a hosted*  
18 *service where the entity controls access to the application and maintains*  
19 *the software and records on its server.*

20        (d) "Board" means the state board of pharmacy.

21        ~~(d)~~(e) "Bureau" means the bureau of narcotics and dangerous drugs,  
22 United States department of justice, or its successor agency.

23        ~~(e)~~(f) "Controlled substance" means any drug, substance or  
24 immediate precursor included in any of the schedules designated in K.S.A.  
25 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments  
26 thereto.

27        (g) (1) *"Controlled substance analog" means a substance that is*  
28 *intended for human consumption, and:*

29        (A) *The chemical structure of which is substantially similar to the*  
30 *chemical structure of a controlled substance listed in or added to the*  
31 *schedules designated in K.S.A. 65-4105 or 65-4107, and amendments*  
32 *thereto;*

33        (B) *which has a stimulant, depressant or hallucinogenic effect on the*  
34 *central nervous system substantially similar to the stimulant, depressant*  
35 *or hallucinogenic effect on the central nervous system of a controlled*  
36 *substance included in the schedules designated in K.S.A. 65-4105 or 65-*  
37 *4107, and amendments thereto; or*

38        (C) *with respect to a particular individual, which such individual*  
39 *represents or intends to have a stimulant, depressant or hallucinogenic*  
40 *effect on the central nervous system substantially similar to the stimulant,*  
41 *depressant or hallucinogenic effect on the central nervous system of a*  
42 *controlled substance included in the schedules designated in K.S.A. 65-*  
43 *4105 or 65-4107, and amendments thereto.*

1       (2) *"Controlled substance analog" does not include:*

2       (A) *A controlled substance;*

3       (B) *a substance for which there is an approved new drug application;*

4       or

5       (C) *a substance with respect to which an exemption is in effect for*  
6 *investigational use by a particular person under section 505 of the federal*  
7 *food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with*  
8 *respect to the substance is permitted by the exemption.*

9       ~~(f)~~ (h) *"Counterfeit substance" means a controlled substance which,*  
10 *or the container or labeling of which, without authorization bears the*  
11 *trademark, trade name or other identifying mark, imprint, number or*  
12 *device or any likeness thereof of a manufacturer, distributor or dispenser*  
13 *other than the person who in fact manufactured, distributed or dispensed*  
14 *the substance.*

15       (i) *"Cultivate" means the planting or promotion of growth of five or*  
16 *more plants which contain or can produce controlled substances.*

17       (j) *"DEA" means the U.S. department of justice, drug enforcement*  
18 *administration.*

19       ~~(g)~~ (k) *"Deliver" or "delivery" means the actual, constructive or*  
20 *attempted transfer from one person to another of a controlled substance,*  
21 *whether or not there is an agency relationship.*

22       ~~(h)~~ (l) *"Dispense" means to deliver a controlled substance to an*  
23 *ultimate user or research subject by or pursuant to the lawful order of a*  
24 *practitioner, including the packaging, labeling or compounding necessary*  
25 *to prepare the substance for that delivery, or pursuant to the prescription of*  
26 *a mid-level practitioner.*

27       ~~(i)~~ (m) *"Dispenser" means a practitioner or pharmacist who dispenses.*

28       ~~(j)~~ (n) *"Distribute" means to deliver other than by administering or*  
29 *dispensing a controlled substance.*

30       ~~(k)~~ (o) *"Distributor" means a person who distributes.*

31       ~~(l)~~ (p) *"Drug" means: (1) Substances recognized as drugs in the*  
32 *official United States pharmacopoeia, official homeopathic pharmacopoeia*  
33 *of the United States or official national formulary or any supplement to*  
34 *any of them; (2) substances intended for use in the diagnosis, cure,*  
35 *mitigation, treatment or prevention of disease in man or animals; (3)*  
36 *substances (other than food) intended to affect the structure or any*  
37 *function of the body of man or animals; and (4) substances intended for*  
38 *use as a component of any article specified in clause (1), (2) or (3) of this*  
39 *subsection. It does not include devices or their components, parts or*  
40 *accessories.*

41       ~~(m)~~ (q) *"Immediate precursor" means a substance which the board*  
42 *has found to be and by rule and regulation designates as being the*  
43 *principal compound commonly used or produced primarily for use and*

1 which is an immediate chemical intermediary used or likely to be used in  
2 the manufacture of a controlled substance, the control of which is  
3 necessary to prevent, curtail or limit manufacture.

4 (r) *"Electronic prescription" means an electronically prepared*  
5 *prescription that is authorized and transmitted from the prescriber to the*  
6 *pharmacy by means of electronic transmission.*

7 (s) *"Electronic prescription application" means software that is used*  
8 *to create electronic prescriptions and that is intended to be installed on the*  
9 *prescriber's computers and servers where access and records are*  
10 *controlled by the prescriber.*

11 (t) *"Electronic signature" means a confidential personalized digital*  
12 *key, code, number or other method for secure electronic data*  
13 *transmissions which identifies a particular person as the source of the*  
14 *message, authenticates the signatory of the message and indicates the*  
15 *person's approval of the information contained in the transmission.*

16 (u) *"Electronic transmission" means the transmission of an electronic*  
17 *prescription, formatted as an electronic data file, from a prescriber's*  
18 *electronic prescription application to a pharmacy's computer, where the*  
19 *data file is imported into the pharmacy prescription application.*

20 (v) *"Electronically prepared prescription" means a prescription that*  
21 *is generated using an electronic prescription application.*

22 (w) *"Facsimile transmission" or "fax transmission" means the*  
23 *transmission of a digital image of a prescription from the prescriber or the*  
24 *prescriber's agent to the pharmacy. "Facsimile transmission" includes, but*  
25 *is not limited to, transmission of a written prescription between the*  
26 *prescriber's fax machine and the pharmacy's fax machine; transmission of*  
27 *an electronically prepared prescription from the prescriber's electronic*  
28 *prescription application to the pharmacy's fax machine, computer or*  
29 *printer; or transmission of an electronically prepared prescription from*  
30 *the prescriber's fax machine to the pharmacy's fax machine, computer or*  
31 *printer.*

32 (x) *"Intermediary" means any technology system that receives and*  
33 *transmits an electronic prescription between the prescriber and the*  
34 *pharmacy.*

35 (y) *"Isomer" means all enantiomers and diastereomers.*

36 (z) *"Manufacture" means the production, preparation,*  
37 *propagation, compounding, conversion or processing of a controlled*  
38 *substance either directly or indirectly or by extraction from substances of*  
39 *natural origin or independently by means of chemical synthesis or by a*  
40 *combination of extraction and chemical synthesis and includes any*  
41 *packaging or repackaging of the substance or labeling or relabeling of its*  
42 *container, except that this term does not include the preparation or*  
43 *compounding of a controlled substance by an individual for the*

1 individual's own lawful use or the preparation, compounding, packaging or  
2 labeling of a controlled substance:

3 (1) By a practitioner or the practitioner's agent pursuant to a lawful  
4 order of a practitioner as an incident to the practitioner's administering or  
5 dispensing of a controlled substance in the course of the practitioner's  
6 professional practice; or

7 (2) by a practitioner or by the practitioner's authorized agent under  
8 such practitioner's supervision for the purpose of or as an incident to  
9 research, teaching or chemical analysis or by a pharmacist or medical care  
10 facility as an incident to dispensing of a controlled substance.

11 (⊕) (aa) "Marijuana" means all parts of all varieties of the plant  
12 Cannabis whether growing or not, the seeds thereof, the resin extracted  
13 from any part of the plant and every compound, manufacture, salt,  
14 derivative, mixture or preparation of the plant, its seeds or resin. It does  
15 not include the mature stalks of the plant, fiber produced from the stalks,  
16 oil or cake made from the seeds of the plant, any other compound,  
17 manufacture, salt, derivative, mixture or preparation of the mature stalks,  
18 except the resin extracted therefrom, fiber, oil, or cake or the sterilized  
19 seed of the plant which is incapable of germination.

20 (bb) *"Medical care facility" shall have the meaning ascribed to that*  
21 *term in K.S.A. 65-425, and amendments thereto.*

22 (cc) *"Mid-level practitioner" means an advanced practice registered*  
23 *nurse issued a license pursuant to K.S.A. 65-1131, and amendments*  
24 *thereto, who has authority to prescribe drugs pursuant to a written*  
25 *protocol with a responsible physician under K.S.A. 65-1130, and*  
26 *amendments thereto, or a physician assistant licensed under the physician*  
27 *assistant licensure act who has authority to prescribe drugs pursuant to a*  
28 *written protocol with a responsible physician under K.S.A. 65-28a08, and*  
29 *amendments thereto.*

30 (⊕) (dd) "Narcotic drug" means any of the following whether  
31 produced directly or indirectly by extraction from substances of vegetable  
32 origin or independently by means of chemical synthesis or by a  
33 combination of extraction and chemical synthesis:

34 (1) Opium and opiate and any salt, compound, derivative or  
35 preparation of opium or opiate;

36 (2) any salt, compound, isomer, derivative or preparation thereof  
37 which is chemically equivalent or identical with any of the substances  
38 referred to in clause (1) but not including the isoquinoline alkaloids of  
39 opium;

40 (3) opium poppy and poppy straw;

41 (4) coca leaves and any salt, compound, derivative or preparation of  
42 coca leaves, and any salt, compound, isomer, derivative or preparation  
43 thereof which is chemically equivalent or identical with any of these

1 substances, but not including decocainized coca leaves or extractions of  
2 coca leaves which do not contain cocaine or ecgonine.

3 (†) (ee) "Opiate" means any substance having an addiction-forming  
4 or addiction-sustaining liability similar to morphine or being capable of  
5 conversion into a drug having addiction-forming or addiction-sustaining  
6 liability. It does not include, unless specifically designated as controlled  
7 under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer  
8 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does  
9 include its racemic and levorotatory forms.

10 (†) (ff) "Opium poppy" means the plant of the species *Papaver*  
11 *somniferum* L. except its seeds.

12 (s) (gg) "Person" means *an* individual, corporation, government, or  
13 governmental subdivision or agency, business trust, estate, trust,  
14 partnership or association or any other legal entity.

15 (hh) "*Pharmacist*" means any natural person licensed under K.S.A.  
16 65-1625 *et seq.*, to practice pharmacy.

17 (ii) "*Pharmacist intern*" means: (1) A student currently enrolled in an  
18 accredited pharmacy program; (2) a graduate of an accredited pharmacy  
19 program serving such person's internship; or (3) a graduate of a  
20 pharmacy program located outside of the United States which is not  
21 accredited and who had successfully passed equivalency examinations  
22 approved by the board.

23 (jj) "*Pharmacy prescription application*" means software that is used  
24 to process prescription information, is installed on a pharmacy's  
25 computers and servers, and is controlled by the pharmacy.

26 (†) (kk) "Poppy straw" means all parts, except the seeds, of the opium  
27 poppy, after mowing.

28 ~~(u) "Pharmacist" means an individual currently licensed by the board  
29 to practice the profession of pharmacy in this state.~~

30 (†) (ll) "Practitioner" means a person licensed to practice medicine  
31 and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific  
32 investigator or other person authorized by law to use a controlled  
33 substance in teaching or chemical analysis or to conduct research with  
34 respect to a controlled substance.

35 (mm) "*Prescriber*" means a practitioner or a mid-level practitioner.

36 (†) (nn) "Production" includes the manufacture, planting, cultivation,  
37 growing or harvesting of a controlled substance.

38 (oo) "*Readily retrievable*" means that records kept by automatic data  
39 processing applications or other electronic or mechanized recordkeeping  
40 systems can be separated out from all other records within a reasonable  
41 time not to exceed 48 hours of a request from the board or other  
42 authorized agent or that hard-copy records are kept on which certain  
43 items are asterisked, redlined or in some other manner visually

1 *identifiable apart from other items appearing on the records.*

2 ~~(x) (pp) "Ultimate user" means a person who lawfully possesses a~~  
3 ~~controlled substance for such person's own use or for the use of a member~~  
4 ~~of such person's household or for administering to an animal owned by~~  
5 ~~such person or by a member of such person's household.~~

6 ~~(y) "Isomer" means all enantiomers and diastereomers.~~

7 ~~(z) "Medical care facility" shall have the meaning ascribed to that~~  
8 ~~term in K.S.A. 65-425, and amendments thereto.~~

9 ~~(aa) "Cultivate" means the planting or promotion of growth of five or~~  
10 ~~more plants which contain or can produce controlled substances.~~

11 ~~(bb) (1) "Controlled substance analog" means a substance that is~~  
12 ~~intended for human consumption, and:~~

13 ~~(A) The chemical structure of which is substantially similar to the~~  
14 ~~chemical structure of a controlled substance listed in or added to the~~  
15 ~~schedules designated in K.S.A. 65-4105 or 65-4107, and amendments~~  
16 ~~thereto;~~

17 ~~(B) which has a stimulant, depressant or hallucinogenic effect on the~~  
18 ~~central nervous system substantially similar to the stimulant, depressant or~~  
19 ~~hallucinogenic effect on the central nervous system of a controlled~~  
20 ~~substance included in the schedules designated in K.S.A. 65-4105 or 65-~~  
21 ~~4107, and amendments thereto; or~~

22 ~~(C) with respect to a particular individual, which the individual~~  
23 ~~represents or intends to have a stimulant, depressant or hallucinogenic~~  
24 ~~effect on the central nervous system substantially similar to the stimulant,~~  
25 ~~depressant or hallucinogenic effect on the central nervous system of a~~  
26 ~~controlled substance included in the schedules designated in K.S.A. 65-~~  
27 ~~4105 or 65-4107, and amendments thereto.~~

28 ~~(2) "Controlled substance analog" does not include:~~

29 ~~(A) A controlled substance;~~

30 ~~(B) a substance for which there is an approved new drug application;~~  
31 ~~or~~

