

SENATE BILL No. 438

By Committee on Federal and State Affairs

3-12

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

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

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

12 (b) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (1) Is not prohibited from possessing a firearm by federal or state

1 law;

2 (2) has not been convicted of a person misdemeanor in the past ten
3 years;

4 (3) has not been convicted of a weapons violation in the past ten
5 years;

6 (4) is not currently the listed defendant of a protection order or
7 restraining order;

8 (5) is not carrying such handgun in violation of K.S.A. 21-6301 or
9 K.S.A. 21-6302, and amendments thereto, or a similar city ordinance or
10 county resolution;

11 (6) is not entered in the NCIC gang data base or currently a member
12 of a criminal street gang as provided in K.S.A. 21-6313, and amendments
13 thereto, convicted of recruiting a criminal street gang member as provided
14 in K.S.A. 21-6314, and amendments thereto, or convicted of criminal
15 street gang intimidation as provided in K.S.A. 21-6315, and amendments
16 thereto, or under similar laws of any other state, the United States, a
17 territory of the United States or the District of Columbia or in the same
18 vehicle as such person;

19 (7) is not currently required to register as an offender as provided in
20 article 49 of Chapter 22 of the Kansas Statutes Annotated, and
21 amendments thereto, or offender registration requirements of any other
22 state, the United States, a territory of the United States or the District of
23 Columbia; or

24 (8) is not under the age of eighteen.

25 (b) As used in this section, "convicted" means accepting a diversion
26 agreement, a plea or finding of guilty, a plea of no contest, the release or
27 completion of a diversion agreement, the release or completion of a period
28 of probation, or the discharge from jail for a listed crime or similar crime
29 under the laws of Kansas, a city or county of Kansas, of any other state or
30 political subdivision thereof, the United States, a territory of the United
31 States, the District of Columbia or a United States military tribunal. Any
32 time period since conviction shall not include time while incarcerated.

33 (c) The provisions of this section shall be part of and supplemental to
34 the personal and family protection act.

35 New Sec. 6. (a) Possession of a firearm under the influence is
36 knowingly possessing or carrying a loaded firearm on or about such person
37 or within such person's immediate access and control while in a vehicle,
38 while under the influence of alcohol or drugs, or both, to such a degree as
39 to render such person incapable of safely operating a firearm.

40 (b) Possession of a firearm under the influence is a class A nonperson
41 misdemeanor.

42 (c) This section shall not apply to:

43 (1) A person who possesses or carries a firearm while in such person's

1 own dwelling or place of business or on land owned or possessed by such
2 person; or

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

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

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

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

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

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

26 (D) a phlebotomist.

27 (2) A law enforcement officer may direct a medical professional
28 described in this subsection to draw a sample of blood from a person if the
29 person has given consent or upon meeting the requirements of subsection
30 (d).

31 (3) When so directed by a law enforcement officer through a written
32 statement, the medical professional shall withdraw the sample as soon as
33 practical and shall deliver the sample to the law enforcement officer or
34 another law enforcement officer as directed by the requesting law
35 enforcement officer as soon as practical, provided the collection of the
36 sample does not jeopardize the person's life, cause serious injury to the
37 person or seriously impede the person's medical assessment, care or
38 treatment. The medical professional authorized herein to withdraw the
39 blood and the medical care facility where the blood is drawn may act on
40 good faith that the requirements have been met for directing the
41 withdrawing of blood once presented with the written statement provided
42 for under this subsection. The medical professional shall not require the
43 person to sign any additional consent or waiver form. In such a case, the

1 person authorized to withdraw blood and the medical care facility shall not
2 be liable in any action alleging lack of consent or lack of informed
3 consent.

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

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

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

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

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

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

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

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

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

42 (f) (1) The person's refusal shall be admissible in evidence against the
43 person at any trial on a charge arising out of possession of a firearm under

1 the influence of alcohol or drugs, or both.

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

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

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

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

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

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

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

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

35 (j) Upon the request of any person submitting to testing under this
36 section, a report of the results of the testing shall be made available to such
37 person.

