

HOUSE BILL No. 2129

By Committee on Judiciary

1-27

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to abolition of the death penalty; creating the crime of aggravated
3 murder; sentences of imprisonment for life without the possibility of
4 parole; amending K.S.A. 2014 Supp. 21-5419, 21-6614, 21-6618, 21-
5 6620, 21-6622, 21-6628, 21-6629, 21-6806, 22-3717, 22-4902, 22-
6 4906, 38-2255, 38-2271, 38-2312, 38-2365, 39-970, 65-5117, 72-1397
7 and 75-52,148 and repealing the existing sections; also repealing
8 K.S.A. 2014 Supp. 21-5401, 21-6614e, 21-6617 and 21-6619.

9
10 *Be it enacted by the Legislature of the State of Kansas:*

11 New Section. 1. (a) No person shall be sentenced to death for a crime
12 committed on or after July 1, 2015.

13 (b) Any person who is sentenced to death for a crime committed prior
14 to July 1, 2015, may be put to death pursuant to the provisions of article 40
15 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

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

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

19 (1) Intentional and premeditated killing of any person in the
20 commission of kidnapping, as defined in K.S.A. 2014 Supp. 21-5408, and
21 amendments thereto, or aggravating kidnapping, as defined in K.S.A. 2014
22 Supp. 21-5408(b), and amendments thereto, when the kidnapping or
23 aggravated kidnapping was committed with the intent to hold such person
24 for ransom;

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

28 (3) intentional and premeditated killing of any person by an inmate or
29 prisoner confined in a state correctional institution, community
30 correctional institution or jail or while in the custody of an officer or
31 employee of a state correctional institution, community correctional
32 institution or jail;

33 (4) intentional and premeditated killing of the victim of one of the
34 following crimes in the commission of, or subsequent to, such crime:
35 Rape, as defined in K.S.A. 2014 Supp. 21-5503, and amendments thereto,
36 criminal sodomy, as defined in K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4),

1 and amendments thereto, or aggravated criminal sodomy, as defined in
2 K.S.A. 2014 Supp. 21-5504(b), and amendments thereto, or any attempt
3 thereof, as defined in K.S.A. 2014 Supp. 21-5301, and amendments
4 thereto;

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

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

10 (7) intentional and premeditated killing of a child under the age of 14
11 in the commission of kidnapping, as defined in K.S.A. 2014 Supp. 21-
12 5408(a), and amendments thereto, or aggravated kidnapping, as defined in
13 K.S.A. 2014 Supp. 21-5408(b), and amendments thereto, when the
14 kidnapping or aggravated kidnapping was committed with intent to
15 commit a sex offense upon or with the child or with intent that the child
16 commit or submit to a sex offense.

17 (b) For purposes of this section, "sex offense" means rape, as defined
18 in K.S.A. 2014 Supp. 21-5503, and amendments thereto, aggravated
19 indecent liberties with a child, as defined in K.S.A. 2014 Supp. 21-
20 5506(b), and amendments thereto, aggravated criminal sodomy, as defined
21 in K.S.A. 2014 Supp. 21-5504(b), and amendments thereto, prostitution, as
22 defined in K.S.A. 2014 Supp. 21-6419, and amendments thereto,
23 promoting prostitution, as defined in K.S.A. 2014 Supp. 21-6420, and
24 amendments thereto, or sexual exploitation of a child, as defined in K.S.A.
25 2014 Supp. 21-5510, and amendments thereto.

26 (c) Notwithstanding K.S.A. 2014 Supp. 21-5109(b)(1) or (b)(2), and
27 amendments thereto, when the same conduct of a defendant may establish
28 the commission of aggravated murder and the commission of another
29 crime under the laws of this state, the defendant may be prosecuted and
30 sentenced for each of such crimes.

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

32 (e) This section shall be part of and supplemental to the Kansas
33 criminal code.

34 New Sec. 3. (a) When it is provided by law that a person shall be
35 sentenced pursuant to this section, such person shall be sentenced to
36 imprisonment for life without the possibility of parole. A defendant who is
37 sentenced to imprisonment for life without the possibility of parole shall
38 spend the remainder of the defendant's natural life incarcerated and in the
39 custody of the secretary of corrections. A defendant who is sentenced to
40 imprisonment for life without the possibility of parole shall not be eligible
41 for commutation of sentence, parole, probation, assignment to a
42 community correctional services program, conditional release, postrelease
43 supervision, functional incapacitation release pursuant to K.S.A. 22-3728,

1 and amendments thereto, or suspension, modification or reduction of
2 sentence. Upon sentencing a defendant to imprisonment for life without
3 the possibility of parole, the court shall commit the defendant to the
4 custody of the secretary of corrections and the court shall state in the
5 sentencing order of the judgment form or journal entry, whichever is
6 delivered with the defendant to the correctional institution, that the
7 defendant has been sentenced to imprisonment for life without the
8 possibility of parole.

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

11 Sec. 4. K.S.A. 2014 Supp. 21-5419 is hereby amended to read as
12 follows: 21-5419. (a) As used in this section:

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

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

17 (b) This section shall not apply to:

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

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

22 (3) the lawful dispensation or administration of lawfully prescribed
23 medication.

24 (c) As used in K.S.A. 2014 Supp. ~~21-5401~~, 21-5402, 21-5403, 21-
25 5404, 21-5405, 21-5406 and subsections (a) and (b) of, 21-5413(a) and (b)
26 and section 2, and amendments thereto, "person" and "human being" also
27 mean an unborn child.

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

29 Sec. 5. K.S.A. 2014 Supp. 21-6614 is hereby amended to read as
30 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d),
31 (e) and (f), any person convicted in this state of a traffic infraction,
32 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
33 for crimes committed on or after July 1, 1993, nondrug crimes ranked in
34 severity levels 6 through 10, or for crimes committed on or after July 1,
35 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the
36 drug grid, or for crimes committed on or after July 1, 2012, any felony
37 ranked in severity level 5 of the drug grid may petition the convicting
38 court for the expungement of such conviction or related arrest records if
39 three or more years have elapsed since the person: (A) Satisfied the
40 sentence imposed; or (B) was discharged from probation, a community
41 correctional services program, parole, postrelease supervision, conditional
42 release or a suspended sentence.

43 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any

1 person who has fulfilled the terms of a diversion agreement may petition
2 the district court for the expungement of such diversion agreement and
3 related arrest records if three or more years have elapsed since the terms of
4 the diversion agreement were fulfilled.

5 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
6 3512, prior to its repeal, convicted of a violation of K.S.A. 2014 Supp. 21-
7 6419, and amendments thereto, or who entered into a diversion agreement
8 in lieu of further criminal proceedings for such violation, may petition the
9 convicting court for the expungement of such conviction or diversion
10 agreement and related arrest records if:

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

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

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

33 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
34 repeal, or K.S.A. 2014 Supp. 21-5406, and amendments thereto, or as
35 prohibited by any law of another state which is in substantial conformity
36 with that statute;

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

42 (3) perjury resulting from a violation of K.S.A. 8-261a, and
43 amendments thereto, or resulting from the violation of a law of another

1 state which is in substantial conformity with that statute;

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

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

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

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

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

15 (d) No person may petition for expungement until seven or more
16 years have elapsed since the person satisfied the sentence imposed or the
17 terms of a diversion agreement or was discharged from probation, a
18 community correctional services program, parole, postrelease supervision,
19 conditional release or a suspended sentence, if such person was convicted
20 of a violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and
21 amendments thereto, including any diversion for such violation.