32 ~~(C) a substance with respect to which an exemption is in effect for~~  
33 ~~investigational use by a particular person under section 505 of the federal~~  
34 ~~food, drug, and cosmetic act (21 U.S.C. § 355) to the extent conduct with~~  
35 ~~respect to the substance is permitted by the exemption.~~

36 ~~(cc) "Mid-level practitioner" means an advanced practice registered~~  
37 ~~nurse issued a license pursuant to K.S.A. 65-1131, and amendments~~  
38 ~~thereto, who has authority to prescribe drugs pursuant to a written protocol~~  
39 ~~with a responsible physician under K.S.A. 65-1130, and amendments~~  
40 ~~thereto, or a physician assistant licensed under the physician assistant~~  
41 ~~licensure act who has authority to prescribe drugs pursuant to a written~~  
42 ~~protocol with a responsible physician under K.S.A. 65-28a08, and~~  
43 ~~amendments thereto.~~



1 Sec. 25. K.S.A. 2012 Supp. 72-978 is hereby amended to read as  
2 follows: 72-978. (a) Each year, the state board of education shall  
3 determine the amount of state aid for the provision of special education  
4 and related services each school district shall receive for the ensuing  
5 school year. The amount of such state aid shall be computed by the state  
6 board as provided in this section. The state board shall:

7 (1) Determine the total amount of general fund and local option  
8 budgets of all school districts;

9 (2) subtract from the amount determined in paragraph (1) the total  
10 amount attributable to assignment of transportation weighting, program  
11 weighting, special education weighting and at-risk pupil weighting to  
12 enrollment of all school districts;

13 (3) divide the remainder obtained in paragraph (2) by the total  
14 number of full-time equivalent pupils enrolled in all school districts on  
15 September 20;

16 (4) determine the total full-time equivalent enrollment of exceptional  
17 children receiving special education and related services provided by all  
18 school districts;

19 (5) multiply the amount of the quotient obtained in paragraph (3) by  
20 the full-time equivalent enrollment determined in paragraph (4);

21 (6) determine the amount of federal funds received by all school  
22 districts for the provision of special education and related services;

23 (7) determine the amount of revenue received by all school districts  
24 rendered under contracts with the state institutions for the provisions of  
25 special education and related services by the state institution;

26 (8) add the amounts determined under paragraphs (6) and (7) to the  
27 amount of the product obtained under paragraph (5);

28 (9) determine the total amount of expenditures of all school districts  
29 for the provision of special education and related services;

30 (10) subtract the amount of the sum obtained under paragraph (8)  
31 from the amount determined under paragraph (9); and

32 (11) multiply the remainder obtained under paragraph (10) by 92%.

33 The computed amount is the amount of state aid for the provision of  
34 special education and related services aid a school district is entitled to  
35 receive for the ensuing school year.

36 (b) Each school district shall be entitled to receive:

37 (1) Reimbursement for actual travel allowances paid to special  
38 teachers at not to exceed the rate specified under K.S.A. 75-3203, and  
39 amendments thereto, for each mile actually traveled during the school year  
40 in connection with duties in providing special education or related services  
41 for exceptional children; such reimbursement shall be computed by the  
42 state board by ascertaining the actual travel allowances paid to special  
43 teachers by the school district for the school year and shall be in an

1 amount equal to 80% of such actual travel allowances;

2 (2) reimbursement in an amount equal to 80% of the actual travel  
3 expenses incurred for providing transportation for exceptional children to  
4 special education or related services; such reimbursement shall not be paid  
5 if such child has been counted in determining the transportation weighting  
6 of the district under the provisions of the school district finance and  
7 quality performance act;

8 (3) reimbursement in an amount equal to 80% of the actual expenses  
9 incurred for the maintenance of an exceptional child at some place other  
10 than the residence of such child for the purpose of providing special  
11 education or related services; such reimbursement shall not exceed \$600  
12 per exceptional child per school year; and

13 (4) (A) except for those school districts entitled to receive  
14 reimbursement under subsection (c) or (d), after subtracting the amounts of  
15 reimbursement under paragraphs (1), (2) and (3) of ~~this~~ subsection (a)  
16 from the total amount appropriated for special education and related  
17 services under this act, an amount which bears the same proportion to the  
18 remaining amount appropriated as the number of full-time equivalent  
19 special teachers who are qualified to provide special education or related  
20 services to exceptional children and are employed by the school district for  
21 approved special education or related services bears to the total number of  
22 such qualified full-time equivalent special teachers employed by all school  
23 districts for approved special education or related services.

24 (B) Each special teacher who is qualified to assist in the provision of  
25 special education or related services to exceptional children shall be  
26 counted as  $\frac{2}{5}$  full-time equivalent special teacher who is qualified to  
27 provide special education or related services to exceptional children.

28 (C) *For purposes of this paragraph (4), a special teacher, qualified to*  
29 *assist in the provision of special education and related services to*  
30 *exceptional children, who assists in providing special education and*  
31 *related services to exceptional children at either the state school for the*  
32 *blind or the state school for the deaf and whose services are paid for by a*  
33 *school district pursuant to K.S.A. 76-1006 or 76-1102, and amendments*  
34 *thereto, shall be considered a special teacher of such school district.*

35 (c) Each school district which has paid amounts for the provision of  
36 special education and related services under an interlocal agreement shall  
37 be entitled to receive reimbursement under subsection (b)(4). The amount  
38 of such reimbursement for the district shall be the amount which bears the  
39 same relation to the aggregate amount available for reimbursement for the  
40 provision of special education and related services under the interlocal  
41 agreement, as the amount paid by such district in the current school year  
42 for provision of such special education and related services bears to the  
43 aggregate of all amounts paid by all school districts in the current school

1 year who have entered into such interlocal agreement for provision of such  
2 special education and related services.

3 (d) Each contracting school district which has paid amounts for the  
4 provision of special education and related services as a member of a  
5 cooperative shall be entitled to receive reimbursement under subsection (b)  
6 (4). The amount of such reimbursement for the district shall be the amount  
7 which bears the same relation to the aggregate amount available for  
8 reimbursement for the provision of special education and related services  
9 by the cooperative, as the amount paid by such district in the current  
10 school year for provision of such special education and related services  
11 bears to the aggregate of all amounts paid by all contracting school  
12 districts in the current school year by such cooperative for provision of  
13 such special education and related services.

14 (e) No time spent by a special teacher in connection with duties  
15 performed under a contract entered into by the Kansas juvenile  
16 correctional complex, the Atchison juvenile correctional facility, the  
17 Larned juvenile correctional facility, or the Topeka juvenile correctional  
18 facility and a school district for the provision of special education services  
19 by such state institution shall be counted in making computations under  
20 this section.

21 Sec. 26. K.S.A. 2012 Supp. 74-7901 is hereby amended to read as  
22 follows: 74-7901. There is hereby created a Kansas wildlife arts council  
23 which shall be composed of five members. One member shall be a  
24 member of the Kansas wildlife ~~and parks~~, *parks and tourism* commission  
25 appointed by such commission, one member shall be a member of the  
26 Kansas creative arts industries commission appointed by such commission,  
27 one member shall be the director of the Fort Hays state university  
28 Sternberg museum, and two members shall be from the public at large  
29 appointed by the president of Fort Hays state university. The director of  
30 the Fort Hays state university Sternberg museum shall be chairperson of  
31 the council, and personnel of the Fort Hays state university Sternberg  
32 museum shall provide such staff and clerical services as the council may  
33 require.

34 Sec. 27. K.S.A. 2012 Supp. 75-7c05, as amended by section 7 of  
35 2013 Senate Substitute for House Bill No. 2052, is hereby amended to  
36 read as follows: 75-7c05. (a) The application for a license pursuant to this  
37 act shall be completed, under oath, on a form prescribed by the attorney  
38 general and shall only include:

39 (1) (A) Subject to the provisions of subsection (a)(1)(B), the name,  
40 address, social security number, Kansas driver's license number or Kansas  
41 nondriver's license identification number, place and date of birth, a  
42 photocopy of the applicant's driver's license or nondriver's identification  
43 card and a photocopy of the applicant's certificate of training course

1 completion; (B) in the case of an applicant who presents proof that such  
2 person is on active duty with any branch of the armed forces of the United  
3 States, or is the dependent of such a person, and who does not possess a  
4 Kansas driver's license or Kansas nondriver's license identification, the  
5 number of such license or identification shall not be required;

6 (2) a statement that the applicant is in compliance with criteria  
7 contained within K.S.A. 2012 Supp. 75-7c04, and amendments thereto;

8 (3) a statement that the applicant has been furnished a copy of this act  
9 and is knowledgeable of its provisions;

10 (4) a conspicuous warning that the application is executed under oath  
11 and that a false answer to any question, or the submission of any false  
12 document by the applicant, subjects the applicant to criminal prosecution  
13 under K.S.A. 2012 Supp. 21-5903, and amendments thereto; and

14 (5) a statement that the applicant desires a concealed handgun license  
15 as a means of lawful self-defense.

16 (b) The applicant shall submit to the sheriff of the county where the  
17 applicant resides, during any normal business hours:

18 (1) A completed application described in subsection (a);

19 (2) a nonrefundable license fee of \$132.50, if the applicant has not  
20 previously been issued a statewide license or if the applicant's license has  
21 permanently expired, which fee shall be in the form of two cashier's  
22 checks, personal checks or money orders of \$32.50 payable to the sheriff  
23 of the county where the applicant resides and \$100 payable to the attorney  
24 general;

25 ~~(3) a photocopy of a certificate or an affidavit or document as~~  
26 ~~described in subsection (b) of K.S.A. 2012 Supp. 75-7c04, and~~  
27 ~~amendments thereto, or if applicable, of a license to carry a firearm as~~  
28 ~~described in if applicable, a photocopy of the proof of training required by~~  
29 subsection (d) of K.S.A. 2012 Supp. 75-7c03, and amendments thereto;  
30 and

31 (4) a full frontal view photograph of the applicant taken within the  
32 preceding 30 days.

33 (c) (1) The sheriff, upon receipt of the items listed in subsection (b) of  
34 this section, shall provide for the full set of fingerprints of the applicant to  
35 be taken and forwarded to the attorney general for purposes of a criminal  
36 history records check as provided by subsection (d). In addition, the sheriff  
37 shall forward to the attorney general ~~a copy of the application and the~~  
38 portion of the original license fee which is payable to the attorney general.  
39 The cost of taking such fingerprints shall be included in the portion of the  
40 fee retained by the sheriff. Notwithstanding anything in this section to the  
41 contrary, an applicant shall not be required to submit fingerprints for a  
42 renewal application under K.S.A. 2012 Supp. 75-7c08, and amendments  
43 thereto.

1       (2) The sheriff of the applicant's county of residence or the chief law  
2 enforcement officer of any law enforcement agency, at the sheriff's or chief  
3 law enforcement officer's discretion, may participate in the process by  
4 submitting a voluntary report to the attorney general containing readily  
5 discoverable information, corroborated through public records, which,  
6 when combined with another enumerated factor, establishes that the  
7 applicant poses a significantly greater threat to law enforcement or the  
8 public at large than the average citizen. Any such voluntary reporting shall  
9 be made within 45 days after the date the sheriff receives the application.  
10 Any sheriff or chief law enforcement officer submitting a voluntary report  
11 shall not incur any civil or criminal liability as the result of the good faith  
12 submission of such report.

13       (3) All funds retained by the sheriff pursuant to the provisions of this  
14 section shall be credited to a special fund of the sheriff's office which shall  
15 be used solely for the purpose of administering this act.

16       (d) Each applicant shall be subject to a state and national criminal  
17 history records check which conforms to applicable federal standards,  
18 including an inquiry of the national instant criminal background check  
19 system for the purpose of verifying the identity of the applicant and  
20 whether the applicant has been convicted of any crime or has been the  
21 subject of any restraining order or any mental health related finding that  
22 would disqualify the applicant from holding a license under this act. The  
23 attorney general is authorized to use the information obtained from the  
24 state or national criminal history record check to determine the applicant's  
25 eligibility for such license.

26       (e) *Except as provided in K.S.A. 2012 Supp. 75-7c03, and*  
27 *amendments thereto*, within 90 days after the date of receipt of the items  
28 listed in subsection (b), the attorney general shall:

29       (1) Issue the license and certify the issuance to the department of  
30 revenue; or

31       (2) deny the application based solely on: (A) The report submitted by  
32 the sheriff or other chief law enforcement officer under subsection (c)(2)  
33 for good cause shown therein; or (B) the ground that the applicant is  
34 disqualified under the criteria listed in K.S.A. 2012 Supp. 75-7c04, and  
35 amendments thereto. If the attorney general denies the application, the  
36 attorney general shall notify the applicant in writing, stating the ground for  
37 denial and informing the applicant the opportunity for a hearing pursuant  
38 to the Kansas administrative procedure act.

39       (f) Each person issued a license shall pay to the department of  
40 revenue a fee for the cost of the license which shall be in amounts equal to  
41 the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments  
42 thereto, for replacement of a driver's license.

43       (g) (1) A person who is a retired law enforcement officer, as defined

1 in K.S.A. 2012 Supp. 21-5111, and amendments thereto, shall be: (A)  
2 Required to pay an original license fee as provided in subsection (b)(2), to  
3 be forwarded by the sheriff to the attorney general; (B) exempt from the  
4 required completion of a handgun safety and training course if such person  
5 was certified by the Kansas commission on peace officer's standards and  
6 training, or similar body from another jurisdiction, not more than eight  
7 years prior to submission of the application; (C) required to pay the license  
8 renewal fee; (D) required to pay to the department of revenue the fees  
9 required by subsection (f); and (E) required to comply with the criminal  
10 history records check requirement of this section.

11 (2) Proof of retirement as a law enforcement officer shall be required  
12 and provided to the attorney general in the form of a letter from the agency  
13 head, or their designee, of the officer's retiring agency that attests to the  
14 officer having retired in good standing from that agency as a law  
15 enforcement officer for reasons other than mental instability and that the  
16 officer has a nonforfeitable right to benefits under a retirement plan of the  
17 agency.