38 Sec. 7. K.S.A. 2013 Supp. 12-16,124 is hereby amended to read as
39 follows: 12-16,124.(a) No city or county shall adopt *or enforce* any
40 ordinance, resolution or regulation, and no agent of any city or county
41 shall take any administrative action, governing the purchase, transfer,
42 ownership, storage, *carrying* or transporting of firearms or ammunition, or
43 any component or combination thereof. ~~Except as provided in subsection~~

1 ~~(b) of this section and subsection (b) of K.S.A. 2013 Supp. 75-7e10, and~~
2 ~~amendments thereto, any such ordinance, resolution or regulation adopted~~
3 ~~prior to the effective date of this 2007 act shall be null and void.~~

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

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

11 (d) Nothing in this section shall:

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

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

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

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

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

31 ~~(4) prohibit a city or county from adopting an ordinance, resolution or~~
32 ~~regulation requiring a firearm transported in any air, land or water vehicle~~
33 ~~to be unloaded and encased in a container which completely encloses the~~
34 ~~firearm or any less restrictive provision governing the transporting of~~
35 ~~firearms, provided such ordinance, resolution or regulation shall not apply~~
36 ~~to persons licensed or recognized under the personal and family protection~~
37 ~~act.~~

38 (e) ~~Except as provided in subsection (b) of this section and subsection~~
39 ~~(b) of K.S.A. 2013 Supp. 75-7e10, and amendments thereto, no person~~
40 ~~shall be prosecuted or convicted of a violation of any ordinance, resolution~~
41 ~~or regulation of a city or county which regulates the storage or~~
42 ~~transportation of a firearm if such person: (1) Is storing or transporting the~~
43 ~~firearm without violating any provision of the Kansas criminal code; or (2)~~

1 is otherwise transporting the firearm in a lawful manner.

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

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

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

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

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

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

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

25 (2) "Municipality" has the same meaning as defined in K.S.A. 75-
 26 6102, and amendments thereto, but shall not include *unified* school
 27 districts, jails, as defined in K.S.A. 38-2302, and amendments thereto, ~~and~~
 28 *or* juvenile correctional facilities, as defined in K.S.A. 38-2302, and
 29 amendments thereto.

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

36 (A) Satisfied the sentence imposed; or

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

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

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

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

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

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

24 ~~(e)~~ (d) No person may petition for expungement until five or more
25 years have elapsed since the person satisfied the sentence imposed or the
26 terms of a diversion agreement or was discharged from probation, parole,
27 conditional release or a suspended sentence, if such person was convicted
28 of the violation of a city ordinance which would also constitute:

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

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

34 (3) perjury resulting from a violation of K.S.A. 8-261a, and
35 amendments thereto;

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

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

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

43 (7) a violation of the provisions of K.S.A. 40-3104, and amendments

1 thereto, relating to motor vehicle liability insurance coverage; or

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

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

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

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

16 (A) Defendant's full name;

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

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

20 (D) crime for which the defendant was arrested, convicted or
21 diverted;

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

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

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

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

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

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

38 (2) the circumstances and behavior of the petitioner warrant the
39 expungement; and

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

41 ~~(h)~~ (i) When the court has ordered an arrest record, conviction or
42 diversion expunged, the order of expungement shall state the information
43 required to be contained in the petition. The clerk of the court shall send a

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

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

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

12 (A) In any application for employment as a detective with a private
13 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
14 as security personnel with a private patrol operator, as defined by K.S.A.
15 75-7b01, and amendments thereto; or with an institution, as defined in
16 K.S.A. 76-12a01, and amendments thereto, of the department for children
17 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. 2013
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 arrest, conviction or diversion is to be
10 disclosed; and

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

14 ~~(j)~~ (j) Whenever a person is convicted of an ordinance violation,
15 pleads guilty and pays a fine for such a violation, is placed on parole or
16 probation or is granted a suspended sentence for such a violation, the
17 person shall be informed of the ability to expunge the arrest records or
18 conviction. Whenever a person enters into a diversion agreement, the
19 person shall be informed of the ability to expunge the diversion.

20 ~~(k)~~ (k) Subject to the disclosures required pursuant to subsection ~~(g)~~
21 (h), in any application for employment, license or other civil right or
22 privilege, or any appearance as a witness, a person whose arrest records,
23 conviction or diversion of an offense has been expunged under this statute
24 may state that such person has never been arrested, convicted or diverted
25 of such offense.