22 (e) There shall be no expungement of convictions for the following
23 offenses or of convictions for an attempt to commit any of the following
24 offenses:

25 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
26 2014 Supp. 21-5503, and amendments thereto;

27 (2) indecent liberties with a child or aggravated indecent liberties
28 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
29 or K.S.A. 2014 Supp. 21-5506, and amendments thereto;

30 (3) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~
31 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or~~
32 ~~(a)(4) of~~ K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4), and amendments
33 thereto;

34 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
35 to its repeal, or K.S.A. 2014 Supp. 21-5504, and amendments thereto;

36 (5) indecent solicitation of a child or aggravated indecent solicitation
37 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
38 or K.S.A. 2014 Supp. 21-5508, and amendments thereto;

39 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
40 to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto;

41 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
42 repeal, or K.S.A. 2014 Supp. 21-5604, and amendments thereto;

43 (8) endangering a child or aggravated endangering a child, as defined

1 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2014 Supp.
2 21-5601, and amendments thereto;

3 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
4 or K.S.A. 2014 Supp. 21-5602, and amendments thereto;

5 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
6 or K.S.A. 2014 Supp. 21-5401, ~~and amendments thereto~~ prior to its repeal;

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

9 ~~(11)~~ (12) murder in the first degree, as defined in K.S.A. 21-3401,
10 prior to its repeal, or K.S.A. 2014 Supp. 21-5402, and amendments
11 thereto;

12 ~~(12)~~ (13) murder in the second degree, as defined in K.S.A. 21-3402,
13 prior to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments
14 thereto;

15 ~~(13)~~ (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
16 to its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto;

17 ~~(14)~~ (15) involuntary manslaughter, as defined in K.S.A. 21-3404,
18 prior to its repeal, or K.S.A. 2014 Supp. 21-5405, and amendments
19 thereto;

20 ~~(15)~~ (16) sexual battery, as defined in K.S.A. 21-3517, prior to its
21 repeal, or K.S.A. 2014 Supp. 21-5505, and amendments thereto, when the
22 victim was less than 18 years of age at the time the crime was committed;

23 ~~(16)~~ (17) aggravated sexual battery, as defined in K.S.A. 21-3518,
24 prior to its repeal, or K.S.A. 2014 Supp. 21-5505, and amendments
25 thereto;

26 ~~(17)~~ (18) a violation of K.S.A. 8-2,144, and amendments thereto,
27 including any diversion for such violation; or

28 ~~(18)~~ (19) any conviction for any offense in effect at any time prior to
29 July 1, 2011, that is comparable to any offense as provided in this
30 subsection.

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

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

41 (A) Defendant's full name;

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

- 1 (C) defendant's sex, race and date of birth;
2 (D) crime for which the defendant was arrested, convicted or
3 diverted;
4 (E) date of the defendant's arrest, conviction or diversion; and
5 (F) identity of the convicting court, arresting law enforcement
6 authority or diverting authority.

7 (2) Except as otherwise provided by law, a petition for expungement
8 shall be accompanied by a docket fee in the amount of ~~\$100~~ \$176. On and
9 after July 1, 2013, through July 1, 2015, the supreme court may impose a
10 charge, not to exceed \$19 per case, to fund the costs of non-judicial
11 personnel. The charge established in this section shall be the only fee
12 collected or moneys in the nature of a fee collected for the case. Such
13 charge shall only be established by an act of the legislature and no other
14 authority is established by law or otherwise to collect a fee.

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

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

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

26 (2) the circumstances and behavior of the petitioner warrant the
27 expungement; and

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

29 (i) When the court has ordered an arrest record, conviction or
30 diversion expunged, the order of expungement shall state the information
31 required to be contained in the petition. The clerk of the court shall send a
32 certified copy of the order of expungement to the Kansas bureau of
33 investigation which shall notify the federal bureau of investigation, the
34 secretary of corrections and any other criminal justice agency which may
35 have a record of the arrest, conviction or diversion. After the order of
36 expungement is entered, the petitioner shall be treated as not having been
37 arrested, convicted or diverted of the crime, except that:

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

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

43 (A) In any application for licensure as a private detective, private

1 detective agency, certification as a firearms trainer pursuant to K.S.A.
2 2014 Supp. 75-7b21, and amendments thereto, or employment as a
3 detective with a private detective agency, as defined by K.S.A. 75-7b01,
4 and amendments thereto; as security personnel with a private patrol
5 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
6 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
7 the Kansas department for aging and disability services;

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

10 (C) to aid in determining the petitioner's qualifications for
11 employment with the Kansas lottery or for work in sensitive areas within
12 the Kansas lottery as deemed appropriate by the executive director of the
13 Kansas lottery;

14 (D) to aid in determining the petitioner's qualifications for executive
15 director of the Kansas racing and gaming commission, for employment
16 with the commission or for work in sensitive areas in parimutuel racing as
17 deemed appropriate by the executive director of the commission, or to aid
18 in determining qualifications for licensure or renewal of licensure by the
19 commission;

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

25 (F) upon application for a commercial driver's license under K.S.A. 8-
26 2,125 through 8-2,142, and amendments thereto;

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

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

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

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

37 (K) for applications received on and after July 1, 2006, to aid in
38 determining the petitioner's qualifications for a license to carry a concealed
39 weapon pursuant to the personal and family protection act, K.S.A. 2014
40 Supp. 75-7c01 et seq., and amendments thereto;

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

43 (4) the conviction may be disclosed in a subsequent prosecution for

1 an offense which requires as an element of such offense a prior conviction
2 of the type expunged; and

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

7 (j) Whenever a person is convicted of a crime, pleads guilty and pays
8 a fine for a crime, is placed on parole, postrelease supervision or
9 probation, is assigned to a community correctional services program, is
10 granted a suspended sentence or is released on conditional release, the
11 person shall be informed of the ability to expunge the arrest records or
12 conviction. Whenever a person enters into a diversion agreement, the
13 person shall be informed of the ability to expunge the diversion.

14 (k) (1) Subject to the disclosures required pursuant to subsection (i),
15 in any application for employment, license or other civil right or privilege,
16 or any appearance as a witness, a person whose arrest records, conviction
17 or diversion of a crime has been expunged under this statute may state that
18 such person has never been arrested, convicted or diverted of such crime.

19 (2) Notwithstanding the provisions of subsection (k)(1), and except as
20 provided in ~~subsection (a)(3)(A) of K.S.A. 2014 Supp. 21-6304(a)(3)(A)~~,
21 and amendments thereto, the expungement of a prior felony conviction
22 does not relieve the individual of complying with any state or federal law
23 relating to the use, shipment, transportation, receipt or possession of
24 firearms by persons previously convicted of a felony.

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

30 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

29 (11) the Kansas sentencing commission;

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

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

41 (14) the Kansas commission on peace officers' standards and training
42 and the request is accompanied by a statement that the request is being
43 made to aid in determining certification eligibility as a law enforcement

1 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

2 (15) a law enforcement agency and the request is accompanied by a
3 statement that the request is being made to aid in determining eligibility
4 for employment as a law enforcement officer as defined by K.S.A. 22-
5 2202, and amendments thereto;

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

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

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

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

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

19 Sec. 6. K.S.A. 2014 Supp. 21-6618 is hereby amended to read as
20 follows: 21-6618. Upon conviction of a defendant of ~~capital~~ *aggravated*
21 murder and a finding that the defendant was less than 18 years of age at
22 the time of the commission thereof, the court shall sentence the defendant
23 as otherwise provided by law, and no sentence of ~~death~~ or life without the
24 possibility of parole shall be imposed ~~hereunder~~.

25 Sec. 7. K.S.A. 2014 Supp. 21-6620 is hereby amended to read as
26 follows: 21-6620. (a) (1) Except as provided in subsection (a)(2) and
27 K.S.A. 2014 Supp. 21-6618 and 21-6622, and amendments thereto, if a
28 defendant is convicted of the crime of ~~capital murder and a sentence of~~
29 ~~death is not imposed pursuant to subsection (c) of K.S.A. 2014 Supp. 21-~~
30 ~~6617, and amendments thereto, or requested pursuant to subsection (a) or~~
31 ~~(b) of K.S.A. 2014 Supp. 21-6617, and amendments thereto, aggravated~~
32 *murder*, the defendant shall be sentenced to life without the possibility of
33 parole *pursuant to section 3, and amendments thereto*.

34 (2) (A) Except as provided in subsection (a)(2)(B), a defendant
35 convicted of attempt to commit the crime of ~~capital~~ *aggravated* murder
36 shall be sentenced to imprisonment for life and shall not be eligible for
37 probation or suspension, modification or reduction of sentence. In
38 addition, the defendant shall not be eligible for parole prior to serving 25
39 years' imprisonment, and such 25 years' imprisonment shall not be reduced
40 by the application of good time credits. No other sentence shall be
41 permitted.