18 (h) A person who is a corrections officer, a parole officer or a  
19 corrections officer employed by the federal bureau of prisons, as defined  
20 by K.S.A. 75-5202, and amendments thereto, shall be: (1) Required to pay  
21 an original license fee as provided in subsection (b)(2); (2) exempt from the  
22 required completion of a handgun safety and training course if such  
23 person was issued a certificate of firearms training by the department of  
24 corrections or the federal bureau of prisons or similar body not more than  
25 one year prior to submission of the application; (3) required to pay the  
26 license renewal fee; (4) required to pay to the department of revenue the  
27 fees required by subsection (f); and (5) required to comply with the  
28 criminal history records check requirement of this section.

29 Sec. 28. K.S.A. 2012 Supp. 75-3740 is hereby amended to read as  
30 follows: 75-3740. (a) Except as provided by K.S.A. 75-3740b, and  
31 amendments thereto, and ~~subsection (g)~~ subsections (b) and (k), all  
32 contracts and purchases made by or under the supervision of the director  
33 of purchases or any state agency for which competitive bids are required  
34 shall be awarded to the lowest responsible bidder, taking into consideration  
35 conformity with the specifications, terms of delivery, and other conditions  
36 imposed in the call for bids.

37 (b) *A contract shall be awarded to a certified business which is also*  
38 *responsible bidder, whose total bid cost is not more than 10% higher than*  
39 *the lowest competitive bid. Such contract shall contain a promise by the*  
40 *certified business that the percentage of employees that are individuals*  
41 *with disabilities will be maintained throughout the contract term and a*  
42 *condition that the certified business shall not subcontract for goods or*  
43 *services in an aggregate amount of more than 25% of the total bid cost.*

1 (c) The director of purchases shall have power to decide as to the  
2 lowest responsible bidder for all purchases, but if:

3 (1) (A) *A responsible bidder purchases from a qualified vendor goods*  
4 *or services on the list certified by the director of purchases pursuant to*  
5 *K.S.A. 75-3317 et seq., and amendments thereto, the dollar amount of such*  
6 *purchases made during the previous fiscal year shall be deducted from the*  
7 *original bid received from such bidder for the purpose of determining the*  
8 *lowest responsible bid, except that such deduction shall not exceed 10% of*  
9 *the original bid received from such bidder; or*

10 (B) *a responsible bidder purchases from a certified business the*  
11 *dollar amount of such purchases made during the previous fiscal year*  
12 *shall be deducted from the original bid received from such bidder for the*  
13 *purpose of determining the lowest responsible bid, except that such*  
14 *deduction shall not exceed 10% of the original bid received from such*  
15 *bidder;*

16 (⊕) (2) the dollar amount of the bid received from the lowest  
17 responsible bidder from within the state is identical to the dollar amount of  
18 the bid received from the lowest responsible bidder from without the state,  
19 the contract shall be awarded to the bidder from within the state; and

20 (⊖) (3) in the case of bids for paper products specified in K.S.A. 75-  
21 3740b, and amendments thereto, the dollar amounts of the bids received  
22 from two or more lowest responsible bidders are identical, the contract  
23 shall be awarded to the bidder whose bid is for those paper products  
24 containing the highest percentage of recycled materials.

25 (e)(d) Any or all bids may be rejected, and a bid shall be rejected if it  
26 contains any material alteration or erasure made after the bid is opened.  
27 The director of purchases may reject the bid of any bidder who is in  
28 arrears on taxes due the state, who is not properly registered to collect and  
29 remit taxes due the state or who has failed to perform satisfactorily on a  
30 previous contract with the state. The secretary of revenue is hereby  
31 authorized to exchange such information with the director of purchases as  
32 is necessary to effectuate the preceding sentence notwithstanding any other  
33 provision of law prohibiting disclosure of the contents of taxpayer records  
34 or information. Prior to determining the lowest responsible bidder on  
35 contracts for construction of buildings or for major repairs or  
36 improvements to buildings for state agencies, the director of purchases  
37 shall consider: (1) The criteria and information developed by the secretary  
38 of administration, with the advice of the state building advisory  
39 commission to rate contractors on the basis of their performance under  
40 similar contracts with the state, local governmental entities and private  
41 entities, in addition to other criteria and information available; and (2) the  
42 recommendations of the project architect, or, if there is no project  
43 architect, the recommendations of the secretary of administration or the

1 agency architect for the project as provided in K.S.A. 75-1254, and  
2 amendments thereto. In any case where competitive bids are required and  
3 where all bids are rejected, new bids shall be called for as in the first  
4 instance, unless otherwise expressly provided by law or the state agency  
5 elects not to proceed with the procurement.

6 (d) (e) Before the awarding of any contract for construction of a  
7 building or the making of repairs or improvements upon any building for a  
8 state agency, the director of purchases shall receive written approval from  
9 the state agency for which the building construction project has been  
10 approved, that the bids generally conform with the plans and specifications  
11 prepared by the project architect, by the secretary of administration or by  
12 the agency architect for the project, as the case may be, so as to avoid error  
13 and mistake on the part of the contractors. In all cases where material  
14 described in a contract can be obtained from any state institution, the  
15 director of purchases shall exclude the same from the contract.

16 (e) (f) All bids with the names of the bidders and the amounts thereof,  
17 together with all documents pertaining to the award of a contract, shall be  
18 made a part of a file or record and retained by the director of purchases for  
19 five years, unless reproduced as provided in K.S.A. 75-3737, and  
20 amendments thereto, and shall be open to public inspection at all  
21 reasonable times.

22 (f) ~~As used in this section and in K.S.A. 75-3741, and amendments~~  
23 ~~thereto, "project architect" shall have the meaning ascribed thereto in~~  
24 ~~K.S.A. 75-1251, and amendments thereto.~~

25 (g) *As used in this section:*

26 (1) *"Certified business" means any business certified annually by the*  
27 *department of administration that is a sole proprietorship, partnership,*  
28 *association or corporation domiciled in Kansas, or any corporation, even*  
29 *if a wholly owned subsidiary of a foreign corporation, that:*

30 (A) *Does business primarily in Kansas or substantially all of its*  
31 *production in Kansas;*

32 (B) *employs at least 20% of its employees who are individuals with*  
33 *disabilities and reside in Kansas;*

34 (C) *offers to contribute at least 75% of the premium cost for*  
35 *individual health insurance coverage for each employee. The level of such*  
36 *coverage shall be at least equal to the level of benefits offered by the state*  
37 *employee benefit program established by K.S.A. 75-6501 et seq., and*  
38 *amendments thereto. The department of administration shall require a*  
39 *certification of these facts as a condition to the certified business being*  
40 *awarded a contract pursuant to subsection (b); and*

41 (D) *does not employ individuals under a certificate issued by the*  
42 *United States secretary of labor under subsection (c) of 29 U.S.C. § 214;*

43 (2) *"individuals with disabilities" or "individual with a disability"*



1 means any individual who:

2 (A) Is certified by the Kansas department for aging and disability  
3 services as having a physical or mental impairment which constitutes a  
4 substantial barrier to employment;

5 (B) works a minimum number of hours per week for a certified  
6 business necessary to qualify for health insurance coverage offered  
7 pursuant to subsection (g)(1); and

8 (C) (i) is receiving services, has received services or is eligible to  
9 receive services under a home and community based services program, as  
10 defined by K.S.A. 39-7,100, and amendments thereto;

11 (ii) is employed by a charitable organization domiciled in the state of  
12 Kansas and exempt from federal income taxation pursuant to section  
13 501(c)(3) of the federal internal revenue code of 1986, as amended; or

14 (iii) is an individual with a severe and persistent mental illness, as  
15 determined by a clinical or functional assessment approved by the Kansas  
16 department for aging and disability services;

17 (3) "physical or mental impairment" means:

18 (A) Any physiological disorder or condition, cosmetic disfigurement  
19 or anatomical loss substantially affecting one or more of the following  
20 body systems: Neurological; musculoskeletal; special sense organs;  
21 respiratory, including speech organs; cardiovascular; reproductive;  
22 digestive; genitourinary; hemic and lymphatic; skin; or endocrine; or

23 (B) any mental or psychological disorder, such as intellectual  
24 disability, organic brain syndrome, mental illness and specific learning  
25 disabilities. The term "physical or mental impairment" includes, but is not  
26 limited to, such diseases and conditions as orthopedic, visual, speech and  
27 hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple  
28 sclerosis and intellectual disability; and

29 (4) "project architect" shall have the meaning ascribed thereto in  
30 K.S.A. 75-1251, and amendments thereto.

31 (h) Any state agency authorized by the director of purchases to make  
32 purchases pursuant to subsection (e) of K.S.A. 75-3739, and amendments  
33 thereto, shall consider any unsolicited proposal for goods or services  
34 under this section.

35 (i) The secretary of administration and the secretary for aging and  
36 disability services, jointly, shall adopt rules and regulations as necessary  
37 to effectuate the purpose of this section.

38 (j) On and after January 13, 2014, at the beginning of each regular  
39 session of the legislature, the secretary of administration and the secretary  
40 for aging and disability services shall submit to the social services budget  
41 committee of the house of representatives and the appropriate  
42 subcommittee of the committee on ways and means of the senate, a written  
43 report on:

1       (1) *The number of certified businesses certified by the department of*  
2 *administration during the previous fiscal year;*

3       (2) *the number of certified businesses awarded contracts pursuant to*  
4 *subsection (b) during the previous fiscal year;*

5       (3) *the number of contracts awarded pursuant to subsection (b) to*  
6 *each certified business during the previous fiscal year;*

7       (4) *the number of individuals with disabilities removed from,*  
8 *reinstated to or not reinstated to home and community based services or*  
9 *other medicaid program services during the previous fiscal year as a*  
10 *result of employment with a certified business;*

11       (5) *the number of individuals employed by each certified business*  
12 *during the previous fiscal year; and*

13       (6) *the number of individuals with disabilities employed by each*  
14 *certified business during the previous fiscal year.*

15       (k) When a state agency is receiving bids to purchase passenger  
16 motor vehicles, such agency shall follow the procedures prescribed in  
17 subsection ~~(b)(1)~~ (c)(2), except in the case where one of the responsible  
18 bidders offers motor vehicles which are assembled in Kansas. In such a  
19 case, 3% of the bid of the responsible bidder which offers motor vehicles  
20 assembled in Kansas shall be subtracted from the bid amount, and that  
21 amount shall be used to determine the lowest bid pursuant to subsection  
22 ~~(b)(1)~~ (c)(2). This subsection shall only apply to bids which match the  
23 exact motor vehicle specifications of the agency purchasing passenger  
24 motor vehicles.

25       Sec. 29. K.S.A. 2012 Supp. 75-37,121 is hereby amended to read as  
26 follows: 75-37,121. (a) There is created the office of administrative  
27 hearings within the department of administration, to be headed by a  
28 director appointed by the secretary of administration. The director shall be  
29 in the unclassified service under the Kansas civil service act.

30       (b) The office may employ or contract with presiding officers, court  
31 reporters and other support personnel as necessary to conduct proceedings  
32 required by the Kansas administrative procedure act for adjudicative  
33 proceedings of the state agencies, boards and commissions specified in  
34 subsection (h). The office shall conduct adjudicative proceedings of any  
35 state agency which is specified in subsection (h) when requested by such  
36 agency. Only a person admitted to practice law in this state or a person  
37 directly supervised by a person admitted to practice law in this state may  
38 be employed as a presiding officer. The office may employ regular part-  
39 time personnel. Persons employed by the office shall be under the  
40 classified civil service.

41       (c) If the office cannot furnish one of its presiding officers within 60  
42 days in response to a requesting agency's request, the director shall  
43 designate in writing a full-time employee of an agency other than the

1 requesting agency to serve as presiding officer for the proceeding, but only  
2 with the consent of the employing agency. The designee must possess the  
3 same qualifications required of presiding officers employed by the office.

4 (d) The director may furnish presiding officers on a contract basis to  
5 any governmental entity to conduct any proceeding other than a  
6 proceeding as provided in subsection (h).

7 (e) The secretary of administration may adopt rules and regulations:

8 (1) To establish procedures for agencies to request and for the  
9 director to assign presiding officers. An agency may neither select nor  
10 reject any individual presiding officer for any proceeding except in  
11 accordance with the Kansas administrative procedure act;

12 (2) to establish procedures and adopt forms, consistent with the  
13 Kansas administrative procedure act, the model rules of procedure, and  
14 other provisions of law, to govern presiding officers; and

15 (3) to facilitate the performance of the responsibilities conferred upon  
16 the office by the Kansas administrative procedure act.

17 (f) The director may implement the provisions of this section and  
18 rules and regulations adopted under its authority.

19 (g) The secretary of administration may adopt rules and regulations to  
20 establish fees to charge a state agency for the cost of using a presiding  
21 officer.

22 (h) The following state agencies, boards and commissions shall  
23 utilize the office of administrative hearings for conducting adjudicative  
24 hearings under the Kansas administrative procedures act in which the  
25 presiding officer is not the agency head or one or more members of the  
26 agency head:

27 (1) On and after July 1, 2005: Department of social and rehabilitation  
28 services, juvenile justice authority, department on aging, department of  
29 health and environment, Kansas public employees retirement system,  
30 Kansas water office, Kansas ~~animal health~~ *department of agriculture*  
31 *division of animal health* and Kansas insurance department.

32 (2) On and after July 1, 2006: Emergency medical services board,  
33 emergency medical services council and Kansas human rights  
34 commission.

35 (3) On and after July 1, 2007: Kansas lottery, Kansas racing and  
36 gaming commission, state treasurer, pooled money investment board,  
37 Kansas department of wildlife, parks and tourism and state court of tax  
38 appeals.