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

31 (1) The person whose record was expunged;

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

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

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

43 (5) a person entitled to such information pursuant to the terms of the

1 expungement order;

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

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

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

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

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

31 (11) the state gaming agency, and the request is accompanied by a
32 statement that the request is being made to aid in determining
33 qualifications: (A) To be an employee of the state gaming agency; or (B)
34 to be an employee of a tribal gaming commission or to hold a license
35 issued pursuant to a tribal-state gaming compact;

36 (12) the Kansas securities commissioner, or a designee of the
37 commissioner, and the request is accompanied by a statement that the
38 request is being made in conjunction with an application for registration as
39 a broker-dealer, agent, investment adviser or investment adviser
40 representative by such agency and the application was submitted by the
41 person whose record has been expunged;

42 (13) the attorney general, and the request is accompanied by a
43 statement that the request is being made to aid in determining

1 qualifications for a license to carry a concealed weapon pursuant to the
2 personal and family protection act;

3 (14) the Kansas sentencing commission;

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

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

12 Sec. 10. K.S.A. 2013 Supp. 12-4516a is hereby amended to read as
13 follows: 12-4516a.(a) Any person who has been arrested on a violation of
14 a city ordinance of this state may petition the court for the expungement of
15 such arrest record.

16 (b) When a petition for expungement is filed, the court shall set a date
17 for hearing on such petition and shall cause notice of such hearing to be
18 given to the prosecuting attorney and the arresting law enforcement
19 agency. When a petition for expungement is filed, the official court file
20 shall be separated from the other records of the court, and shall be
21 disclosed only to a judge of the court and members of the staff of the court
22 designated by a judge of the district court, the prosecuting attorney, the
23 arresting law enforcement agency, or any other person when authorized by
24 a court order, subject to any conditions imposed by the order. The petition
25 shall state:

26 (1) The petitioner's full name;

27 (2) the full name of the petitioner at the time of arrest, if different
28 than the petitioner's current name;

29 (3) the petitioner's sex, race and date of birth;

30 (4) the crime for which the petitioner was arrested;

31 (5) the date of the petitioner's arrest; and

32 (6) the identity of the arresting law enforcement agency.

33 A municipal court may prescribe a fee to be charged as costs for a
34 person petitioning for an order of expungement pursuant to this section,
35 except that no fee shall be charged to a person who was arrested as a result
36 of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal,
37 or K.S.A. 2013 Supp. 21-6107, and amendments thereto. Any person who
38 may have relevant information about the petitioner may testify at the
39 hearing. The court may inquire into the background of the petitioner.

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

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

- 1 (2) a court has found that there was no probable cause for the arrest;
- 2 (3) the petitioner was found not guilty in court proceedings;
- 3 (4) *the arrest was for a violation of any ordinance that is prohibited*
- 4 *by either subsection (a) or (b) of K.S.A. 2013 Supp. 12-16,134, and*
- 5 *amendments thereto, and which was adopted prior to July 1, 2014; or*
- 6 ~~(4)~~ (5) the expungement would be in the best interests of justice and:
- 7 (A) Charges have been dismissed; or (B) no charges have been or are
- 8 likely to be filed.
- 9 (d) When the court has ordered expungement of an arrest record and
- 10 subsequent court proceedings, if any, the order shall state the information
- 11 required to be stated in the petition and shall state the grounds for
- 12 expungement under subsection (c). The clerk of the court shall send a
- 13 certified copy of the order to the Kansas bureau of investigation which
- 14 shall notify the federal bureau of investigation, the secretary of corrections
- 15 and any other criminal justice agency which may have a record of the
- 16 arrest. If an order of expungement is entered, the petitioner shall be treated
- 17 as not having been arrested.
- 18 (e) If the ground for expungement is as provided in subsection ~~(e)(4)~~
- 19 ~~(c)(5)~~, the court shall determine whether, in the interest of public welfare,
- 20 the records should be available for any of the following purposes:
- 21 (1) In any application for employment as a detective with a private
- 22 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
- 23 as security personnel with a private patrol operator, as defined by K.S.A.
- 24 75-7b01, and amendments thereto; or with an institution, as defined in
- 25 K.S.A. 76-12a01, and amendments thereto, of the department ~~of social and~~
- 26 ~~rehabilitation services for children and families;~~
- 27 (2) in any application for admission, or for an order of reinstatement,
- 28 to the practice of law in this state;
- 29 (3) to aid in determining the petitioner's qualifications for
- 30 employment with the Kansas lottery or for work in sensitive areas within
- 31 the Kansas lottery as deemed appropriate by the executive director of the
- 32 Kansas lottery;
- 33 (4) to aid in determining the petitioner's qualifications for executive
- 34 director of the Kansas racing commission, for employment with the
- 35 commission or for work in sensitive areas in parimutuel racing as deemed
- 36 appropriate by the executive director of the commission, or to aid in
- 37 determining qualifications for licensure or renewal of licensure by the
- 38 commission;
- 39 (5) in any application for a commercial driver's license under K.S.A.
- 40 8-2,125 through 8-2,142, and amendments thereto;
- 41 (6) to aid in determining the petitioner's qualifications to be an
- 42 employee of the state gaming agency;
- 43 (7) to aid in determining the petitioner's qualifications to be an