42 (B) The provisions of subsection (a)(2)(A) requiring the court to
43 impose a mandatory minimum term of imprisonment of 25 years shall not

1 apply if the court finds the defendant, because of the defendant's criminal
2 history classification, is subject to presumptive imprisonment pursuant to
3 the sentencing guidelines grid for nondrug crimes and the sentencing range
4 exceeds 300 months. In such case, the defendant is required to serve a
5 mandatory minimum term equal to the sentence established pursuant to the
6 sentencing range.

7 (b) The provisions of this subsection shall apply only to the crime of
8 murder in the first degree as described in ~~subsection (a)(2)~~ of K.S.A. 2014
9 Supp. 21-5402(a)(2), and amendments thereto, committed on or after July
10 1, 2014.

11 (1) Except as provided in subsection (b)(2), a defendant convicted of
12 murder in the first degree as described in ~~subsection (a)(2)~~ of K.S.A. 2014
13 Supp. 21-5402(a)(2), and amendments thereto, shall be sentenced to
14 imprisonment for life and shall not be eligible for probation or suspension,
15 modification or reduction of sentence. In addition, the defendant shall not
16 be eligible for parole prior to serving 25 years' imprisonment, and such 25
17 years' imprisonment shall not be reduced by the application of good time
18 credits. No other sentence shall be permitted.

19 (2) The provisions of subsection (b)(1) requiring the court to impose a
20 mandatory minimum term of imprisonment of 25 years shall not apply if
21 the court finds the defendant, because of the defendant's criminal history
22 classification, is subject to presumptive imprisonment pursuant to the
23 sentencing guidelines grid for nondrug crimes and the sentencing range
24 exceeds 300 months. In such case, the defendant is required to serve a
25 mandatory minimum term equal to the sentence established pursuant to the
26 sentencing range.

27 (c) The provisions of this subsection shall apply only to the crime of
28 murder in the first degree based upon the finding of premeditated murder
29 committed on or after July 1, 2014.

30 (1) (A) Except as provided in subsection (c)(1)(B), a defendant
31 convicted of murder in the first degree based upon the finding of
32 premeditated murder shall be sentenced pursuant to K.S.A. 2014 Supp. 21-
33 6623, and amendments thereto, unless the sentencing judge finds
34 substantial and compelling reasons, following a review of mitigating
35 circumstances, to impose the sentence specified in subsection (c)(2).

36 (B) The provisions of subsection (c)(1)(A) requiring the court to
37 impose the mandatory minimum term of imprisonment required by K.S.A.
38 2014 Supp. 21-6623, and amendments thereto, shall not apply if the court
39 finds the defendant, because of the defendant's criminal history
40 classification, is subject to presumptive imprisonment pursuant to the
41 sentencing guidelines grid for nondrug crimes and the sentencing range
42 exceeds 600 months. In such case, the defendant is required to serve a
43 mandatory minimum term equal to the sentence established pursuant to the

1 sentencing range.

2 (2) (A) If the sentencing judge does not impose the mandatory
3 minimum term of imprisonment required by K.S.A. 2014 Supp. 21-6623,
4 and amendments thereto, the judge shall state on the record at the time of
5 sentencing the substantial and compelling reasons therefor, and, except as
6 provided in subsection (c)(2)(B), the defendant shall be sentenced to
7 imprisonment for life and shall not be eligible for probation or suspension,
8 modification or reduction of sentence. In addition, the defendant shall not
9 be eligible for parole prior to serving 25 years' imprisonment, and such 25
10 years' imprisonment shall not be reduced by the application of good time
11 credits. No other sentence shall be permitted.

12 (B) The provisions of subsection (c)(2)(A) requiring the court to
13 impose a mandatory minimum term of imprisonment of 25 years shall not
14 apply if the court finds the defendant, because of the defendant's criminal
15 history classification, is subject to presumptive imprisonment pursuant to
16 the sentencing guidelines grid for nondrug crimes and the sentencing range
17 exceeds 300 months. In such case, the defendant is required to serve a
18 mandatory minimum term equal to the sentence established pursuant to the
19 sentencing range.

20 (d) The provisions of this subsection shall apply only to the crime of
21 murder in the first degree based upon the finding of premeditated murder
22 committed on or after September 6, 2013.

23 (1) If a defendant is convicted of murder in the first degree based
24 upon the finding of premeditated murder, upon reasonable notice by the
25 prosecuting attorney, the court shall determine, in accordance with this
26 subsection, whether the defendant shall be required to serve a mandatory
27 minimum term of imprisonment of 50 years or sentenced as otherwise
28 provided by law.

29 (2) The court shall conduct a separate proceeding following the
30 determination of the defendant's guilt for the jury to determine whether
31 one or more aggravating circumstances exist. Such proceeding shall be
32 conducted by the court before a jury as soon as practicable. If any person
33 who served on the trial jury is unable to serve on the jury for the
34 proceeding, the court shall substitute an alternate juror who has been
35 impaneled for the trial jury. If there are insufficient alternate jurors to
36 replace trial jurors who are unable to serve at the proceeding, the court
37 may conduct such proceeding before a jury which may have 12 or less
38 jurors, but at no time less than six jurors. If the jury has been discharged
39 prior to the proceeding, a new jury shall be impaneled. Any decision of the
40 jury regarding the existence of an aggravating circumstance shall be
41 beyond a reasonable doubt. Jury selection procedures, qualifications of
42 jurors and grounds for exemption or challenge of prospective jurors in
43 criminal trials shall be applicable to the selection of such jury. The jury at

1 the proceeding may be waived in the manner provided by K.S.A. 22-3403,
2 and amendments thereto, for waiver of a trial jury. If the jury at the
3 proceeding has been waived, such proceeding shall be conducted by the
4 court.

5 (3) In the proceeding, evidence may be presented concerning any
6 matter relating to any of the aggravating circumstances enumerated in
7 K.S.A. 2014 Supp. 21-6624, and amendments thereto. Only such evidence
8 of aggravating circumstances as the prosecuting attorney has made known
9 to the defendant prior to the proceeding shall be admissible and no
10 evidence secured in violation of the constitution of the United States or of
11 the state of Kansas shall be admissible. No testimony by the defendant at
12 the time of the proceeding shall be admissible against the defendant at any
13 subsequent criminal proceeding. At the conclusion of the evidentiary
14 presentation, the court shall allow the parties a reasonable period of time in
15 which to present oral argument.

16 (4) At the conclusion of the evidentiary portion of the proceeding, the
17 court shall provide oral and written instructions to the jury to guide its
18 deliberations. If the prosecuting attorney relies on ~~subsection (a)~~ of K.S.A.
19 2014 Supp. 21-6624(a), and amendments thereto, as an aggravating
20 circumstance, and the court finds that one or more of the defendant's prior
21 convictions satisfy such subsection, the jury shall be instructed that a
22 certified journal entry of a prior conviction is presumed to prove the
23 existence of such prior conviction or convictions beyond a reasonable
24 doubt.

25 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
26 that one or more of the aggravating circumstances enumerated in K.S.A.
27 2014 Supp. 21-6624, and amendments thereto, exist, the jury shall
28 designate, in writing, signed by the foreman of the jury, the statutory
29 aggravating circumstances which it found. If, after a reasonable time for
30 deliberation, the jury is unable to reach a unanimous sentencing decision,
31 the court shall dismiss the jury and the defendant shall be sentenced as
32 provided by law. In nonjury cases, the court shall designate, in writing, the
33 specific circumstance or circumstances which the court found beyond a
34 reasonable doubt.

35 (6) If one or more of the aggravating circumstances enumerated in
36 K.S.A. 2014 Supp. 21-6624, and amendments thereto, are found to exist
37 beyond a reasonable doubt pursuant to this subsection, the defendant shall
38 be sentenced pursuant to K.S.A. 2014 Supp. 21-6623, and amendments
39 thereto, unless the sentencing judge finds substantial and compelling
40 reasons, following a review of mitigating circumstances, to impose the
41 sentence specified in this paragraph. If the sentencing judge does not
42 impose the mandatory minimum term of imprisonment required by K.S.A.
43 2014 Supp. 21-6623, and amendments thereto, the judge shall state on the

1 record at the time of sentencing the substantial and compelling reasons
2 therefor, and the defendant shall be sentenced to imprisonment for life and
3 shall not be eligible for probation or suspension, modification or reduction
4 of sentence. In addition, the defendant shall not be eligible for parole prior
5 to serving 25 years' imprisonment, and such 25 years' imprisonment shall
6 not be reduced by the application of good time credits. No other sentence
7 shall be permitted.