39 (4) On and after July 1, 2008: Department of human resources, state  
40 corporation commission, ~~state conservation commission~~ *Kansas*  
41 *department of agriculture division of conservation*, agricultural labor  
42 relations board, department of administration, department of revenue,  
43 board of adult care home administrators, Kansas state grain inspection

1 department, board of accountancy and Kansas wheat commission.

2 (5) On and after July 1, 2009, all other Kansas administrative  
3 procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

4 (i) (1) Effective July 1, 2005, any presiding officer in agencies  
5 specified in subsection (h)(1) which conduct hearings pursuant to the  
6 Kansas administrative procedure act, except those exempted pursuant to  
7 K.S.A. 77-551, and amendments thereto, and support personnel for such  
8 presiding officers, shall be transferred to and shall become employees of  
9 the office of administrative hearings. Such personnel shall retain all rights  
10 under the state personnel system and retirement benefits under the laws of  
11 this state which had accrued to or vested in such personnel prior to the  
12 effective date of this section. Such person's services shall be deemed to  
13 have been continuous. All transfers of personnel positions in the classified  
14 service under the Kansas civil service act shall be in accordance with civil  
15 service laws and any rules and regulations adopted thereunder. This  
16 section shall not affect any matter pending before an administrative  
17 hearing officer at the time of the effective date of the transfer, and such  
18 matter shall proceed as though no transfer of employment had occurred.

19 (2) Effective July 1, 2006, any presiding officer in agencies specified  
20 in subsection (h)(2) which conduct hearings pursuant to the Kansas  
21 administrative procedure act, except those exempted pursuant to K.S.A.  
22 77-551, and amendments thereto, and support personnel for such presiding  
23 officers, shall be transferred to and shall become employees of the office  
24 of administrative hearings. Such personnel shall retain all rights under the  
25 state personnel system and retirement benefits under the laws of this state  
26 which had accrued to or vested in such personnel prior to the effective date  
27 of this section. Such person's services shall be deemed to have been  
28 continuous. All transfers of personnel positions in the classified service  
29 under the Kansas civil service act shall be in accordance with civil service  
30 laws and any rules and regulations adopted thereunder. This section shall  
31 not affect any matter pending before an administrative hearing officer at  
32 the time of the effective date of the transfer, and such matter shall proceed  
33 as though no transfer of employment had occurred.

34 (3) Effective July 1, 2007, any presiding officer in agencies specified  
35 in subsection (h)(3) which conduct hearings pursuant to the Kansas  
36 administrative procedure act, except those exempted pursuant to K.S.A.  
37 77-551, and amendments thereto, and support personnel for such presiding  
38 officers, shall be transferred to and shall become employees of the office  
39 of administrative hearings. Such personnel shall retain all rights under the  
40 state personnel system and retirement benefits under the laws of this state  
41 which had accrued to or vested in such personnel prior to the effective date  
42 of this section. Such person's services shall be deemed to have been  
43 continuous. All transfers of personnel positions in the classified service

1 under the Kansas civil service act shall be in accordance with civil service  
2 laws and any rules and regulations adopted thereunder. This section shall  
3 not affect any matter pending before an administrative hearing officer at  
4 the time of the effective date of the transfer, and such matter shall proceed  
5 as though no transfer of employment had occurred.

6 (4) Effective July 1, 2008, any full-time presiding officer in agencies  
7 specified in subsection (h)(4) which conduct hearings pursuant to the  
8 Kansas administrative procedure act, except those exempted pursuant to  
9 K.S.A. 77-551, and amendments thereto, and support personnel for such  
10 presiding officers, shall be transferred to and shall become employees of  
11 the office of administrative hearings. Such personnel shall retain all rights  
12 under the state personnel system and retirement benefits under the laws of  
13 this state which had accrued to or vested in such personnel prior to the  
14 effective date of this section. Such person's services shall be deemed to  
15 have been continuous. All transfers of personnel positions in the classified  
16 service under the Kansas civil service act shall be in accordance with civil  
17 service laws and any rules and regulations adopted thereunder. This  
18 section shall not affect any matter pending before an administrative  
19 hearing officer at the time of the effective date of the transfer, and such  
20 matter shall proceed as though no transfer of employment had occurred.

21 (5) Effective July 1, 2009, any full-time presiding officer in agencies  
22 specified in subsection (h)(5) which conduct hearings pursuant to the  
23 Kansas administrative procedure act, except those exempted pursuant to  
24 K.S.A. 77-551, and amendments thereto, and support personnel for such  
25 presiding officers, shall be transferred to and shall become employees of  
26 the office of administrative hearings. Such personnel shall retain all rights  
27 under the state personnel system and retirement benefits under the laws of  
28 this state which had accrued to or vested in such personnel prior to the  
29 effective date of this section. Such person's services shall be deemed to  
30 have been continuous. All transfers of personnel positions in the classified  
31 service under the Kansas civil service act shall be in accordance with civil  
32 service laws and any rules and regulations adopted thereunder. This  
33 section shall not affect any matter pending before an administrative  
34 hearing officer at the time of the effective date of the transfer, and such  
35 matter shall proceed as though no transfer of employment occurred.

36 Sec. 30. K.S.A. 2012 Supp. 75-4362, as amended by section 5 of  
37 2013 Senate Bill No. 149, is hereby amended to read as follows: 75-4362.

38 (a) The director of the division of personnel services of the department of  
39 administration shall have the authority to establish and implement a drug  
40 screening program for persons taking office as governor, lieutenant  
41 governor, attorney general or members of the Kansas senate or house of  
42 representatives and for applicants for safety sensitive positions in state  
43 government, but no applicant for a safety sensitive position shall be

1 required to submit to a test as a part of this program unless the applicant is  
2 first given a conditional offer of employment.

3 (b) The director also shall have the authority to establish and  
4 implement a drug screening program based upon a reasonable suspicion of  
5 illegal drug use by any person currently holding one of the following  
6 positions or offices:

7 (1) The office of governor, lieutenant governor or attorney general;

8 (2) members of the Kansas senate or house of representatives;

9 (3) any safety sensitive position;

10 (4) any position in an institution of mental health, as defined in  
11 K.S.A. 76-12a01, and amendments thereto, that is not a safety sensitive  
12 position;

13 (5) any position in the Kansas state school for the blind, as  
14 established under K.S.A. 76-1101 et seq., and amendments thereto;

15 (6) any position in the Kansas state school for the deaf, as established  
16 under K.S.A. 76-1001 et seq., and amendments thereto; or

17 (7) any employee of a state veteran's home operated by the Kansas  
18 commission on veteran's affairs as described in K.S.A. 76-1901 et seq. and  
19 K.S.A. 76-1951 et seq., and amendments thereto.

20 (c) Any public announcement or advertisement soliciting applications  
21 for employment in a safety sensitive position in state government shall  
22 include a statement of the requirements of the drug screening program  
23 established under this section for applicants for and employees holding a  
24 safety sensitive position.

25 (d) *Except for a person who has access to a secured biological*  
26 *laboratory in the office of laboratory services of the department of health*  
27 *and environment*, no person shall be terminated solely due to positive  
28 results of a test administered as a part of a program authorized by this  
29 section if:

30 (1) The employee has not previously had a valid positive test result;  
31 and

32 (2) the employee undergoes a drug evaluation and successfully  
33 completes any education or treatment program recommended as a result of  
34 the evaluation. Nothing herein shall be construed as prohibiting demotions,  
35 suspensions or terminations pursuant to K.S.A. 75-2949e or 75-2949f, and  
36 amendments thereto.

37 (e) Except in hearings before the state civil service board regarding  
38 disciplinary action taken against the employee, the results of any test  
39 administered as a part of a program authorized by this section shall be  
40 confidential and shall not be disclosed publicly.

41 (f) The secretary of administration may adopt such rules and  
42 regulations as necessary to carry out the provisions of this section.

43 (g) "Safety sensitive positions" means the following:

- 1 (1) All state law enforcement officers who are authorized to carry  
2 firearms;
  - 3 (2) all state corrections officers;
  - 4 (3) all state parole officers;
  - 5 (4) heads of state agencies who are appointed by the governor and  
6 employees on the governor's staff;
  - 7 (5) all employees with access to secure facilities of a correctional  
8 institution, as defined in K.S.A. 2012 Supp. 21-5914, and amendments  
9 thereto;
  - 10 (6) all employees of a juvenile correctional facility, as defined in  
11 K.S.A. 2012 Supp. 38-2302, and amendments thereto; ~~and~~
  - 12 (7) all employees within an institution of mental health, as defined in  
13 K.S.A. 76-12a01, and amendments thereto, who provide clinical,  
14 therapeutic or rehabilitative services to the clients and patients of those  
15 institutions; *and*
  - 16 (8) *all employees who have access to a secured biological laboratory*  
17 *in the office of laboratory services of the department of health and*  
18 *environment.*
- 19 Sec. 31. K.S.A. 2012 Supp. 75-5133 is hereby amended to read as  
20 follows: 75-5133. (a) Except as otherwise more specifically provided by  
21 law, all information received by the secretary of revenue, the director of  
22 taxation or the director of alcoholic beverage control from returns, reports,  
23 license applications or registration documents made or filed under the  
24 provisions of any law imposing any sales, use or other excise tax  
25 administered by the secretary of revenue, the director of taxation, or the  
26 director of alcoholic beverage control, or from any investigation conducted  
27 under such provisions, shall be confidential, and it shall be unlawful for  
28 any officer or employee of the department of revenue to divulge any such  
29 information except in accordance with other provisions of law respecting  
30 the enforcement and collection of such tax, in accordance with proper  
31 judicial order or as provided in K.S.A. 74-2424, and amendments thereto.
- 32 (b) The secretary of revenue or the secretary's designee may:
    - 33 (1) Publish statistics, so classified as to prevent identification of  
34 particular reports or returns and the items thereof;
    - 35 (2) allow the inspection of returns by the attorney general or the  
36 attorney general's designee;
    - 37 (3) provide the post auditor access to all such excise tax reports or  
38 returns in accordance with and subject to the provisions of subsection (g)  
39 of K.S.A. 46-1106, and amendments thereto;
    - 40 (4) disclose taxpayer information from excise tax returns to persons  
41 or entities contracting with the secretary of revenue where the secretary  
42 has determined disclosure of such information is essential for completion  
43 of the contract and has taken appropriate steps to preserve confidentiality;

1 (5) provide information from returns and reports filed under article 42  
2 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,  
3 to county appraisers as is necessary to insure proper valuations of property.  
4 Information from such returns and reports may also be exchanged with any  
5 other state agency administering and collecting conservation or other taxes  
6 and fees imposed on or measured by mineral production;

7 (6) provide, upon request by a city or county clerk or treasurer or  
8 finance officer of any city or county receiving distributions from a local  
9 excise tax, monthly reports identifying each retailer doing business in such  
10 city or county or making taxable sales sourced to such city or county,  
11 setting forth the tax liability and the amount of such tax remitted by each  
12 retailer during the preceding month, and identifying each business location  
13 maintained by the retailer and such retailer's sales or use tax registration or  
14 account number;

15 (7) provide information from returns and applications for registration  
16 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-  
17 3601, and amendments thereto, to a city or county treasurer or clerk or  
18 finance officer to explain the basis of statistics contained in reports  
19 provided by subsection (b)(6);

20 (8) disclose the following oil and gas production statistics received by  
21 the department of revenue in accordance with K.S.A. 79-4216 et seq., and  
22 amendments thereto: Volumes of production by well name, well number,  
23 operator's name and identification number assigned by the state  
24 corporation commission, lease name, leasehold property description,  
25 county of production or zone of production, name of purchaser and  
26 purchaser's tax identification number assigned by the department of  
27 revenue, name of transporter, field code number or lease code, tax period,  
28 exempt production volumes by well name or lease, or any combination of  
29 this information;

30 (9) release or publish liquor brand registration information provided  
31 by suppliers, farm wineries, *microdistilleries* and microbreweries in  
32 accordance with the liquor control act. The information to be released is  
33 limited to: Item number, universal numeric code, type status, product  
34 description, alcohol percentage, selling units, unit size, unit of  
35 measurement, supplier number, supplier name, distributor number and  
36 distributor name;

37 (10) release or publish liquor license information provided by liquor  
38 licensees, distributors, suppliers, farm wineries, *microdistilleries* and  
39 microbreweries in accordance with the liquor control act. The information  
40 to be released is limited to: County name, owner, business name, address,  
41 license type, license number, license expiration date and the process agent  
42 contact information;

43 (11) release or publish cigarette and tobacco license information



1 obtained from cigarette and tobacco licensees in accordance with the  
2 Kansas cigarette and tobacco products act. The information to be released  
3 is limited to: County name, owner, business name, address, license type  
4 and license number;

5 (12) provide environmental surcharge or solvent fee, or both,  
6 information from returns and applications for registration filed pursuant to  
7 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary  
8 of health and environment or the secretary's designee for the sole purpose  
9 of ensuring that retailers collect the environmental surcharge tax or solvent  
10 fee, or both;

11 (13) provide water protection fee information from returns and  
12 applications for registration filed pursuant to K.S.A. 82a-954, and  
13 amendments thereto, to the secretary of the state board of agriculture or the  
14 secretary's designee and the secretary of the Kansas water office or the  
15 secretary's designee for the sole purpose of verifying revenues deposited to  
16 the state water plan fund;

17 (14) provide to the secretary of commerce copies of applications for  
18 project exemption certificates sought by any taxpayer under the enterprise  
19 zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606,  
20 and amendments thereto;

21 (15) disclose information received pursuant to the Kansas cigarette  
22 and tobacco act and subject to the confidentiality provisions of this act to  
23 any criminal justice agency, as defined in subsection (c) of K.S.A. 22-  
24 4701, and amendments thereto, or to any law enforcement officer, as  
25 defined in K.S.A. 2012 Supp. 21-5111, and amendments thereto, on behalf  
26 of a criminal justice agency, when requested in writing in conjunction with  
27 a pending investigation;

28 (16) provide to retailers tax exemption information for the sole  
29 purpose of verifying the authenticity of tax exemption numbers issued by  
30 the department;

31 (17) provide information concerning remittance by sellers, as defined  
32 in K.S.A. 2012 Supp. 12-5363, and amendments thereto, of prepaid  
33 wireless 911 fees from returns to the local collection point administrator,  
34 as defined in K.S.A. 2012 Supp. 12-5363, and amendments thereto, for  
35 purposes of verifying seller compliance with collection and remittance of  
36 such fees; and

37 (18) release or publish charitable gaming information obtained in  
38 bingo licensee and registration applications and renewals in accordance  
39 with the bingo act, K.S.A. 79-4701 et seq., and amendments thereto. The  
40 information to be released is limited to: The name, address, phone number,  
41 license registration number and email address of the organization,  
42 distributor or of premises.