1 employee of a tribal gaming commission or to hold a license issued
2 pursuant to a tribal-state gaming compact; or

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

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

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

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

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

18 (h) Whenever a petitioner's arrest records have been expunged as
19 provided in this section, the custodian of the records of arrest,
20 incarceration due to arrest or court proceedings related to the arrest, shall
21 not disclose the arrest or any information related to the arrest, except as
22 directed by the order of expungement or when requested by the person
23 whose arrest record was expunged.

24 Sec. 11. K.S.A. 2013 Supp. 21-6301 is hereby amended to read as
25 follows: 21-6301. (a) Criminal use of weapons is knowingly:

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

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

32 (3) setting a spring gun;

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

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

41 (6) possessing, manufacturing, causing to be manufactured, selling,
42 offering for sale, lending, purchasing or giving away any cartridge which
43 can be fired by a handgun and which has a plastic-coated bullet that has a

1 core of less than 60% lead by weight, whether the person knows or has
2 reason to know that the plastic-coated bullet has a core of less than 60%
3 lead by weight;

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

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

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

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

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

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

31 (13) ~~possession of~~ *possessing* any firearm by a person who is or has
32 been a mentally ill person subject to involuntary commitment for care and
33 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or
34 persons with an alcohol or substance abuse problem subject to involuntary
35 commitment for care and treatment as defined in K.S.A. 59-29b46, and
36 amendments thereto; or

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

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

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

43 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson

1 felony;

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

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

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

6 (A) Class A nonperson misdemeanor except as provided in subsection
7 (b)(5)(B);

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

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

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

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

18 (3) members of the armed services or reserve forces of the United
19 States or the Kansas national guard while in the performance of their
20 official duty; or

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

24 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
25 sells, purchases, possesses or carries a firearm, device or attachment which
26 has been rendered unserviceable by steel weld in the chamber and
27 marriage weld of the barrel to the receiver and which has been registered
28 in the national firearms registration and transfer record in compliance with
29 26 U.S.C. § 5841 et seq. in the name of such person and, if such person
30 transfers such firearm, device or attachment to another person, has been so
31 registered in the transferee's name by the transferor.

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

34 (f) Subsection (a)(4) shall not apply to a law enforcement officer who
35 is:

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

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

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

41 (A) Owned by the law enforcement agency;

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

43 (C) approved by the bureau of alcohol, tobacco, firearms and

1 explosives of the United States department of justice.

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

9 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
10 person or entity in compliance with the national firearms act, 26 U.S.C. §
11 5801 et seq.

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

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

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

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

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

25 (5) possession of a handgun by an individual who is licensed by the
26 attorney general to carry a concealed handgun under K.S.A. 2013 Supp.
27 75-7c01 et seq., and amendments thereto.

28 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has
29 received a certificate of restoration pursuant to K.S.A. 2013 Supp. 75-
30 7c26, and amendments thereto.

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

33 (1) In attendance at a hunter's safety course or a firearms safety
34 course;

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

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

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

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

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

11 (7) at such person's residence and who, with the permission of such
12 person's parent or legal guardian, possesses such firearm for the purpose of
13 exercising the rights contained in K.S.A. 2013 Supp. 21-5222, 21-5223 or
14 21-5225, and amendments thereto.

15 (l) As used in this section, "throwing star" means any instrument,
16 without handles, consisting of a metal plate having three or more radiating
17 points with one or more sharp edges and designed in the shape of a
18 polygon, trefoil, cross, star, diamond or other geometric shape,
19 manufactured for use as a weapon for throwing.