8 (e) The provisions of this subsection shall apply only to the crime of
9 murder in the first degree based upon the finding of premeditated murder
10 committed prior to September 6, 2013.

11 (1) If a defendant is convicted of murder in the first degree based
12 upon the finding of premeditated murder, upon reasonable notice by the
13 prosecuting attorney, the court shall conduct a separate sentencing
14 proceeding in accordance with this subsection to determine whether the
15 defendant shall be required to serve a mandatory minimum term of
16 imprisonment of 40 years or for crimes committed on and after July 1,
17 1999, a mandatory minimum term of imprisonment of 50 years or
18 sentenced as otherwise provided by law.

19 (2) The sentencing proceeding shall be conducted by the court before
20 a jury as soon as practicable. If the trial jury has been discharged prior to
21 sentencing, a new jury shall be impaneled. Any decision to impose a
22 mandatory minimum term of imprisonment of 40 or 50 years shall be by a
23 unanimous jury. Jury selection procedures, qualifications of jurors and
24 grounds for exemption or challenge of prospective jurors in criminal trials
25 shall be applicable to the selection of such jury. The jury at the sentencing
26 proceeding may be waived in the manner provided by K.S.A. 22-3403, and
27 amendments thereto, for waiver of a trial jury. If the jury at the sentencing
28 proceeding has been waived, such proceeding shall be conducted by the
29 court.

30 (3) In the sentencing proceeding, evidence may be presented
31 concerning any matter that the court deems relevant to the question of
32 sentence and shall include matters relating to any of the aggravating
33 circumstances enumerated in K.S.A. 2014 Supp. 21-6624, and
34 amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.
35 21-4636, prior to its repeal, and any mitigating circumstances. Any such
36 evidence which the court deems to have probative value may be received
37 regardless of its admissibility under the rules of evidence, provided that
38 the defendant is accorded a fair opportunity to rebut any hearsay
39 statements. Only such evidence of aggravating circumstances as the
40 prosecuting attorney has made known to the defendant prior to the
41 sentencing proceeding shall be admissible and no evidence secured in
42 violation of the constitution of the United States or of the state of Kansas
43 shall be admissible. Only such evidence of mitigating circumstances

1 subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto,
2 that the defendant has made known to the prosecuting attorney prior to the
3 sentencing proceeding shall be admissible. No testimony by the defendant
4 at the time of sentencing shall be admissible against the defendant at any
5 subsequent criminal proceeding. At the conclusion of the evidentiary
6 presentation, the court shall allow the parties a reasonable period of time in
7 which to present oral argument.

8 (4) At the conclusion of the evidentiary portion of the sentencing
9 proceeding, the court shall provide oral and written instructions to the jury
10 to guide its deliberations. If the prosecuting attorney relies on ~~subsection~~
11 ~~(a) of K.S.A. 2014 Supp. 21-6624(a), and amendments thereto, or for~~
12 ~~crimes committed prior to July 1, 2011, subsection (a) of K.S.A. 21-~~
13 ~~4636(a), prior to its repeal, as an aggravating circumstance, and the court~~
14 ~~finds that one or more of the defendant's prior convictions satisfy such~~
15 ~~subsection, the jury shall be instructed that a certified journal entry of a~~
16 ~~prior conviction is presumed to prove the existence of such prior~~
17 ~~conviction or convictions beyond a reasonable doubt.~~

18 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
19 that one or more of the aggravating circumstances enumerated in K.S.A.
20 2014 Supp. 21-6624, and amendments thereto, or for crimes committed
21 prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further,
22 that the existence of such aggravating circumstances is not outweighed by
23 any mitigating circumstances which are found to exist, the defendant shall
24 be sentenced pursuant to K.S.A. 2014 Supp. 21-6623, and amendments
25 thereto; otherwise, the defendant shall be sentenced as provided by law.
26 The sentencing jury shall designate, in writing, signed by the foreman of
27 the jury, the statutory aggravating circumstances which it found. ~~The trier~~
28 ~~of fact may make the findings required by this subsection for the purpose~~
29 ~~of determining whether to sentence a defendant pursuant to K.S.A. 2014~~
30 ~~Supp. 21-6623, and amendments thereto, notwithstanding contrary~~
31 ~~findings made by the jury or court pursuant to subsection (e) of K.S.A.~~
32 ~~2014 Supp. 21-6617, and amendments thereto, for the purpose of~~
33 ~~determining whether to sentence such defendant to death. If, after a~~
34 ~~reasonable time for deliberation, the jury is unable to reach a unanimous~~
35 ~~sentencing decision, the court shall dismiss the jury and the defendant~~
36 ~~shall be sentenced as provided by law. In nonjury cases, the court shall~~
37 ~~designate in writing the specific circumstance or circumstances which the~~
38 ~~court found beyond a reasonable doubt.~~

39 (f) The amendments to subsection (e) by chapter 1 of the 2013
40 Session Laws of Kansas (Special Session):

41 (1) Establish a procedural rule for sentencing proceedings, and as
42 such shall be construed and applied retroactively to all crimes committed
43 prior to the effective date of this act, except as provided further in this

1 subsection; (2) shall not apply to cases in which the defendant's conviction
2 and sentence were final prior to June 17, 2013, unless the conviction or
3 sentence has been vacated in a collateral proceeding, including, but not
4 limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3)
5 shall apply only in sentencing proceedings otherwise authorized by law.

6 (g) Notwithstanding the provisions of subsection (h), for all cases on
7 appeal on or after September 6, 2013, if a sentence imposed under this
8 section, prior to amendment by chapter 1 of the 2013 Session Laws of
9 Kansas (Special Session), or under K.S.A. 21-4635, prior to its repeal, is
10 vacated for any reason other than sufficiency of the evidence as to all
11 aggravating circumstances, resentencing shall be required under this
12 section, as amended by chapter 1 of the 2013 Session Laws of Kansas
13 (Special Session), unless the prosecuting attorney chooses not to pursue
14 such a sentence.

15 (h) In the event any sentence imposed under this section is held to be
16 unconstitutional, the court having jurisdiction over a person previously
17 sentenced shall cause such person to be brought before the court and shall
18 sentence such person to the maximum term of imprisonment otherwise
19 provided by law.

20 (i) If any provision or provisions of this section or the application
21 thereof to any person or circumstance is held invalid, the invalidity shall
22 not affect other provisions or applications of this section which can be
23 given effect without the invalid provision or provisions or application, and
24 to this end the provisions of this section are severable.

25 Sec. 8. K.S.A. 2014 Supp. 21-6622 is hereby amended to read as
26 follows: 21-6622. (a) ~~If, under K.S.A. 2014 Supp. 21-6617, and~~
27 ~~amendments thereto, the county or district attorney has filed a notice of~~
28 ~~intent to request a separate sentencing proceeding to determine whether~~
29 ~~the defendant should be sentenced to death and the defendant is convicted~~
30 ~~of the crime of capital murder, the defendant's counsel or the warden of the~~
31 ~~correctional institution or sheriff having custody of the defendant may~~
32 ~~request a determination by the court of whether the defendant is a person~~
33 ~~with intellectual disability. If the court determines that there is not~~
34 ~~sufficient reason to believe that the defendant is a person with intellectual~~
35 ~~disability, the court shall so find and the defendant shall be sentenced in~~
36 ~~accordance with K.S.A. 2014 Supp. 21-6617, 21-6619, 21-6624, 21-6625,~~
37 ~~21-6628 and 21-6629, and amendments thereto. If the court determines~~
38 ~~that there is sufficient reason to believe that the defendant is a person with~~
39 ~~intellectual disability, the court shall conduct a hearing to determine~~
40 ~~whether the defendant is a person with intellectual disability.~~

41 (b) ~~If a defendant is convicted of the crime of capital murder and a~~
42 ~~sentence of death is not imposed~~ *aggravated murder*, or if a defendant is
43 convicted of the crime of murder in the first degree based upon the finding

1 of premeditated murder, the defendant's counsel or the warden of the
2 correctional institution or sheriff having custody of the defendant may
3 request a determination by the court of whether the defendant is a person
4 with intellectual disability. If the court determines that there is not
5 sufficient reason to believe that the defendant is a person with intellectual
6 disability, the court shall so find and the defendant shall be sentenced in
7 accordance with K.S.A. 2014 Supp. 21-6620, 21-6623, 21-6624 and 21-
8 6625, and amendments thereto. If the court determines that there is
9 sufficient reason to believe that the defendant is a person with intellectual
10 disability, the court shall conduct a hearing to determine whether the
11 defendant is a person with intellectual disability.