43 (c) Any person receiving any information under the provisions of

1 subsection (b) shall be subject to the confidentiality provisions of  
2 subsection (a) and to the penalty provisions of subsection (d).

3 (d) Any violation of this section shall be a class A, nonperson  
4 misdemeanor, and if the offender is an officer or employee of this state,  
5 such officer or employee shall be dismissed from office. Reports of  
6 violations of this paragraph shall be investigated by the attorney general.  
7 The district attorney or county attorney and the attorney general shall have  
8 authority to prosecute any violation of this section if the offender is a city  
9 or county clerk or treasurer or finance officer of a city or county.

10 Sec. 32. K.S.A. 2012 Supp. 75-6102 is hereby amended to read as  
11 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and  
12 amendments thereto, unless the context clearly requires otherwise:

13 (a) "State" means the state of Kansas and any department or branch of  
14 state government, or any agency, authority, institution or other  
15 instrumentality thereof.

16 (b) "Municipality" means any county, township, city, school district  
17 or other political or taxing subdivision of the state, or any agency,  
18 authority, institution or other instrumentality thereof.

19 (c) "Governmental entity" means state or municipality.

20 (d) (1) "Employee" means: (A) Any officer, employee, servant or  
21 member of a board, commission, committee, division, department, branch  
22 or council of a governmental entity, including elected or appointed  
23 officials and persons acting on behalf or in service of a governmental  
24 entity in any official capacity, whether with or without compensation and a  
25 charitable health care provider;

26 (B) any steward or racing judge appointed pursuant to K.S.A. 74-  
27 8818, and amendments thereto, regardless of whether the services of such  
28 steward or racing judge are rendered pursuant to contract as an  
29 independent contractor;

30 (C) employees of the United States marshal's service engaged in the  
31 transportation of inmates on behalf of the secretary of corrections;

32 (D) a person who is an employee of a nonprofit independent  
33 contractor, other than a municipality, under contract to provide educational  
34 or vocational training to inmates in the custody of the secretary of  
35 corrections and who is engaged in providing such service in an institution  
36 under the control of the secretary of corrections provided that such  
37 employee does not otherwise have coverage for such acts and omissions  
38 within the scope of their employment through a liability insurance contract  
39 of such independent contractor;

40 (E) a person who is an employee or volunteer of a nonprofit program,  
41 other than a municipality, who has contracted with the commissioner of  
42 juvenile justice or with another nonprofit program that has contracted with  
43 the commissioner of juvenile justice to provide a juvenile justice program

1 for juvenile offenders in a judicial district provided that such employee or  
2 volunteer does not otherwise have coverage for such acts and omissions  
3 within the scope of their employment or volunteer activities through a  
4 liability insurance contract of such nonprofit program;

5 (F) a person who contracts with the Kansas guardianship program to  
6 provide services as a court-appointed guardian or conservator;

7 (G) an employee of an indigent health care clinic;

8 (H) former employees for acts and omissions within the scope of their  
9 employment during their former employment with the governmental  
10 entity;

11 (I) any member of a regional medical emergency response team,  
12 created under the provisions of K.S.A. 48-928, and amendments thereto, in  
13 connection with authorized training or upon activation for an emergency  
14 response; and

15 (J) medical students enrolled at the university of Kansas medical  
16 center who are in clinical training, on or after July 1, 2008, at the  
17 university of Kansas medical center or at another health care institution.

18 (2) "Employee" does not include: (A) An individual or entity for  
19 actions within the scope of K.S.A. 60-3614, and amendments thereto; or

20 (B) any independent contractor under contract with a governmental  
21 entity except those contractors specifically listed in paragraph (1) of this  
22 subsection.

23 (e) "Charitable health care provider" means a person licensed by the  
24 state board of healing arts as an exempt licensee or a federally active  
25 licensee, a person issued a limited permit by the state board of healing arts,  
26 a physician assistant licensed by the state board of healing arts, a mental  
27 health practitioner licensed by the behavioral sciences regulatory board, an  
28 ultrasound technologist currently registered in any area of sonography  
29 credentialed through the American registry of radiology technologists, the  
30 American registry for diagnostic medical sonography or cardiovascular  
31 credentialing international and working under the supervision of a person  
32 licensed to practice medicine and surgery, or a health care provider as the  
33 term "health care provider" is defined under K.S.A. 65-4921, and  
34 amendments thereto, who has entered into an agreement with:

35 (1) The secretary of health and environment under K.S.A. 75-6120,  
36 and amendments thereto, who, pursuant to such agreement, gratuitously  
37 renders professional services to a person who has provided information  
38 which would reasonably lead the health care provider to make the good  
39 faith assumption that such person meets the definition of medically  
40 indigent person as defined by this section or to a person receiving medical  
41 assistance from the programs operated by the ~~Kansas health policy~~  
42 ~~authority~~ *department of health and environment*, and who is considered an  
43 employee of the state of Kansas under K.S.A. 75-6120, and amendments

1 thereto;

2 (2) the secretary of health and environment and who, pursuant to such  
3 agreement, gratuitously renders professional services in conducting  
4 children's immunization programs administered by the secretary;

5 (3) a local health department or indigent health care clinic, which  
6 renders professional services to medically indigent persons or persons  
7 receiving medical assistance from the programs operated by the ~~Kansas~~  
8 ~~health policy authority~~ *department of health and environment* gratuitously  
9 or for a fee paid by the local health department or indigent health care  
10 clinic to such provider and who is considered an employee of the state of  
11 Kansas under K.S.A. 75-6120, and amendments thereto. Professional  
12 services rendered by a provider under this paragraph (3) shall be  
13 considered gratuitous notwithstanding fees based on income eligibility  
14 guidelines charged by a local health department or indigent health care  
15 clinic and notwithstanding any fee paid by the local health department or  
16 indigent health care clinic to a provider in accordance with this paragraph  
17 (3); or

18 (4) the secretary of health and environment to provide dentistry  
19 services defined by K.S.A. 65-1422 et seq., and amendments thereto, or  
20 dental hygienist services defined by K.S.A. 65-1456, and amendments  
21 thereto, that are targeted, but are not limited to, medically indigent  
22 persons, and are provided on a gratuitous basis: (A) At a location  
23 sponsored by a not-for-profit organization that is not the dentist or dental  
24 hygienist office location; or (B) at the office location of a dentist or dental  
25 hygienist provided the care be delivered as part of a program organized by  
26 a not-for-profit organization and approved by the secretary of health and  
27 environment; or (C) as part of a charitable program organized by the  
28 dentist that has been approved by the secretary of health and environment  
29 upon a showing that the dentist seeks to treat medically indigent patients  
30 on a gratuitous basis, except that such dentistry services and dental  
31 hygienist services shall not include "oral and maxillofacial surgery" as  
32 defined by ~~rules and regulations adopted by the Kansas dental board~~  
33 *K.A.R. 71-2-2*, or use sedation or general anesthesia that result in "deep  
34 sedation" or "general anesthesia" as defined by ~~rules and regulations~~  
35 ~~adopted by the Kansas dental board~~ *K.A.R. 71-5-7*.

36 (f) "Medically indigent person" means a person who lacks resources  
37 to pay for medically necessary health care services and who meets the  
38 eligibility criteria for qualification as a medically indigent person  
39 established by the secretary of health and environment under K.S.A. 75-  
40 6120, and amendments thereto.

41 (g) "Indigent health care clinic" means an outpatient medical care  
42 clinic operated on a not-for-profit basis which has a contractual agreement  
43 in effect with the secretary of health and environment to provide health

1 care services to medically indigent persons.

2 (h) "Local health department" shall have the meaning ascribed to  
3 such term under K.S.A. 65-241, and amendments thereto.

4 (i) "Fire control, fire rescue or emergency medical services  
5 equipment" means any vehicle, firefighting tool, protective clothing,  
6 breathing apparatus and any other supplies, tools or equipment used in  
7 firefighting or fire rescue or in the provision of emergency medical  
8 services.

9 Sec. 33. K.S.A. 2012 Supp. 75-6609 is hereby amended to read as  
10 follows: 75-6609. (a) When used in this section, "surplus real estate"  
11 means real estate which is no longer needed by the state agency which  
12 owns such real estate as determined in accordance with this section.

13 (b) (1) The secretary of administration shall develop criteria for the  
14 identification of surplus real estate, including, but not limited to, a review  
15 of any legal restrictions associated with the real estate and the reasons for  
16 the state agency to keep the real estate. In accordance with such criteria,  
17 the secretary shall assist state agencies in the identification of surplus real  
18 estate. The secretary of administration shall periodically review the status  
19 of all real estate of state agencies subject to this section to determine if any  
20 of the real estate owned by state agencies is potentially surplus real estate.  
21 If any real estate owned by a state agency is determined by the secretary of  
22 administration, in consultation with the head of the state agency, to be  
23 surplus real estate in accordance with the criteria developed under  
24 subsection (a), then the secretary of administration shall recommend to the  
25 governor that such real estate be sold under the procedures prescribed by  
26 this section.

27 (2) The secretary of administration shall develop guidelines for the  
28 sale of surplus real estate. In accordance with such guidelines and upon the  
29 approval of the governor, after consultation with the head of the state  
30 agency which owns such surplus real estate, after consultation with the  
31 joint committee on state building construction and after approval by the  
32 state finance council under subsection (c), the secretary may offer such  
33 property for sale by one of the following means: (A) Public auction; (B) by  
34 listing the surplus property with a licensed real estate broker or  
35 salesperson; or (C) by sealed bid. Subject to the approval of the state  
36 finance council as required by subsection (c), the secretary of  
37 administration may sell surplus real estate and any improvements thereon  
38 on behalf of the state agency which owns such property.

39 (c) Prior to the sale of any surplus real estate under subsection (b), the  
40 state finance council shall approve the sale, which is hereby characterized  
41 as a matter of legislative delegation and subject to the guidelines  
42 prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto.  
43 The matter may be submitted to the state finance council for approval at

1 any time, including periods of time during which the legislature is in  
2 session.

3 (d) Prior to offering any real estate for sale, such property shall be  
4 appraised pursuant to K.S.A. 75-3043a, and amendments thereto, unless  
5 the appraisal is waived as provided in this subsection. The secretary of  
6 administration may waive the requirement for appraisal for any parcel of  
7 surplus real estate that is to be sold at public auction under this section if  
8 the secretary of administration determines that it is in the best interests of  
9 the state to waive the requirement for appraisal for such parcel of surplus  
10 real estate. The costs of any such appraisal may be paid from the proceeds  
11 of the sale.

12 (e) Conveyance of title in surplus real estate offered for sale by the  
13 secretary of administration shall be executed on behalf of the state agency  
14 by the secretary of administration. The deed for the conveyance may be by  
15 warranty deed or by quitclaim deed as determined to be in the best  
16 interests of the state by the secretary of administration in consultation with  
17 the head of the state agency which owns the surplus real estate.

18 (f) (1) Any proceeds from the sale of surplus real estate and any  
19 improvements thereon, after deduction of the expenses of such sale and  
20 any cost of appraisal of the surplus real estate, shall be deposited in the  
21 state treasury as prescribed by this subsection, unless otherwise authorized  
22 by law. On and after ~~the effective date of this act~~ *July 1, 2012*, 20% of the  
23 proceeds from each such sale deposited in the state treasury shall be  
24 credited to the surplus real estate fund or another appropriate special  
25 revenue fund of the state agency which owned the surplus real estate, as is  
26 prescribed by law or as may be determined by the state agency, unless  
27 otherwise required by state or federal law or by the limitations or  
28 restrictions of the state's title to the real estate being sold. In the case of  
29 proceeds from the sale of surplus real estate at a state mental health  
30 institution or a state institution for people with intellectual disability, such  
31 portion of the proceeds shall be credited to the client benefit fund of such  
32 institution or to another special revenue fund of such institution for: (A)  
33 Rehabilitation and repair or other capital improvements for such  
34 institution; or (B) one-time expenditures for community mental health  
35 organizations if the real estate sold was at a state mental health institution  
36 or for community developmental disabilities organizations if the real estate  
37 sold was at a state institution for people with intellectual disability, and, in  
38 any such case, shall be expended in accordance with the provisions of  
39 appropriation acts. The remaining 80% of the proceeds from each such  
40 sale deposited in the state treasury shall be credited to the Kansas public  
41 employees retirement fund to be applied to the payment, in full or in part,  
42 of the unfunded actuarial pension liability as directed by the Kansas public  
43 employees retirement system. As used in this section, "unfunded actuarial

1 pension liability" means the unfunded actuarially accrued liability of the  
2 state for the state of Kansas and participating employers under K.S.A. 74-  
3 4931, and amendments thereto, portion of such liability of the Kansas  
4 public employees retirement system, determined as of the later of  
5 December 31, 2011, or the end of the most recent calendar year for which  
6 an actuarial valuation report is available.

7 (2) The amount of expenses and the cost of appraisal for each sale of  
8 surplus real estate pursuant to this section shall be transferred and credited  
9 to the property contingency fund created under K.S.A. 75-3652, and  
10 amendments thereto, and may be expended for any operations of the  
11 department of administration.