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

23 (1) Has been convicted of a person felony or a violation of article 57
24 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto,
25 *K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer*, or
26 any violation of any provision of the uniform controlled substances act
27 prior to July 1, 2009, or a crime under a law of another jurisdiction which
28 is substantially the same as such felony or violation, or was adjudicated a
29 juvenile offender because of the commission of an act which if done by an
30 adult would constitute the commission of a person felony or a violation of
31 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
32 thereto, *K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their*
33 *transfer*, or any violation of any provision of the uniform controlled
34 substances act prior to July 1, 2009, and was found to have been in
35 possession of a firearm at the time of the commission of the crime;

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

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

2 (A) Felony under K.S.A. 2013 Supp. 21-5402, 21-5403, 21-5404, 21-
3 5405, 21-5408, subsection (b) or (d) of 21-5412, subsection (b) or (d) of
4 21-5413, subsection (a) of 21-5415, subsection (b) of 21-5420, 21-5503,
5 subsection (b) of 21-5504, subsection (b) of 21-5505, and subsection (b) of
6 21-5807, and amendments thereto; article 57 of chapter 21 of the Kansas
7 Statutes Annotated, and amendments thereto; K.S.A. 21-3401, 21-3402,
8 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-
9 3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716,
10 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to their
11 repeal; an attempt, conspiracy or criminal solicitation as defined in K.S.A.
12 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2013 Supp.
13 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such
14 felony; or a crime under a law of another jurisdiction which is
15 substantially the same as such felony, has been released from
16 imprisonment for such felony, or was adjudicated as a juvenile offender
17 because of the commission of an act which if done by an adult would
18 constitute the commission of such felony, was not found to have been in
19 possession of a firearm at the time of the commission of the crime, and has
20 not had the conviction of such crime expunged or been pardoned for such
21 crime. The provisions of subsection (j)(2) of K.S.A. 2013 Supp. 21-6614,
22 and amendments thereto, shall not apply to an individual who has had a
23 conviction under this paragraph expunged; or

24 (B) nonperson felony under the laws of Kansas or a crime under the
25 laws of another jurisdiction which is substantially the same as such
26 nonperson felony, has been released from imprisonment for such
27 nonperson felony or was adjudicated as a juvenile offender because of the
28 commission of an act which if done by an adult would constitute the
29 commission of a nonperson felony, and was found to have been in
30 possession of a firearm at the time of the commission of the crime.

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

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

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

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

38 Sec. 13. K.S.A. 2013 Supp. 22-2512 is hereby amended to read as
39 follows: 22-2512. (†) (a) Property seized under a search warrant or validly
40 seized without a warrant shall be safely kept by the officer seizing the
41 same unless otherwise directed by the magistrate, and shall be so kept as
42 long as necessary for the purpose of being produced as evidence on any
43 trial. The property seized may not be taken from the officer having it in

1 custody so long as it is or may be required as evidence in any trial. The
2 officer seizing the property shall give a receipt to the person detained or
3 arrested particularly describing each article of property being held and
4 shall file a copy of such receipt with the magistrate before whom the
5 person detained or arrested is taken. Where seized property is no longer
6 required as evidence in the prosecution of any indictment or information,
7 the court which has jurisdiction of such property may transfer the same to
8 the jurisdiction of any other court, including courts of another state or
9 federal courts, where it is shown to the satisfaction of the court that such
10 property is required as evidence in any prosecution in such other court.

11 ~~(2)~~ ~~(a)~~ *(b) (1)* Notwithstanding the provisions of subsection ~~(1)~~ *(a)*
12 and with the approval of the affected court, any law enforcement officer
13 who seizes hazardous materials as evidence related to a criminal
14 investigation may collect representative samples of such hazardous
15 materials, and lawfully destroy or dispose of, or direct another person to
16 lawfully destroy or dispose of the remaining quantity of such hazardous
17 materials.

18 ~~(b)~~ *(2)* In any prosecution, representative samples of hazardous
19 materials accompanied by photographs, videotapes, laboratory analysis
20 reports or other means used to verify and document the identity and
21 quantity of the material shall be deemed competent evidence of such
22 hazardous materials and shall be admissible in any proceeding, hearing or
23 trial as if such materials had been introduced as evidence.