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

24 ~~(d) If, at the conclusion of a hearing pursuant to subsection (a), the~~
25 ~~court determines that the defendant is not a person with intellectual~~
26 ~~disability, the defendant shall be sentenced in accordance with K.S.A.~~
27 ~~2014 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629,~~
28 ~~and amendments thereto.~~

29 ~~(e) (c) If, at the conclusion of a hearing pursuant to subsection (b) this~~
30 ~~section, the court determines that the defendant is not a person with~~
31 ~~intellectual disability, the defendant shall be sentenced in accordance with~~
32 ~~K.S.A. 2014 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and~~
33 ~~amendments thereto.~~

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

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

43 (h) (e) As used in this section, "intellectual disability" means having

1 significantly subaverage general intellectual functioning, as defined by
2 K.S.A. 76-12b01, and amendments thereto, to an extent which
3 substantially impairs one's capacity to appreciate the criminality of one's
4 conduct or to conform one's conduct to the requirements of law.

5 Sec. 9. K.S.A. 2014 Supp. 21-6628 is hereby amended to read as
6 follows: 21-6628. (a) In the event the term of imprisonment for life
7 without the possibility of parole or any provision of K.S.A. 2014 Supp. 21-
8 6626 or 21-6627, and amendments thereto, authorizing such term is held to
9 be unconstitutional by the supreme court of Kansas or the United States
10 supreme court, the court having jurisdiction over a person previously
11 sentenced shall cause such person to be brought before the court and shall
12 modify the sentence to require no term of imprisonment for life without
13 the possibility of parole and shall sentence the defendant to the maximum
14 term of imprisonment otherwise provided by law.

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

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

30 Sec. 10. K.S.A. 2014 Supp. 21-6629 is hereby amended to read as
31 follows: 21-6629. (a) The provisions of K.S.A. 21-4622 through 21-4630,
32 as they existed immediately prior to July 1, 1994, shall be applicable only
33 to persons convicted of crimes committed on or after July 1, 1990, and
34 before July 1, 1994.

35 (b) The provisions of K.S.A. 21-4622 through 21-4627 and 21-4629
36 and 21-4630, as amended on July 1, 1994 and prior to their repeal, and
37 K.S.A. 2014 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-
38 6625 and ~~subsection (b) of 21-6628(b), and amendments thereto as they~~
39 ~~existed immediately prior to July 1, 2015,~~ shall be applicable only to
40 persons convicted of crimes committed on or after July 1, 1994, *and*
41 *before July 1, 2015.*

42 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.
43 2014 Supp. 21-6620 through 21-6625 and ~~subsection (e) of 21-6628(c),~~

1 ~~and amendments thereto~~ as they existed immediately prior to July 1, 2015,
2 shall be applicable only to persons convicted of crimes committed on or
3 after July 1, 1994, *and before July 1, 2015.*

4 *(d) The provisions of K.S.A. 2014 Supp. 21-6618, 21-6620, 21-6622*
5 *and 21-6628, as amended on July 1, 2015, and K.S.A. 2014 Supp. 21-*
6 *6621, 21-6623, 21-6624 and 21-6625, and amendments thereto, shall be*
7 *applicable only to persons convicted of crimes committed on or after July*
8 *1, 2015.*

9 Sec. 11. K.S.A. 2014 Supp. 21-6806 is hereby amended to read as
10 follows: 21-6806. (a) Sentences of imprisonment shall represent the time a
11 person shall actually serve, subject to a reduction of the primary sentence
12 for good time as authorized by K.S.A. 2014 Supp. 21-6821, and
13 amendments thereto.

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

15 (c) Violations of K.S.A. 2014 Supp. ~~21-5401, 21-5402, 21-5421, 21-~~
16 ~~5422 and 21-5901, and amendments thereto, are off-grid crimes for the~~
17 ~~purpose of sentencing. Except as otherwise provided by K.S.A. 2014~~
18 ~~Supp. ~~21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-6625, 21-6628~~~~
19 ~~and 21-6629, and amendments thereto, the sentence shall be imprisonment~~
20 ~~for life and shall not be subject to statutory provisions for suspended~~
21 ~~sentence, community service or probation.~~

22 (d) As identified in K.S.A. 2014 Supp. 21-5426, 21-5503, 21-5504,
23 21-5506, 21-5510 and 21-6422, and amendments thereto, if the offender is
24 18 years of age or older and the victim is under 14 years of age, such
25 violations are off-grid crimes for the purposes of sentencing. Except as
26 provided in K.S.A. 2014 Supp. 21-6626, and amendments thereto, the
27 sentence shall be imprisonment for life pursuant to K.S.A. 2014 Supp. 21-
28 6627, and amendments thereto.

29 *(e) A violation of section 2, and amendments thereto, is an off-grid*
30 *crime for the purposes of sentencing. Except as provided in K.S.A. 2014*
31 *Supp. 21-6618 and 21-6622, and amendments thereto, the sentence shall*
32 *be imprisonment for life without the possibility of parole pursuant to*
33 *section 3, and amendments thereto.*

34 Sec. 12. K.S.A. 2014 Supp. 22-3717 is hereby amended to read as
35 follows: 22-3717. (a) Except as otherwise provided by this section: K.S.A.
36 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
37 21-4638 and 21-4642, prior to their repeal; K.S.A. 2014 Supp. 21-6617,
38 *prior to its repeal, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and*
39 *amendments thereto; section 3, and amendments thereto; and K.S.A. 8-*
40 *1567, and amendments thereto; an inmate, including an inmate sentenced*
41 *pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2014 Supp. 21-*
42 *6707, and amendments thereto, shall be eligible for parole after serving the*
43 *entire minimum sentence imposed by the court, less good time credits.*

1 (b) (1) An inmate sentenced to imprisonment for life without the
2 possibility of parole pursuant to K.S.A. 2014 Supp. 21-6617, and
3 amendments thereto, shall not be eligible for parole.

4 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
5 their repeal, and K.S.A. 2014 Supp. 21-6620, 21-6623, 21-6624 and 21-
6 6625, and amendments thereto, an inmate sentenced to imprisonment for
7 the crime of: (A) Capital murder committed on or after July 1, 1994, shall
8 be eligible for parole after serving 25 years of confinement, without
9 deduction of any good time credits; (B) murder in the first degree based
10 upon a finding of premeditated murder committed on or after July 1, 1994,
11 but prior to July 1, 2014, shall be eligible for parole after serving 25 years
12 of confinement, without deduction of any good time credits; and (C)
13 murder in the first degree as described in ~~subsection (a)(2)~~ of K.S.A. 2014
14 Supp. 21-5402(a)(2), and amendments thereto, committed on or after July
15 1, 2014, shall be eligible for parole after serving 25 years of confinement,
16 without deduction of any good time credits.

17 (3) Except as provided by subsections (b)(1), (b)(2) ~~and~~, (b)(5) *and*
18 (b)(7), K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635
19 through 21-4638, prior to their repeal, and K.S.A. 2014 Supp. 21-6620,
20 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate
21 sentenced to imprisonment for an off-grid offense committed on or after
22 July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after
23 serving 15 years of confinement, without deduction of any good time
24 credits and an inmate sentenced to imprisonment for an off-grid offense
25 committed on or after July 1, 1999, shall be eligible for parole after
26 serving 20 years of confinement without deduction of any good time
27 credits.

28 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
29 repeal, an inmate sentenced for a class A felony committed before July 1,
30 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
31 its repeal, or K.S.A. 2014 Supp. 21-6707, and amendments thereto, shall
32 be eligible for parole after serving 15 years of confinement, without
33 deduction of any good time credits.