12 (3) Any state agency owning real estate may apply to the director of  
13 accounts and reports to establish a surplus real estate special revenue fund  
14 in the state treasury. Subject to the provisions of appropriation acts,  
15 moneys in a surplus real estate special revenue fund may be expended for  
16 the operating expenditures of the state agency.

17 (g) Any sale of property by the secretary of transportation pursuant to  
18 K.S.A. 68-413, and amendments thereto, shall not be subject to the  
19 provisions of this section. The provisions of this section shall not be  
20 applicable to real estate given as an endowment, bequest, or gift to a state  
21 educational institution as defined in K.S.A. 72-4412, and amendments  
22 thereto, or to the university of Kansas medical center.

23 (h) Sale of the Olathe travel information center shall not be subject to  
24 the provisions of this section.

25 Sec. 34. K.S.A. 2012 Supp. 79-3234 is hereby amended to read as  
26 follows: 79-3234. (a) All reports and returns required by this act shall be  
27 preserved for three years and thereafter until the director orders them to be  
28 destroyed.

29 (b) Except in accordance with proper judicial order, or as provided in  
30 subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,  
31 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be  
32 unlawful for the secretary, the director, any deputy, agent, clerk or other  
33 officer, employee or former employee of the department of revenue or any  
34 other state officer or employee or former state officer or employee to  
35 divulge, or to make known in any way, the amount of income or any  
36 particulars set forth or disclosed in any report, return, federal return or  
37 federal return information required under this act; and it shall be unlawful  
38 for the secretary, the director, any deputy, agent, clerk or other officer or  
39 employee engaged in the administration of this act to engage in the  
40 business or profession of tax accounting or to accept employment, with or  
41 without consideration, from any person, firm or corporation for the  
42 purpose, directly or indirectly, of preparing tax returns or reports required  
43 by the laws of the state of Kansas, by any other state or by the United

1 States government, or to accept any employment for the purpose of  
2 advising, preparing material or data, or the auditing of books or records to  
3 be used in an effort to defeat or cancel any tax or part thereof that has been  
4 assessed by the state of Kansas, any other state or by the United States  
5 government.

6 (c) The secretary or the secretary's designee may: (1) Publish  
7 statistics, so classified as to prevent the identification of particular reports  
8 or returns and the items thereof;

9 (2) allow the inspection of returns by the attorney general or other  
10 legal representatives of the state;

11 (3) provide the post auditor access to all income tax reports or returns  
12 in accordance with and subject to the provisions of subsection (g) of  
13 K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

14 (4) disclose taxpayer information from income tax returns to persons  
15 or entities contracting with the secretary of revenue where the secretary  
16 has determined disclosure of such information is essential for completion  
17 of the contract and has taken appropriate steps to preserve confidentiality;

18 (5) disclose to the secretary of commerce the following: (A) Specific  
19 taxpayer information related to financial information previously submitted  
20 by the taxpayer to the secretary of commerce concerning or relevant to any  
21 income tax credits, for purposes of verification of such information or  
22 evaluating the effectiveness of any tax credit or economic incentive  
23 program administered by the secretary of commerce; (B) the amount of  
24 payroll withholding taxes an employer is retaining pursuant to K.S.A.  
25 2012 Supp. 74-50,212, and amendments thereto; (C) information received  
26 from businesses completing the form required by K.S.A. 2012 Supp. 74-  
27 50,217, and amendments thereto; and (D) findings related to a compliance  
28 audit conducted by the department of revenue upon the request of the  
29 secretary of commerce pursuant to K.S.A. 2012 Supp. 74-50,215, and  
30 amendments thereto;

31 (6) disclose income tax returns to the state gaming agency to be used  
32 solely for the purpose of determining qualifications of licensees of and  
33 applicants for licensure in tribal gaming. Any information received by the  
34 state gaming agency shall be confidential and shall not be disclosed except  
35 to the executive director, employees of the state gaming agency and  
36 members and employees of the tribal gaming commission;

37 (7) disclose the taxpayer's name, last known address and residency  
38 status to the ~~Kansas~~ department of wildlife ~~and parks~~, *parks and tourism* to  
39 be used solely in its license fraud investigations;

40 (8) disclose the name, residence address, employer or Kansas  
41 adjusted gross income of a taxpayer who may have a duty of support in a  
42 title IV-D case to the secretary of the Kansas department of social and  
43 rehabilitation services for use solely in administrative or judicial



1 proceedings to establish, modify or enforce such support obligation in a  
2 title IV-D case. In addition to any other limits on use, such use shall be  
3 allowed only where subject to a protective order which prohibits  
4 disclosure outside of the title IV-D proceeding. As used in this section,  
5 "title IV-D case" means a case being administered pursuant to part D of  
6 title IV of the federal social security act (42 U.S.C. § 651 et seq.) and  
7 amendments thereto. Any person receiving any information under the  
8 provisions of this subsection shall be subject to the confidentiality  
9 provisions of subsection (b) and to the penalty provisions of subsection  
10 (e);

11 (9) permit the commissioner of internal revenue of the United States,  
12 or the proper official of any state imposing an income tax, or the  
13 authorized representative of either, to inspect the income tax returns made  
14 under this act and the secretary of revenue may make available or furnish  
15 to the taxing officials of any other state or the commissioner of internal  
16 revenue of the United States or other taxing officials of the federal  
17 government, or their authorized representatives, information contained in  
18 income tax reports or returns or any audit thereof or the report of any  
19 investigation made with respect thereto, filed pursuant to the income tax  
20 laws, as the secretary may consider proper, but such information shall not  
21 be used for any other purpose than that of the administration of tax laws of  
22 such state, the state of Kansas or of the United States;

23 (10) communicate to the executive director of the Kansas lottery  
24 information as to whether a person, partnership or corporation is current in  
25 the filing of all applicable tax returns and in the payment of all taxes,  
26 interest and penalties to the state of Kansas, excluding items under formal  
27 appeal, for the purpose of determining whether such person, partnership or  
28 corporation is eligible to be selected as a lottery retailer;

29 (11) communicate to the executive director of the Kansas racing  
30 commission as to whether a person, partnership or corporation has failed  
31 to meet any tax obligation to the state of Kansas for the purpose of  
32 determining whether such person, partnership or corporation is eligible for  
33 a facility owner license or facility manager license pursuant to the Kansas  
34 parimutuel racing act;

35 (12) provide such information to the executive director of the Kansas  
36 public employees retirement system for the purpose of determining that  
37 certain individuals' reported compensation is in compliance with the  
38 Kansas public employees retirement act, K.S.A. 74-4901 et seq., and  
39 amendments thereto;

40 (13) (i) provide taxpayer information of persons suspected of  
41 violating K.S.A. 2012 Supp. 44-766, and amendments thereto, to the  
42 secretary of labor or such secretary's designee for the purpose of  
43 determining compliance by any person with the provisions of *subsection*

1 (i)(3)(D) of K.S.A. 44-703~~(i)(3)(D)~~ and K.S.A. 2012 Supp. 44-766, and  
2 amendments thereto. The information to be provided shall include all  
3 relevant information in the possession of the department of revenue  
4 necessary for the secretary of labor to make a proper determination of  
5 compliance with the provisions of *subsection (i)(3)(D) of K.S.A. 44-703*~~(i)~~  
6 ~~(3)(D)~~ and K.S.A. 2012 Supp. 44-766, and amendments thereto, and to  
7 calculate any unemployment contribution taxes due. Such information to  
8 be provided by the department of revenue shall include, but not be limited to,  
9 to, withholding tax and payroll information, the identity of any person that  
10 has been or is currently being audited or investigated in connection with  
11 the administration and enforcement of the withholding and declaration of  
12 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the  
13 results or status of such audit or investigation;

14 (ii) any person receiving tax information under the provisions of this  
15 paragraph shall be subject to the same duty of confidentiality imposed by  
16 law upon the personnel of the department of revenue and shall be subject  
17 to any civil or criminal penalties imposed by law for violations of such  
18 duty of confidentiality; *and*

19 (iii) each of the secretary of labor and the secretary of revenue may  
20 adopt rules and regulations necessary to effect the provisions of this  
21 paragraph;

22 (14) provide such information to the state treasurer for the sole  
23 purpose of carrying out the provisions of K.S.A. 58-3934, and  
24 amendments thereto. Such information shall be limited to current and prior  
25 addresses of taxpayers or associated persons who may have knowledge as  
26 to the location of an owner of unclaimed property. For the purposes of this  
27 paragraph, "associated persons" includes spouses or dependents listed on  
28 income tax returns; and

29 (15) After receipt of information pursuant to subsection (f), forward  
30 such information and provide the following reported Kansas individual  
31 income tax information for each listed defendant, if available, to the state  
32 board of indigents' defense services in an electronic format and in the  
33 manner determined by the secretary: (A) The defendant's name; (B) social  
34 security number; (C) Kansas adjusted gross income; (D) number of  
35 exemptions claimed; and (E) the relevant tax year of such records. Any  
36 social security number provided to the secretary and the state board of  
37 indigents' defense services pursuant to this section shall remain  
38 confidential.

39 (d) Any person receiving information under the provisions of  
40 subsection (c) shall be subject to the confidentiality provisions of  
41 subsection (b) and to the penalty provisions of subsection (e).

42 (e) Any violation of subsection (b) or (c) is a class A nonperson  
43 misdemeanor and, if the offender is an officer or employee of the state,

1 such officer or employee shall be dismissed from office.

2 (f) For the purpose of determining whether a defendant is financially  
3 able to employ legal counsel under the provisions of K.S.A. 22-4504, and  
4 amendments thereto, in all felony cases with appointed counsel where the  
5 defendant's social security number is accessible from the records of the  
6 district court, the court shall electronically provide the defendant's name,  
7 social security number, district court case number and county to the  
8 secretary of revenue in the manner and format agreed to by the office of  
9 judicial administration and the secretary.

10 (g) Nothing in this section shall be construed to allow disclosure of  
11 the amount of income or any particulars set forth or disclosed in any  
12 report, return, federal return or federal return information, where such  
13 disclosure is prohibited by the federal internal revenue code as in effect on  
14 September 1, 1996, and amendments thereto, related federal internal  
15 revenue rules or regulations, or other federal law.

16 Sec. 35. K.S.A. 2012 Supp. 79-32,117, as amended by section 3 of  
17 2013 House Substitute for Senate Bill No. 83 is hereby amended to read as  
18 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual  
19 means such individual's federal adjusted gross income for the taxable year,  
20 with the modifications specified in this section.

21 (b) There shall be added to federal adjusted gross income:

22 (i) Interest income less any related expenses directly incurred in the  
23 purchase of state or political subdivision obligations, to the extent that the  
24 same is not included in federal adjusted gross income, on obligations of  
25 any state or political subdivision thereof, but to the extent that interest  
26 income on obligations of this state or a political subdivision thereof issued  
27 prior to January 1, 1988, is specifically exempt from income tax under the  
28 laws of this state authorizing the issuance of such obligations, it shall be  
29 excluded from computation of Kansas adjusted gross income whether or  
30 not included in federal adjusted gross income. Interest income on  
31 obligations of this state or a political subdivision thereof issued after  
32 December 31, 1987, shall be excluded from computation of Kansas  
33 adjusted gross income whether or not included in federal adjusted gross  
34 income.

35 (ii) Taxes on or measured by income or fees or payments in lieu of  
36 income taxes imposed by this state or any other taxing jurisdiction to the  
37 extent deductible in determining federal adjusted gross income and not  
38 credited against federal income tax. This paragraph shall not apply to taxes  
39 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and  
40 amendments thereto, for privilege tax year 1995, and all such years  
41 thereafter.

42 (iii) The federal net operating loss deduction.

43 (iv) Federal income tax refunds received by the taxpayer if the

1 deduction of the taxes being refunded resulted in a tax benefit for Kansas  
2 income tax purposes during a prior taxable year. Such refunds shall be  
3 included in income in the year actually received regardless of the method  
4 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall  
5 be deemed to have resulted if the amount of the tax had been deducted in  
6 determining income subject to a Kansas income tax for a prior year  
7 regardless of the rate of taxation applied in such prior year to the Kansas  
8 taxable income, but only that portion of the refund shall be included as  
9 bears the same proportion to the total refund received as the federal taxes  
10 deducted in the year to which such refund is attributable bears to the total  
11 federal income taxes paid for such year. For purposes of the foregoing  
12 sentence, federal taxes shall be considered to have been deducted only to  
13 the extent such deduction does not reduce Kansas taxable income below  
14 zero.

15 (v) The amount of any depreciation deduction or business expense  
16 deduction claimed on the taxpayer's federal income tax return for any  
17 capital expenditure in making any building or facility accessible to the  
18 handicapped, for which expenditure the taxpayer claimed the credit  
19 allowed by K.S.A. 79-32,177, and amendments thereto.

20 (vi) Any amount of designated employee contributions picked up by  
21 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,  
22 and amendments thereto.

23 (vii) The amount of any charitable contribution made to the extent the  
24 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-  
25 32,196, and amendments thereto.

26 (viii) The amount of any costs incurred for improvements to a swine  
27 facility, claimed for deduction in determining federal adjusted gross  
28 income, to the extent the same is claimed as the basis for any credit  
29 allowed pursuant to K.S.A. 2012 Supp. 79-32,204, and amendments  
30 thereto.

31 (ix) The amount of any ad valorem taxes and assessments paid and  
32 the amount of any costs incurred for habitat management or construction  
33 and maintenance of improvements on real property, claimed for deduction  
34 in determining federal adjusted gross income, to the extent the same is  
35 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,  
36 and amendments thereto.

37 (x) Amounts received as nonqualified withdrawals, as defined by  
38 K.S.A. 2012 Supp. 75-643, and amendments thereto, if, at the time of  
39 contribution to a family postsecondary education savings account, such  
40 amounts were subtracted from the federal adjusted gross income pursuant  
41 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments  
42 thereto, or if such amounts are not already included in the federal adjusted  
43 gross income.