24 ~~(c)~~ *(3)* As used in this section, the term "hazardous materials" means
25 any substance which is capable of posing an unreasonable risk to health,
26 safety and property. It shall include any substance which by its nature is
27 explosive, flammable, corrosive, poisonous, radioactive, a biological
28 hazard or a material which may cause spontaneous combustion. It shall
29 include, but not be limited to, substances listed in the table of hazardous
30 materials contained in the code of federal regulations title 49 and national
31 fire protection association's fire protection guide on hazardous materials.

32 ~~(d)~~ *(4)* The provisions of this subsection shall not apply to
33 ammunition and components thereof.

34 ~~(e)~~ *(c)* When property seized is no longer required as evidence, it
35 shall be disposed of as follows:

36 ~~(a)~~ *(1)* Property stolen, embezzled, obtained by false pretenses, or
37 otherwise obtained unlawfully from the rightful owner thereof shall be
38 restored to the owner;

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

43 ~~(c)~~ *(3)* property which is unclaimed or the ownership of which is

1 unknown shall be sold at public auction to be held by the sheriff and the
2 proceeds, less the cost of sale and any storage charges incurred in
3 preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-
4 2801, and amendments thereto;

5 ~~(d)~~ (4) articles of contraband shall be destroyed, except that any such
6 articles the disposition of which is otherwise provided by law shall be
7 dealt with as so provided and any such articles the disposition of which is
8 not otherwise provided by law and which may be capable of innocent use
9 may in the discretion of the court be sold and the proceeds disposed of as
10 provided in subsection ~~(2)(b)~~ (c)(3);

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

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

19 (i) *Forfeited to the law enforcement agency seizing the weapon for*
20 *use within such agency, for sale to a properly licensed federal firearms*
21 *dealer, for trading to a properly licensed federal firearms dealer for other*
22 *new or used firearms or accessories for use within such agency or for*
23 *trading to another law enforcement agency for that agency's use;*

24 (ii) *forfeited to the Kansas bureau of investigation for law*
25 *enforcement, testing or comparison by the Kansas bureau of investigation*
26 *forensic laboratory;*

27 (iii) *forfeited to a county regional forensic science center, or other*
28 *county forensic laboratory for testing, comparison or other forensic*
29 *science purposes; or*

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

33 (B) *Except as provided in subsection (d), any weapon which cannot*
34 *be forfeited pursuant to subsection (c)(6)(A) due to the condition of the*
35 *weapon, and any weapon which was used in the commission of a felony as*
36 *described in K.S.A. 2013 Supp. 21-5401 through 21-5405, and*
37 *amendments thereto, shall be destroyed.*

38 ~~(f)~~ (7) controlled substances forfeited for violations of K.S.A. 2013
39 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt
40 with as provided under K.S.A. 60-4101 through 60-4126, and amendments
41 thereto;

42 ~~(g)~~ (8) unless otherwise provided by law, all other property shall be
43 disposed of in such manner as the court in its sound discretion shall direct.

1 (d) *If a weapon is seized from an individual and the individual is not*
2 *convicted of, or adjudicated as a juvenile offender for, the violation for*
3 *which the weapon was seized, then within 30 days after the declination or*
4 *conclusion of prosecution of the case against the individual, including any*
5 *period of appeal, the law enforcement agency that seized the weapon shall*
6 *verify that the weapon is not stolen, and upon such verification shall notify*
7 *the person from whom it was seized that the weapon may be retrieved.*
8 *Such notification shall include the location where such weapon may be*
9 *retrieved.*

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

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

15 Sec. 14. K.S.A. 2013 Supp. 32-1047 is hereby amended to read as
16 follows: 32-1047. The department is hereby empowered and directed to
17 seize and possess any wildlife which is taken, possessed, sold or
18 transported unlawfully, and any steel trap, snare or other device or
19 equipment used in taking or transporting wildlife unlawfully or during
20 closed season. The department is hereby authorized and directed to:

21 (a) Sell the seized item, including wildlife parts with a dollar value,
22 and remit the proceeds to the state treasurer in accordance with the
23 provisions of K.S.A. 75-4215, and amendments thereto. If the seized item
24 is a firearm that has been forfeited pursuant to K.S.A. ~~2013 Supp. 21-6307~~
25 ~~22-2512~~, and amendments thereto, then it may be sold unless: (1) The
26 firearm is significantly altered in any manner; or (2) the sale and public
27 possession of such firearm is otherwise prohibited by law. Upon receipt of
28 each such remittance, the state treasurer shall deposit the entire amount in
29 the state treasury to the credit of the wildlife fee fund; or

30 (b) retain the seized item for educational, scientific or department
31 operational purposes.