34 (5) An inmate sentenced to imprisonment for a violation of
35 ~~subsection (a)~~ of K.S.A. 21-3402(a), prior to its repeal, committed on or
36 after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole
37 after serving 10 years of confinement without deduction of any good time
38 credits.

39 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
40 4643, prior to its repeal, or K.S.A. 2014 Supp. 21-6627, and amendments
41 thereto, committed on or after July 1, 2006, shall be eligible for parole
42 after serving the mandatory term of imprisonment without deduction of
43 any good time credits.

1 (7) *An inmate sentenced to imprisonment for life without the*
2 *possibility of parole pursuant to section 3, and amendments thereto, shall*
3 *not be eligible for parole.*

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

8 (A) The aggregate minimum sentences, as determined pursuant to
9 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2014 Supp. 21-6606, and
10 amendments thereto, less good time credits for those crimes which are not
11 class A felonies; and

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

14 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
15 4643, prior to its repeal, or K.S.A. 2014 Supp. 21-6627, and amendments
16 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
17 eligible for parole after serving the mandatory term of imprisonment.

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

23 (A) Except as provided in subparagraphs (D) and (E), persons
24 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
25 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
26 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
27 July 1, 2012, must serve 36 months on postrelease supervision.

28 (B) Except as provided in subparagraphs (D) and (E), persons
29 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
30 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
31 drug severity level 4 crimes committed on or after July 1, 2012, must serve
32 24 months on postrelease supervision.

33 (C) Except as provided in subparagraphs (D) and (E), persons
34 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
35 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
36 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
37 must serve 12 months on postrelease supervision.

38 (D) Persons sentenced to a term of imprisonment that includes a
39 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
40 amendments thereto, a sexually motivated crime in which the offender has
41 been ordered to register pursuant to ~~subsection (d)(1)(D)(vii)~~ of K.S.A. 22-
42 3717(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A.
43 21-3523, prior to its repeal, or K.S.A. 2014 Supp. 21-5509, and

1 amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to
2 its repeal, or K.S.A. 2014 Supp. 21-5512, and amendments thereto, shall
3 serve the period of postrelease supervision as provided in subsections (d)
4 (1)(A), (d)(1)(B) or (d)(1)(C) plus the amount of good time and program
5 credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal,
6 or K.S.A. 2014 Supp. 21-6821, and amendments thereto, on postrelease
7 supervision.

8 (i) If the sentencing judge finds substantial and compelling reasons to
9 impose a departure based upon a finding that the current crime of
10 conviction was sexually motivated, departure may be imposed to extend
11 the postrelease supervision to a period of up to 60 months.

12 (ii) If the sentencing judge departs from the presumptive postrelease
13 supervision period, the judge shall state on the record at the time of
14 sentencing the substantial and compelling reasons for the departure.
15 Departures in this section are subject to appeal pursuant to K.S.A. 21-
16 4721, prior to its repeal, or K.S.A. 2014 Supp. 21-6820, and amendments
17 thereto.

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

20 (a) Written briefs or oral arguments submitted by either the defendant
21 or the state;

22 (b) any evidence received during the proceeding;

23 (c) the presentence report, the victim's impact statement and any
24 psychological evaluation as ordered by the court pursuant to ~~subsection (e)~~
25 ~~of K.S.A. 21-4714(e), prior to its repeal, or subsection (e) of K.S.A. 2014~~
26 ~~Supp. 21-6813(e), and amendments thereto; and~~

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

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

32 (v) In carrying out the provisions of subsection (d)(1)(D), the court
33 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2014 Supp. 21-
34 6817, and amendments thereto.

35 (vi) Upon petition and payment of any restitution ordered pursuant to
36 K.S.A. 2014 Supp. 21-6604, and amendments thereto, the prisoner review
37 board may provide for early discharge from the postrelease supervision
38 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of
39 court ordered programs and completion of the presumptive postrelease
40 supervision period, as determined by the crime of conviction, pursuant to
41 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
42 postrelease supervision is at the discretion of the board.

43 (vii) Persons convicted of crimes deemed sexually violent or sexually

1 motivated shall be registered according to the offender registration act,
2 K.S.A. 22-4901 through 22-4910, and amendments thereto.

3 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
4 repeal, or K.S.A. 2014 Supp. 21-5508, and amendments thereto, shall be
5 required to participate in a treatment program for sex offenders during the
6 postrelease supervision period.

7 (E) The period of postrelease supervision provided in subparagraphs
8 (A) and (B) may be reduced by up to 12 months and the period of
9 postrelease supervision provided in subparagraph (C) may be reduced by
10 up to six months based on the offender's compliance with conditions of
11 supervision and overall performance while on postrelease supervision. The
12 reduction in the supervision period shall be on an earned basis pursuant to
13 rules and regulations adopted by the secretary of corrections.

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

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

23 (2) Persons serving a period of postrelease supervision pursuant to
24 subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner
25 review board for early discharge. Upon payment of restitution, the prisoner
26 review board may provide for early discharge.

27 (3) Persons serving a period of incarceration for a supervision
28 violation shall not have the period of postrelease supervision modified
29 until such person is released and returned to postrelease supervision.

30 (4) Offenders whose crime of conviction was committed on or after
31 July 1, 2013, and whose probation, assignment to a community
32 correctional services program, suspension of sentence or nonprison
33 sanction is revoked pursuant to ~~subsection (e) of K.S.A. 22-3716(c)~~, and
34 amendments thereto, or whose underlying prison term expires while
35 serving a sanction pursuant to ~~subsection (c)(1)(C) or (c)(1)(D) of K.S.A.~~
36 ~~22-3716(c)(1)(C) or (c)(1)(D)~~, and amendments thereto, shall serve a
37 period of postrelease supervision upon the completion of the underlying
38 prison term.

39 (5) As used in this subsection, "sexually violent crime" means:

40 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2014 Supp.
41 21-5503, and amendments thereto;

42 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
43 or ~~subsection (a) of K.S.A. 2014 Supp. 21-5506(a)~~, and amendments

1 thereto;

2 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
3 to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5506(b), and
4 amendments thereto;

5 (D) criminal sodomy, ~~subsection (a)(2) and (a)(3)~~ of K.S.A. 21-
6 3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) and (a)(4)~~ of
7 K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;

8 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
9 or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5504(b), and amendments
10 thereto;

11 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
12 or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5508(a), and amendments
13 thereto;

14 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
15 to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5508(b), and
16 amendments thereto;

17 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
18 or K.S.A. 2014 Supp. 21-5510, and amendments thereto;

19 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
20 ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5505(b), and amendments thereto;

21 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
22 ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5604(b), and amendments thereto;

23 (K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
24 to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5426(b), and
25 amendments thereto, if committed in whole or in part for the purpose of
26 the sexual gratification of the defendant or another;

27 (L) commercial sexual exploitation of a child, as defined in K.S.A.
28 2014 Supp. 21-6422, and amendments thereto; or

29 (M) an attempt, conspiracy or criminal solicitation, as defined in
30 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014
31 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
32 sexually violent crime as defined in this section.

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

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

43 (f) If a person is sentenced to prison for a crime committed on or after

1 July 1, 1993, while on probation, parole, conditional release or in a
2 community corrections program, for a crime committed prior to July 1,
3 1993, and the person is not eligible for retroactive application of the
4 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
5 4724, prior to its repeal, the new sentence shall not be aggregated with the
6 old sentence, but shall begin when the person is paroled or reaches the
7 conditional release date on the old sentence. If the offender was past the
8 offender's conditional release date at the time the new offense was
9 committed, the new sentence shall not be aggregated with the old sentence
10 but shall begin when the person is ordered released by the prisoner review
11 board or reaches the maximum sentence expiration date on the old
12 sentence, whichever is earlier. The new sentence shall then be served as
13 otherwise provided by law. The period of postrelease supervision shall be
14 based on the new sentence, except that those offenders whose old sentence
15 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
16 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
17 term of life imprisonment, for which there is no conditional release or
18 maximum sentence expiration date, shall remain on postrelease
19 supervision for life or until discharged from supervision by the prisoner
20 review board.