1 (xi) The amount of any contribution made to the same extent the  
2 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2012  
3 Supp. 74-50,154, and amendments thereto.

4 (xii) For taxable years commencing after December 31, 2004,  
5 amounts received as withdrawals not in accordance with the provisions of  
6 K.S.A. 2012 Supp. 74-50,204, and amendments thereto, if, at the time of  
7 contribution to an individual development account, such amounts were  
8 subtracted from the federal adjusted gross income pursuant to paragraph  
9 (xiii) of subsection (c), or if such amounts are not already included in the  
10 federal adjusted gross income.

11 (xiii) The amount of any expenditures claimed for deduction in  
12 determining federal adjusted gross income, to the extent the same is  
13 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.  
14 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

15 (xiv) The amount of any amortization deduction claimed in  
16 determining federal adjusted gross income to the extent the same is  
17 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,221, and  
18 amendments thereto.

19 (xv) The amount of any expenditures claimed for deduction in  
20 determining federal adjusted gross income, to the extent the same is  
21 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.  
22 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233  
23 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-  
24 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

25 (xvi) The amount of any amortization deduction claimed in  
26 determining federal adjusted gross income to the extent the same is  
27 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,227, 79-  
28 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments  
29 thereto.

30 (xvii) The amount of any amortization deduction claimed in  
31 determining federal adjusted gross income to the extent the same is  
32 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,256, and  
33 amendments thereto.

34 (xviii) For taxable years commencing after December 31, 2006, the  
35 amount of any ad valorem or property taxes and assessments paid to a state  
36 other than Kansas or local government located in a state other than Kansas  
37 by a taxpayer who resides in a state other than Kansas, when the law of  
38 such state does not allow a resident of Kansas who earns income in such  
39 other state to claim a deduction for ad valorem or property taxes or  
40 assessments paid to a political subdivision of the state of Kansas in  
41 determining taxable income for income tax purposes in such other state, to  
42 the extent that such taxes and assessments are claimed as an itemized  
43 deduction for federal income tax purposes.

1 (xix) For all taxable years beginning after December 31, 2012, the  
2 amount of any: (1) Loss from business as determined under the federal  
3 internal revenue code and reported from schedule C and on line 12 of the  
4 taxpayer's form 1040 federal individual income tax return; (2) loss from  
5 rental real estate, royalties, partnerships, S corporations, except those with  
6 wholly owned subsidiaries subject to the Kansas privilege tax, estates,  
7 trusts, residual interest in real estate mortgage investment conduits and net  
8 farm rental as determined under the federal internal revenue code and  
9 reported from schedule E and on line 17 of the taxpayer's form 1040  
10 federal individual income tax return; and (3) farm loss as determined under  
11 the federal internal revenue code and reported from schedule F and on line  
12 18 of the taxpayer's form 1040 federal income tax return; all to the extent  
13 deducted or subtracted in determining the taxpayer's federal adjusted gross  
14 income. For purposes of this subsection, references to the federal form  
15 1040 and federal schedule C, schedule E, and schedule F, shall be to such  
16 form and schedules as they existed for tax year 2011, and as revised  
17 thereafter by the internal revenue service.

18 (xx) For all taxable years beginning after December 31, 2012, the  
19 amount of any deduction for self-employment taxes under section 164(f)  
20 of the federal internal revenue code as in effect on January 1, 2012, and  
21 amendments thereto, in determining the federal adjusted gross income of  
22 an individual taxpayer.

23 (xxi) For all taxable years beginning after December 31, 2012, the  
24 amount of any deduction for pension, profit sharing, and annuity plans of  
25 self-employed individuals under section 62(a)(6) of the federal internal  
26 revenue code as in effect on January 1, 2012, and amendments thereto, in  
27 determining the federal adjusted gross income of an individual taxpayer.

28 (xxii) For all taxable years beginning after December 31, 2012, the  
29 amount of any deduction for health insurance under section 162(l) of the  
30 federal internal revenue code as in effect on January 1, 2012, and  
31 amendments thereto, in determining the federal adjusted gross income of  
32 an individual taxpayer.

33 (xxiii) For all taxable years beginning after December 31, 2012, the  
34 amount of any deduction for domestic production activities under section  
35 199 of the federal internal revenue code as in effect on January 1, 2012,  
36 and amendments thereto, in determining the federal adjusted gross income  
37 of an individual taxpayer.

38 (xxiv) *For taxable years commencing after December 31, 2013, that*  
39 *portion of the amount of any expenditure deduction claimed in*  
40 *determining federal adjusted gross income for expenses paid for medical*  
41 *care of the taxpayer or the taxpayer's spouse or dependents when such*  
42 *expenses were paid or incurred for an abortion, or for a health benefit*  
43 *plan, as defined in section 1 of 2013 House Bill No. 2253, and*

1 *amendments thereto, for the purchase of an optional rider for coverage of*  
2 *abortion in accordance with K.S.A. 2012 Supp. 40-2,190, and amendments*  
3 *thereto, to the extent that such taxes and assessments are claimed as an*  
4 *itemized deduction for federal income tax purposes.*

5 *(xxv) For taxable years commencing after December 31, 2013, that*  
6 *portion of the amount of any expenditure deduction claimed in*  
7 *determining federal adjusted gross income for expenses paid by a*  
8 *taxpayer for health care when such expenses were paid or incurred for*  
9 *abortion coverage, a health benefit plan, as defined in section 1 of 2013*  
10 *House Bill No. 2253, and amendments thereto, when such expenses were*  
11 *paid or incurred for abortion coverage or amounts contributed to health*  
12 *savings accounts for such taxpayer's employees for the purchase of an*  
13 *optional rider for coverage of abortion in accordance with K.S.A. 2012*  
14 *Supp. 40-2,190, and amendments thereto, to the extent that such taxes and*  
15 *assessments are claimed as a deduction for federal income tax purposes.*

16 (c) There shall be subtracted from federal adjusted gross income:

17 (i) Interest or dividend income on obligations or securities of any  
18 authority, commission or instrumentality of the United States and its  
19 possessions less any related expenses directly incurred in the purchase of  
20 such obligations or securities, to the extent included in federal adjusted  
21 gross income but exempt from state income taxes under the laws of the  
22 United States.

23 (ii) Any amounts received which are included in federal adjusted  
24 gross income but which are specifically exempt from Kansas income  
25 taxation under the laws of the state of Kansas.

26 (iii) The portion of any gain or loss from the sale or other disposition  
27 of property having a higher adjusted basis for Kansas income tax purposes  
28 than for federal income tax purposes on the date such property was sold or  
29 disposed of in a transaction in which gain or loss was recognized for  
30 purposes of federal income tax that does not exceed such difference in  
31 basis, but if a gain is considered a long-term capital gain for federal  
32 income tax purposes, the modification shall be limited to that portion of  
33 such gain which is included in federal adjusted gross income.

34 (iv) The amount necessary to prevent the taxation under this act of  
35 any annuity or other amount of income or gain which was properly  
36 included in income or gain and was taxed under the laws of this state for a  
37 taxable year prior to the effective date of this act, as amended, to the  
38 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
39 the right to receive the income or gain, or to a trust or estate from which  
40 the taxpayer received the income or gain.

41 (v) The amount of any refund or credit for overpayment of taxes on  
42 or measured by income or fees or payments in lieu of income taxes  
43 imposed by this state, or any taxing jurisdiction, to the extent included in

1 gross income for federal income tax purposes.

2 (vi) Accumulation distributions received by a taxpayer as a  
3 beneficiary of a trust to the extent that the same are included in federal  
4 adjusted gross income.

5 (vii) Amounts received as annuities under the federal civil service  
6 retirement system from the civil service retirement and disability fund and  
7 other amounts received as retirement benefits in whatever form which  
8 were earned for being employed by the federal government or for service  
9 in the armed forces of the United States.

10 (viii) Amounts received by retired railroad employees as a  
11 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and  
12 228c (a)(1) et seq.

13 (ix) Amounts received by retired employees of a city and by retired  
14 employees of any board of such city as retirement allowances pursuant to  
15 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter  
16 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and  
17 amendments thereto.

18 (x) For taxable years beginning after December 31, 1976, the amount  
19 of the federal tentative jobs tax credit disallowance under the provisions of  
20 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the  
21 amount of the targeted jobs tax credit and work incentive credit  
22 disallowances under 26 U.S.C. § 280 C.

23 (xi) For taxable years beginning after December 31, 1986, dividend  
24 income on stock issued by Kansas Venture Capital, Inc.

25 (xii) For taxable years beginning after December 31, 1989, amounts  
26 received by retired employees of a board of public utilities as pension and  
27 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,  
28 and amendments thereto.

29 (xiii) For taxable years beginning after December 31, 2004, amounts  
30 contributed to and the amount of income earned on contributions deposited  
31 to an individual development account under K.S.A. 2012 Supp. 74-50,201  
32 et seq., and amendments thereto.

33 (xiv) For all taxable years commencing after December 31, 1996, that  
34 portion of any income of a bank organized under the laws of this state or  
35 any other state, a national banking association organized under the laws of  
36 the United States, an association organized under the savings and loan  
37 code of this state or any other state, or a federal savings association  
38 organized under the laws of the United States, for which an election as an  
39 S corporation under subchapter S of the federal internal revenue code is in  
40 effect, which accrues to the taxpayer who is a stockholder of such  
41 corporation and which is not distributed to the stockholders as dividends of  
42 the corporation. For all taxable years beginning after December 31, 2012,  
43 the amount of modification under this subsection shall exclude the portion



1 of income or loss reported on schedule E and included on line 17 of the  
2 taxpayer's form 1040 federal individual income tax return.

3 (xv) For all taxable years beginning after December 31, 2006,  
4 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a  
5 joint return, for each designated beneficiary which are contributed to a  
6 family postsecondary education savings account established under the  
7 Kansas postsecondary education savings program or a qualified tuition  
8 program established and maintained by another state or agency or  
9 instrumentality thereof pursuant to section 529 of the internal revenue  
10 code of 1986, as amended, for the purpose of paying the qualified higher  
11 education expenses of a designated beneficiary at an institution of  
12 postsecondary education. The terms and phrases used in this paragraph  
13 shall have the meaning respectively ascribed thereto by the provisions of  
14 K.S.A. 2012 Supp. 75-643, and amendments thereto, and the provisions of  
15 such section are hereby incorporated by reference for all purposes thereof.

16 (xvi) For all taxable years beginning after December 31, 2004,  
17 amounts received by taxpayers who are or were members of the armed  
18 forces of the United States, including service in the Kansas army and air  
19 national guard, as a recruitment, sign up or retention bonus received by  
20 such taxpayer as an incentive to join, enlist or remain in the armed services  
21 of the United States, including service in the Kansas army and air national  
22 guard, and amounts received for repayment of educational or student loans  
23 incurred by or obligated to such taxpayer and received by such taxpayer as  
24 a result of such taxpayer's service in the armed forces of the United States,  
25 including service in the Kansas army and air national guard.

26 (xvii) For all taxable years beginning after December 31, 2004,  
27 amounts received by taxpayers who are eligible members of the Kansas  
28 army and air national guard as a reimbursement pursuant to K.S.A. 48-  
29 281, and amendments thereto, and amounts received for death benefits  
30 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section  
31 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and  
32 amendments thereto, to the extent that such death benefits are included in  
33 federal adjusted gross income of the taxpayer.

34 (xviii) For the taxable year beginning after December 31, 2006,  
35 amounts received as benefits under the federal social security act which  
36 are included in federal adjusted gross income of a taxpayer with federal  
37 adjusted gross income of \$50,000 or less, whether such taxpayer's filing  
38 status is single, head of household, married filing separate or married filing  
39 jointly; and for all taxable years beginning after December 31, 2007,  
40 amounts received as benefits under the federal social security act which  
41 are included in federal adjusted gross income of a taxpayer with federal  
42 adjusted gross income of \$75,000 or less, whether such taxpayer's filing  
43 status is single, head of household, married filing separate or married filing

1 jointly.

2 (xix) Amounts received by retired employees of Washburn university  
3 as retirement and pension benefits under the university's retirement plan.

4 (xx) For all taxable years beginning after December 31, 2012, the  
5 amount of any: (1) Net profit from business as determined under the  
6 federal internal revenue code and reported from schedule C and on line 12  
7 of the taxpayer's form 1040 federal individual income tax return; (2) net  
8 income from rental real estate, royalties, partnerships, S corporations,  
9 estates, trusts, residual interest in real estate mortgage investment conduits  
10 and net farm rental as determined under the federal internal revenue code  
11 and reported from schedule E and on line 17 of the taxpayer's form 1040  
12 federal individual income tax return; and (3) net farm profit as determined  
13 under the federal internal revenue code and reported from schedule F and  
14 on line 18 of the taxpayer's form 1040 federal income tax return; all to the  
15 extent included in the taxpayer's federal adjusted gross income. For  
16 purposes of this subsection, references to the federal form 1040 and  
17 federal schedule C, schedule E, and schedule F, shall be to such form and  
18 schedules as they existed for tax year 2011 and as revised thereafter by the  
19 internal revenue service.

20 (d) There shall be added to or subtracted from federal adjusted gross  
21 income the taxpayer's share, as beneficiary of an estate or trust, of the  
22 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and  
23 amendments thereto.

24 (e) The amount of modifications required to be made under this  
25 section by a partner which relates to items of income, gain, loss, deduction  
26 or credit of a partnership shall be determined under K.S.A. 79-32,131, and  
27 amendments thereto, to the extent that such items affect federal adjusted  
28 gross income of the partner.