32 Sec. 15. K.S.A. 2013 Supp. 75-7c04 is hereby amended to read as
33 follows: 75-7c04. (a) The attorney general shall not issue a license
34 pursuant to this act if the applicant:

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

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

42 (3) *has been convicted of or was adjudicated as a juvenile offender*
43 *because of the commission of an act which if done by an adult would*

1 *constitute the commission of any of the offenses described in subsections*
2 *(a)(1) and (a)(3)(A) of K.S.A. 2013 Supp. 21-6304, and amendments*
3 *thereto; or*

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

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

27 (2) The cost of the handgun safety and training course required by
28 this section shall be paid by the applicant. The following shall constitute
29 satisfactory evidence of satisfactory completion of an approved handgun
30 safety and training course:

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

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

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

38 Sec. 16. K.S.A. 2013 Supp. 75-7c20 is hereby amended to read as
39 follows: 75-7c20. (a) The carrying of a concealed handgun as authorized
40 by the personal and family protection act shall not be prohibited in any
41 state or municipal building unless such building has adequate security
42 measures to ensure that no weapons are permitted to be carried into such
43 building and the building is conspicuously posted in accordance with

1 K.S.A. 2013 Supp. 75-7c10, and amendments thereto.

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

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

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

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

28 (f) A state agency or municipality which does not provide adequate
29 security measures in a state or municipal building and which allows the
30 carrying of a concealed handgun as authorized by the personal and family
31 protection act shall not be liable for any wrongful act or omission relating
32 to actions of persons licensed to carry a concealed handgun concerning
33 acts or omissions regarding such handguns.

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

40 (h) Nothing in this section shall limit the ability of the chief judge of
41 each judicial district to prohibit the carrying of a concealed handgun by
42 any person into courtrooms or ancillary courtrooms within the district
43 provided that other means of security are employed such as armed law

1 enforcement or armed security officers.

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

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

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

28 (2) a state or municipal-owned adult care home, as defined in K.S.A.
29 39-923, and amendments thereto;

30 (3) a community mental health center organized pursuant to K.S.A.
31 19-4001 et seq., and amendments thereto;

32 (4) an indigent health care clinic, as defined by K.S.A. 2013 Supp.
33 65-7402, and amendments thereto; or

34 (5) a postsecondary educational institution, as defined in K.S.A. 74-
35 3201b, and amendments thereto, including any buildings located on the
36 grounds of such institution and any buildings leased by such institution.

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

40 (l) For purposes of this section:

41 (1) "Adequate security measures" means the use of electronic
42 equipment and personnel at public entrances to detect and restrict the
43 carrying of any weapons into the state or municipal building, including,

1 but not limited to, metal detectors, metal detector wands or any other
2 equipment used for similar purposes to ensure that weapons are not
3 permitted to be carried into such building by members of the public.
4 Adequate security measures for storing and securing lawfully carried
5 weapons, including, but not limited to, the use of gun lockers or other
6 similar storage options may be provided at public entrances.

7 (2) The terms "municipality" and "municipal" are interchangeable
8 and have the same meaning as the term "municipality" is defined in K.S.A.
9 75-6102, and amendments thereto, but does not include school districts.

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

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

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

20 (B) On and after July 1, 2014, provided that the provisions of K.S.A.
21 2013 Supp. 75-7c21, and amendments thereto, are in full force and effect,
22 the term "state and municipal building" shall not include the state capitol.

23 (6) "Weapon" means a weapon described in K.S.A. 2013 Supp. 21-
24 6301, and amendments thereto, *except the term "weapon" shall not include*
25 *any cutting instrument that has a sharpened or pointed blade.*

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

28 Sec. 17. K.S.A. 2013 Supp. 12-16,124, 12-16,134, 12-4516, 12-
29 4516a, 21-6301, 21-6304, 21-6307, 22-2512, 32-1047, 75-7c04, 75-7c12
30 and 75-7c20 are hereby repealed.

31 Sec. 18. This act shall take effect and be in force from and after its
32 publication in the statute book.