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

36 (h) The prisoner review board shall hold a parole hearing at least the
37 month prior to the month an inmate will be eligible for parole under
38 subsections (a), (b) and (c). At least one month preceding the parole
39 hearing, the county or district attorney of the county where the inmate was
40 convicted shall give written notice of the time and place of the public
41 comment sessions for the inmate to any victim of the inmate's crime who
42 is alive and whose address is known to the county or district attorney or, if
43 the victim is deceased, to the victim's family if the family's address is

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

36 (i) In those cases involving inmates sentenced for a crime committed
37 after July 1, 1993, the prisoner review board will review the inmate's
38 proposed release plan. The board may schedule a hearing if they desire.
39 The board may impose any condition they deem necessary to insure public
40 safety, aid in the reintegration of the inmate into the community, or items
41 not completed under the agreement entered into under K.S.A. 75-5210a,
42 and amendments thereto. The board may not advance or delay an inmate's
43 release date. Every inmate while on postrelease supervision shall remain in

1 the legal custody of the secretary of corrections and is subject to the orders
2 of the secretary.

3 (j) (1) Before ordering the parole of any inmate, the prisoner review
4 board shall have the inmate appear either in person or via a video
5 conferencing format and shall interview the inmate unless impractical
6 because of the inmate's physical or mental condition or absence from the
7 institution. Every inmate while on parole shall remain in the legal custody
8 of the secretary of corrections and is subject to the orders of the secretary.
9 Whenever the board formally considers placing an inmate on parole and
10 no agreement has been entered into with the inmate under K.S.A. 75-
11 5210a, and amendments thereto, the board shall notify the inmate in
12 writing of the reasons for not granting parole. If an agreement has been
13 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
14 has not satisfactorily completed the programs specified in the agreement,
15 or any revision of such agreement, the board shall notify the inmate in
16 writing of the specific programs the inmate must satisfactorily complete
17 before parole will be granted. If parole is not granted only because of a
18 failure to satisfactorily complete such programs, the board shall grant
19 parole upon the secretary's certification that the inmate has successfully
20 completed such programs. If an agreement has been entered under K.S.A.
21 75-5210a, and amendments thereto, and the secretary of corrections has
22 reported to the board in writing that the inmate has satisfactorily
23 completed the programs required by such agreement, or any revision
24 thereof, the board shall not require further program participation.
25 However, if the board determines that other pertinent information
26 regarding the inmate warrants the inmate's not being released on parole,
27 the board shall state in writing the reasons for not granting the parole. If
28 parole is denied for an inmate sentenced for a crime other than a class A or
29 class B felony or an off-grid felony, the board shall hold another parole
30 hearing for the inmate not later than one year after the denial unless the
31 board finds that it is not reasonable to expect that parole would be granted
32 at a hearing if held in the next three years or during the interim period of a
33 deferral. In such case, the board may defer subsequent parole hearings for
34 up to three years but any such deferral by the board shall require the board
35 to state the basis for its findings. If parole is denied for an inmate
36 sentenced for a class A or class B felony or an off-grid felony, the board
37 shall hold another parole hearing for the inmate not later than three years
38 after the denial unless the board finds that it is not reasonable to expect
39 that parole would be granted at a hearing if held in the next 10 years or
40 during the interim period of a deferral. In such case, the board may defer
41 subsequent parole hearings for up to 10 years, but any such deferral shall
42 require the board to state the basis for its findings.

43 (2) Inmates sentenced for a class A or class B felony who have not

1 had a board hearing in the five years prior to July 1, 2010, shall have such
2 inmates' cases reviewed by the board on or before July 1, 2012. Such
3 review shall begin with the inmates with the oldest deferral date and
4 progress to the most recent. Such review shall be done utilizing existing
5 resources unless the board determines that such resources are insufficient.
6 If the board determines that such resources are insufficient, then the
7 provisions of this paragraph are subject to appropriations therefor.

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

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

18 (3) Parolees and persons on postrelease supervision are, and shall
19 agree in writing to be, subject to search or seizure by any law enforcement
20 officer based on reasonable suspicion of the person violating conditions of
21 parole or postrelease supervision or reasonable suspicion of criminal
22 activity. Any law enforcement officer who conducts such a search shall
23 submit a written report to the appropriate parole officer no later than the
24 close of the next business day after such search. The written report shall
25 include the facts leading to such search, the scope of such search and any
26 findings resulting from such search.

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

35 (m) Whenever the prisoner review board orders the parole of an
36 inmate or establishes conditions for an inmate placed on postrelease
37 supervision, the board:

38 (1) Unless it finds compelling circumstances which would render a
39 plan of payment unworkable, shall order as a condition of parole or
40 postrelease supervision that the parolee or the person on postrelease
41 supervision pay any transportation expenses resulting from returning the
42 parolee or the person on postrelease supervision to this state to answer
43 criminal charges or a warrant for a violation of a condition of probation,

1 assignment to a community correctional services program, parole,
2 conditional release or postrelease supervision;

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

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

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

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

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

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

41 (n) If the court which sentenced an inmate specified at the time of
42 sentencing the amount and the recipient of any restitution ordered as a
43 condition of parole or postrelease supervision, the prisoner review board

1 shall order as a condition of parole or postrelease supervision that the
2 inmate pay restitution in the amount and manner provided in the journal
3 entry unless the board finds compelling circumstances which would render
4 a plan of restitution unworkable.

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

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

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

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

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

26 (t) For offenders sentenced prior to July 1, 2014, who are eligible for
27 modification of their postrelease supervision obligation, the department of
28 corrections shall modify the period of postrelease supervision as provided
29 for by this section:

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

31 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid
32 for nondrug crimes;

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

35 (C) severity level 5 crimes on the sentencing guidelines grid for drug
36 crimes committed on and after July 1, 2012;

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

38 (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines
39 grid for nondrug crimes;

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

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

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

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

4 (B) severity levels 1 and 2 crimes on the sentencing guidelines grid
5 for drug crimes committed at any time; and

6 (C) severity level 3 crimes on the sentencing guidelines grid for drug
7 crimes committed on or after July 1, 2012.

8 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
9 4643, prior to its repeal, or K.S.A. 2014 Supp. 21-6627, and amendments
10 thereto, for crimes committed on or after July 1, 2006, shall be placed on
11 parole for life and shall not be discharged from supervision by the prisoner
12 review board. When the board orders the parole of an inmate pursuant to
13 this subsection, the board shall order as a condition of parole that the
14 inmate be electronically monitored for the duration of the inmate's natural
15 life.

16 (v) Whenever the prisoner review board orders a person to be
17 electronically monitored pursuant to this section, or the court orders a
18 person to be electronically monitored pursuant to ~~subsection (r)~~ of K.S.A.
19 2014 Supp. 21-6604(r), and amendments thereto, the board shall order the
20 person to reimburse the state for all or part of the cost of such monitoring.
21 In determining the amount and method of payment of such sum, the board
22 shall take account of the financial resources of the person and the nature of
23 the burden that the payment of such sum will impose.

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

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

33 (B) As used in this subsection, all other terms have the meanings
34 provided by K.S.A. 2014 Supp. 21-5510, and amendments thereto.

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

40 Sec. 13. K.S.A. 2014 Supp. 22-4902 is hereby amended to read as
41 follows: 22-4902. As used in the Kansas offender registration act, unless
42 the context otherwise requires:

43 (a) "Offender" means:

- 1 (1) A sex offender;
- 2 (2) a violent offender;
- 3 (3) a drug offender;
- 4 (4) any person who has been required to register under out of state
- 5 law or is otherwise required to be registered; and
- 6 (5) any person required by court order to register for an offense not
- 7 otherwise required as provided in the Kansas offender registration act.
- 8 (b) "Sex offender" includes any person who:
- 9 (1) On or after April 14, 1994, is convicted of any sexually violent
- 10 crime;
- 11 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for
- 12 an act which if committed by an adult would constitute the commission of
- 13 a sexually violent crime, unless the court, on the record, finds that the act
- 14 involved non-forcible sexual conduct, the victim was at least 14 years of
- 15 age and the offender was not more than four years older than the victim;
- 16 (3) has been determined to be a sexually violent predator;
- 17 (4) on or after July 1, 1997, is convicted of any of the following
- 18 crimes when one of the parties involved is less than 18 years of age:
- 19 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
- 20 K.S.A. 2014 Supp. 21-5511, and amendments thereto;
- 21 (B) criminal sodomy, as defined in ~~subsection (a)(1) of~~ K.S.A. 21-
- 22 3505(a)(1), prior to its repeal, or ~~subsection (a)(1) or (a)(2) of~~ K.S.A. 2014
- 23 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto;
- 24 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
- 25 repeal, or K.S.A. 2014 Supp. 21-6420, prior to its amendment by section
- 26 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;
- 27 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
- 28 repeal, or K.S.A. 2014 Supp. 21-6421, prior to its amendment by section
- 29 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or
- 30 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
- 31 to its repeal, or K.S.A. 2014 Supp. 21-5513, and amendments thereto;
- 32 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
- 33 to its repeal, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5505(a), and
- 34 amendments thereto;
- 35 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
- 36 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
- 37 K.S.A. 2014 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
- 38 of an offense defined in this subsection; or
- 39 (7) has been convicted of an offense that is comparable to any crime
- 40 defined in this subsection, or any out of state conviction for an offense that
- 41 under the laws of this state would be an offense defined in this subsection.
- 42 (c) "Sexually violent crime" means:
- 43 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.