29 Sec. 36. K.S.A. 2012 Supp. 79-32,160a is hereby amended to read as  
30 follows: 79-32,160a. (a) For taxable years commencing after December  
31 31, 1999, *and before January 1, 2012*, any taxpayer who shall invest in a  
32 qualified business facility, as defined in subsection (b) of K.S.A. 79-  
33 32,154, and amendments thereto, and effective for tax years commencing  
34 after December 31, 2010, *and before January 1, 2012*, located in an area  
35 other than a metropolitan county as defined in either K.S.A. 2012 Supp.  
36 74-50,114 or 74-50,211, and amendments thereto, and also meets the  
37 definition of a business in subsection (b) of K.S.A. 74-50,114, and  
38 amendments thereto, shall be allowed a credit for such investment, in an  
39 amount determined under subsection (b) or (c), as the case requires,  
40 against the tax imposed by the Kansas income tax act or where the  
41 qualified business facility is the principal place from which the trade or  
42 business of the taxpayer is directed or managed and the facility has  
43 facilitated the creation of at least 20 new full-time positions, against the

1 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and  
2 amendments thereto, or as measured by the net income of financial  
3 institutions imposed pursuant to article 11 of chapter 79 of the Kansas  
4 Statutes Annotated, *and amendments thereto*, for the taxable year during  
5 which commencement of commercial operations, as defined in subsection  
6 (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified  
7 business facility. In the case of a taxpayer who meets the definition of a  
8 manufacturing business in subsection (d) of K.S.A. 74-50,114, and  
9 amendments thereto, no credit shall be allowed under this section unless  
10 the number of qualified business facility employees, as determined under  
11 subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or  
12 maintained in employment at the qualified business facility as a direct  
13 result of the investment by the taxpayer for the taxable year for which the  
14 credit is claimed equals or exceeds two. In the case of a taxpayer who  
15 meets the definition of a nonmanufacturing business in subsection (f) of  
16 K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed  
17 under this section unless the number of qualified business facility  
18 employees, as determined under subsection (d) of K.S.A. 79-32,154, and  
19 amendments thereto, engaged or maintained in employment at the  
20 qualified business facility as a direct result of the investment by the  
21 taxpayer for the taxable year for which the credit is claimed equals or  
22 exceeds five. Where an employee performs services for the taxpayer  
23 outside the qualified business facility, the employee shall be considered  
24 engaged or maintained in employment at the qualified business facility if:  
25 (1) The employee's service performed outside the qualified business  
26 facility is incidental to the employee's service inside the qualified business  
27 facility; or (2) the base of operations or, the place from which the service is  
28 directed or controlled, is at the qualified business facility.

29 (b) The credit allowed by subsection (a) for any taxpayer who invests  
30 in a qualified business facility which is located in a designated  
31 nonmetropolitan region established under K.S.A. 74-50,116, and  
32 amendments thereto, on or after the effective date of this act, shall be a  
33 portion of the income tax imposed by the Kansas income tax act on the  
34 taxpayer's Kansas taxable income, the premium tax or privilege fees  
35 imposed pursuant to K.S.A. 40-252, and amendments thereto, or the  
36 privilege tax as measured by the net income of financial institutions  
37 imposed pursuant to article 11 of chapter 79 of the Kansas Statutes  
38 Annotated, *and amendments thereto*, for the taxable year for which such  
39 credit is allowed, but in the case where the qualified business facility  
40 investment was made prior to January 1, 1996, not in excess of 50% of  
41 such tax. Such portion shall be an amount equal to the sum of the  
42 following:

43 (1) Two thousand five hundred dollars for each qualified business

1 facility employee determined under K.S.A. 79-32,154, and amendments  
2 thereto; plus

3 (2) one thousand dollars for each \$100,000, or major fraction thereof,  
4 which shall be deemed to be 51% or more, in qualified business facility  
5 investment, as determined under K.S.A. 79-32,154, and amendments  
6 thereto.

7 (c) The credit allowed by subsection (a) for any taxpayer who invests  
8 in a qualified business facility, which is not located in a nonmetropolitan  
9 region established under K.S.A. 74-50,116, and amendments thereto, and  
10 effective for tax years commencing after December 31, 2010, *and before*  
11 *January 1, 2012*, located in an area other than a metropolitan county as  
12 defined in either K.S.A. 2012 Supp. 74-50,114 or 74-50,211, and  
13 amendments thereto, and which also meets the definition of business in  
14 subsection (b) of K.S.A. 74-50,114, and amendments thereto, on or after  
15 the effective date of this act, shall be a portion of the income tax imposed  
16 by the Kansas income tax act on the taxpayer's Kansas taxable income, the  
17 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and  
18 amendments thereto, or the privilege tax as measured by the net income of  
19 financial institutions imposed pursuant to article 11 of chapter 79 of the  
20 Kansas Statutes Annotated, *and amendments thereto*, for the taxable year  
21 for which such credit is allowed, but in the case where the qualified  
22 business facility investment was made prior to January 1, 1996, not in  
23 excess of 50% of such tax. Such portion shall be an amount equal to the  
24 sum of the following:

25 (1) One thousand five hundred dollars for each qualified business  
26 facility employee as determined under K.S.A. 79-32,154, and amendments  
27 thereto; and

28 (2) one thousand dollars for each \$100,000, or major fraction thereof,  
29 which shall be deemed to be 51% or more, in qualified business facility  
30 investment as determined under K.S.A. 79-32,154, and amendments  
31 thereto.

32 (d) The credit allowed by subsection (a) for each qualified business  
33 facility employee and for qualified business facility investment shall be a  
34 one-time credit. If the amount of the credit allowed under subsection (a)  
35 exceeds the tax imposed by the Kansas income tax act on the taxpayer's  
36 Kansas taxable income, the premium tax and privilege fees imposed  
37 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as  
38 measured by the net income of financial institutions imposed pursuant to  
39 article 11 of chapter 79 of the Kansas Statutes Annotated, *and amendments*  
40 *thereto*, for the taxable year, or in the case where the qualified business  
41 facility investment was made prior to January 1, 1996, 50% of such tax  
42 imposed upon the amount which exceeds such tax liability or such portion  
43 thereof may be carried over for credit in the same manner in the

1 succeeding taxable years until the total amount of such credit is used.  
2 Except that, before the credit is allowed, a taxpayer, who meets the  
3 definition of a manufacturing business in subsection (d) of K.S.A. 74-  
4 50,114, and amendments thereto, shall recertify annually that the net  
5 increase of a minimum of two qualified business facility employees has  
6 continued to be maintained and a taxpayer, who meets the definition of a  
7 nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and  
8 amendments thereto, shall recertify annually that the net increase of a  
9 minimum of five qualified business employees has continued to be  
10 maintained.

11 (e) Notwithstanding the foregoing provisions of this section, *and*  
12 *except as otherwise provided in this subsection*, any taxpayer qualified and  
13 certified under the provisions of K.S.A. 74-50,131, and amendments  
14 thereto; which, prior to making a commitment to invest in a qualified  
15 Kansas business, has filed a certificate of intent to invest in a qualified  
16 business facility in a form satisfactory to the secretary of commerce; and  
17 that has received written approval from the secretary of commerce for  
18 participation and has participated, during the tax year for which the  
19 exemption is claimed, in the Kansas industrial training, Kansas industrial  
20 retraining or the state of Kansas investments in lifelong learning program  
21 or is eligible for the tax credit established in K.S.A. 74-50,132, and  
22 amendments thereto, shall be entitled to a credit in an amount equal to  
23 10% of that portion of the qualified business facility investment which  
24 exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2)  
25 without regard to the number of qualified business facility employees  
26 engaged or maintained in employment at the qualified business facility.  
27 *For tax years beginning on or after January 1, 2012, for a qualified*  
28 *business facility investment in Douglas, Johnson, Sedgwick, Shawnee or*  
29 *Wyandotte counties, such credit shall be in an amount equal to 10% of that*  
30 *portion of the qualified business facility investment which exceeds*  
31 *\$1,000,000. Any taxpayer who has filed a certificate of intent to invest in a*  
32 *qualified business facility pursuant to this subsection in Douglas, Johnson,*  
33 *Sedgwick, Shawnee or Wyandotte county prior to December 31, 2011, and*  
34 *commences investments in a qualified business facility prior to December*  
35 *31, 2013, may claim credits under K.S.A. 74-50,131, 74-50,132 and*  
36 *subsection (e) of 79-32,160a, and amendments thereto, in an amount equal*  
37 *to 10% of that portion of the qualified business facility investment which*  
38 *exceeds \$50,000. Timing modifications may be authorized at the discretion*  
39 *of the secretary of commerce and the secretary of revenue during the*  
40 *transition period. The credit allowed by this subsection shall be a one-time*  
41 *credit. If the amount thereof exceeds the tax imposed by the Kansas*  
42 *income tax act on the taxpayer's Kansas taxable income or the premium*  
43 *tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments*

1 thereto, or the privilege tax as measured by net income of financial  
2 institutions imposed pursuant to article 11 of chapter 79 of the Kansas  
3 Statutes Annotated, *and amendments thereto*, for the taxable year, the  
4 amount thereof which exceeds such tax liability may be carried forward  
5 for credit in the succeeding taxable year or years until the total amount of  
6 the tax credit is used, except that no such tax credit shall be carried  
7 forward for deduction after the 16<sup>th</sup> taxable year succeeding the taxable  
8 year in which such credit initially was claimed, and no carryforward shall  
9 be allowed for deduction in any succeeding taxable year unless the  
10 taxpayer certifies under oath that the taxpayer continues to meet the  
11 requirements of K.S.A. 74-50,131, and amendments thereto, and this act.  
12 In no event shall any credit allowed under this section that expired during  
13 any taxable year prior to the taxable year commencing January 1, 2011, be  
14 revived under the provisions of this act.

15 (f) For tax years commencing after December 31, 2005, any taxpayer  
16 claiming credits pursuant to this section, as a condition for claiming and  
17 qualifying for such credits, shall provide information pursuant to K.S.A.  
18 2012 Supp. 79-32,243, and amendments thereto, as part of the tax return in  
19 which such credits are claimed. Such credits shall not be denied solely on  
20 the basis of the contents of the information provided by the taxpayer  
21 pursuant to K.S.A. 2012 Supp. 79-32,243, and amendments thereto.

22 (g) This section and K.S.A. 79-32,160b, and amendments thereto,  
23 shall be part of and supplemental to the job expansion and investment  
24 credit act of 1976, and amendments thereto.

25 Sec. 37. K.S.A. 2012 Supp. 2-1930a, 2-1931a, 8-1,161, 8-1,161a, 12-  
26 4106, as amended by section 1 of 2013 House Bill No. 2041, 12-4106, as  
27 amended by section 8 of 2013 Senate Substitute for House Bill No. 2034,  
28 21-5109, 21-5109a, 21-5302, as amended by section 6 of 2013 Senate Bill  
29 No. 16, 21-5302, as amended by section 12 of 2013 Senate Substitute for  
30 House Bill No. 2034, 21-5808, 21-5808a, 21-5904, 21-5904a, 21-5924,  
31 21-5924a, 21-6302, as amended by section 4 of 2013 Senate Substitute for  
32 House Bill No. 2052, 21-6302, as amended by section 3 of 2013 House  
33 Bill No. 2033, 21-6614, as amended by section 19 of 2013 Senate  
34 Substitute for House Bill No. 2034, 21-6614, as amended by section 3 of  
35 2013 Senate Bill No. 21, 22-2802, 22-2802c, 22-2908, 22-2908a, 22-3212,  
36 22-3212b, 22-3717, as amended by section 27 of 2013 Senate Substitute  
37 for House Bill No. 2034, 22-3717, as amended by section 6 of 2013 House  
38 Bill No. 2170, 32-1438, 32-1438a, 39-709, as amended by section 1 of  
39 2013 Senate Bill No. 149, 39-709, as amended by section 23 of 2013  
40 Substitute for House Bill No. 2183, 39-923a, 44-706, as amended by  
41 section 5 of 2013 Substitute for House Bill No. 2105, 44-706, as amended  
42 by section 4 of 2013 Senate Bill No. 149, 44-709, as amended by section 3  
43 of 2013 Senate Bill No. 187, 44-709, as amended by section 6 of 2013

1 Substitute for House Bill No. 2105, 45-221, as amended by section 2 of  
2 2013 Senate Bill No. 81, 45-221, as amended by section 6 of 2013 Senate  
3 Substitute for House Bill No. 2052, 45-221, as amended by section 1 of  
4 2013 House Bill No. 2128, 45-229, as amended by section 1 of 2013  
5 House Bill No. 2012, 45-229, as amended by section 1 of 2013 House Bill  
6 No. 2144, 47-422, 47-422a, 47-1001g, 47-1008a, 47-1302a, 47-1701a, 47-  
7 1709a, 47-1725a, 47-1804, 47-1804a, 47-1809a, 60-3107, 60-3107a, 60-  
8 4104, as amended by section 41 of 2013 Senate Substitute for House Bill  
9 No. 2034, 60-4104, as amended by section 8 of 2013 Senate Bill No. 16,  
10 65-1685a, 65-4101, 65-4101b, 72-978, 72-978a, 74-7901, 74-7901a, 75-  
11 7c05, as amended by section 7 of 2013 Senate Substitute for House Bill  
12 No. 2052, 75-7c05, as amended by section 6 of 2013 Senate Bill No. 21,  
13 75-3740, 75-3740d, 75-37,121, 75-37,121a, 75-4362, as amended by  
14 section 5 of 2013 Senate Bill No. 149, 75-4362, as amended by section 2  
15 of 2013 House Bill No. 2302, 75-5133, 75-5133b, 75-6102, 75-6102c, 75-  
16 6609, 75-6609a, 79-3234, 79-3234c, 79-32,117, as amended by section 3  
17 of 2013 House Substitute for Senate Bill No. 83, 79-32,117, as amended  
18 by section 17 of 2013 House Bill No. 2253, 79-32,160a, 79-32,160f, 82a-  
19 220a and 82a-903a are hereby repealed.

20 Sec. 38. This act shall take effect and be in force from and after its  
21 publication in the statute book.