- 1 2014 Supp. 21-5503, and amendments thereto;
- 2 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
3 to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5506(a)~~, and
4 amendments thereto;
- 5 (3) aggravated indecent liberties with a child, as defined in K.S.A. 21-
6 3504, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-
7 5506(b)~~, and amendments thereto;
- 8 (4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~
9 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or~~
10 ~~(a)(4) of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4)~~, and amendments
11 thereto;
- 12 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
13 to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5504(b)~~, and
14 amendments thereto;
- 15 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
16 prior to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5508(a)~~, and
17 amendments thereto;
- 18 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
19 21-3511, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-
20 5508(b)~~, and amendments thereto;
- 21 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
22 to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto;
- 23 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
24 its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5505(b)~~, and
25 amendments thereto;
- 26 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
27 repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5604(b)~~, and
28 amendments thereto;
- 29 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
30 repeal, and K.S.A. 2014 Supp. 21-5509, and amendments thereto;
- 31 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
32 its repeal, or K.S.A. 2014 Supp. 21-5512, and amendments thereto;
- 33 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
34 prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5426(b)~~, and
35 amendments thereto, if committed in whole or in part for the purpose of
36 the sexual gratification of the defendant or another;
- 37 (14) commercial sexual exploitation of a child, as defined in K.S.A.
38 2014 Supp. 21-6422, and amendments thereto;
- 39 (15) any conviction or adjudication for an offense that is comparable
40 to a sexually violent crime as defined in this subsection, or any out of state
41 conviction or adjudication for an offense that under the laws of this state
42 would be a sexually violent crime as defined in this subsection;
- 43 (16) an attempt, conspiracy or criminal solicitation, as defined in

1 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014
 2 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
 3 violent crime, as defined in this subsection; or

4 (17) any act which has been determined beyond a reasonable doubt to
 5 have been sexually motivated, unless the court, on the record, finds that
 6 the act involved non-forcible sexual conduct, the victim was at least 14
 7 years of age and the offender was not more than four years older than the
 8 victim. As used in this paragraph, "sexually motivated" means that one of
 9 the purposes for which the defendant committed the crime was for the
 10 purpose of the defendant's sexual gratification.

11 (d) "Sexually violent predator" means any person who, on or after
 12 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
 13 59-29a01 et seq., and amendments thereto.

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

15 (1) On or after July 1, 1997, is convicted of any of the following
 16 crimes:

17 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
 18 or K.S.A. 2014 Supp. 21-5401, ~~and amendments thereto prior to its repeal;~~

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

21 ~~(B)~~ (C) murder in the first degree, as defined in K.S.A. 21-3401, prior
 22 to its repeal, or K.S.A. 2014 Supp. 21-5402, and amendments thereto;

23 ~~(C)~~ (D) murder in the second degree, as defined in K.S.A. 21-3402,
 24 prior to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments
 25 thereto;

26 ~~(D)~~ (E) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
 27 to its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto;

28 ~~(E)~~ (F) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
 29 to its repeal, or ~~subsections (a)(1), (a)(2) or (a)(4) of~~ K.S.A. 2014 Supp.
 30 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto. The provisions of
 31 this paragraph shall not apply to violations of ~~subsection (a)(3) of~~ K.S.A.
 32 2014 Supp. 21-5405(a)(3), and amendments thereto, which occurred on or
 33 after July 1, 2011, through July 1, 2013;

34 ~~(F)~~ (G) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,
 35 or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5408(a), and amendments
 36 thereto;

37 ~~(G)~~ (H) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to
 38 its repeal, or ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5408(b), and
 39 amendments thereto;

40 ~~(H)~~ (I) criminal restraint, as defined in K.S.A. 21-3424, prior to its
 41 repeal, or K.S.A. 2014 Supp. 21-5411, and amendments thereto, except by
 42 a parent, and only when the victim is less than 18 years of age; or

43 ~~(I)~~ (J) aggravated human trafficking, as defined in K.S.A. 21-3447,

1 prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5426(b), and
2 amendments thereto, if not committed in whole or in part for the purpose
3 of the sexual gratification of the defendant or another;

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

7 (3) has been convicted of an offense that is comparable to any crime
8 defined in this subsection, any out of state conviction for an offense that
9 under the laws of this state would be an offense defined in this subsection;
10 or

11 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
12 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
13 K.S.A. 2014 Supp. 21-5301, 21-5302 and 21-5303, and amendments
14 thereto, of an offense defined in this subsection.

15 (f) "Drug offender" includes any person who, on or after July 1, 2007:

16 (1) Is convicted of any of the following crimes:

17 (A) Unlawful manufacture or attempting such of any controlled
18 substance or controlled substance analog, as defined in K.S.A. 65-4159,
19 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
20 K.S.A. 2014 Supp. 21-5703, and amendments thereto;

21 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
22 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
23 ammonia or phenylpropanolamine, or their salts, isomers or salts of
24 isomers with intent to use the product to manufacture a controlled
25 substance, as defined in ~~subsection (a)~~ of K.S.A. 65-7006(a), prior to its
26 repeal, ~~subsection (a)~~ of K.S.A. 2010 Supp. 21-36a09(a), prior to its
27 transfer, or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5709(a), and
28 amendments thereto;

29 (C) K.S.A. 65-4161, prior to its repeal, ~~subsection (a)(1)~~ of K.S.A.
30 2010 Supp. 21-36a05(a)(1), prior to its transfer, or ~~subsection (a)(1)~~ of
31 K.S.A. 2014 Supp. 21-5705(a)(1), and amendments thereto. The
32 provisions of this paragraph shall not apply to violations of ~~subsections (a)~~
33 ~~(2) through (a)(6) or (b)~~ of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)
34 (6) or (b) which occurred on or after July 1, 2009, through April 15, 2010;

35 (2) has been convicted of an offense that is comparable to any crime
36 defined in this subsection, any out of state conviction for an offense that
37 under the laws of this state would be an offense defined in this subsection;
38 or

39 (3) is or has been convicted of an attempt, conspiracy or criminal
40 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
41 their repeal, or K.S.A. 2014 Supp. 21-5301, 21-5302 and 21-5303, and
42 amendments thereto, of an offense defined in this subsection.

43 (g) Convictions or adjudications which result from or are connected

1 with the same act, or result from crimes committed at the same time, shall
2 be counted for the purpose of this section as one conviction or
3 adjudication. Any conviction or adjudication set aside pursuant to law is
4 not a conviction or adjudication for purposes of this section. A conviction
5 or adjudication from any out of state court shall constitute a conviction or
6 adjudication for purposes of this section.

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

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

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

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

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

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

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

36 (o) "Registering entity" means any person, agency or other
37 governmental unit, correctional facility or registering law enforcement
38 agency responsible for obtaining the required information from, and
39 explaining the required registration procedures to, any person required to
40 register pursuant to the Kansas offender registration act. "Registering
41 entity" shall include, but not be limited to, sheriff's offices, tribal police
42 departments and correctional facilities.

43 (p) "Treatment facility" means any public or private facility or

1 institution providing inpatient mental health, drug or alcohol treatment or
2 counseling, but does not include a hospital, as defined in K.S.A. 65-425,
3 and amendments thereto.

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

6 (r) "Out of state" means: the District of Columbia; any federal,
7 military or tribal jurisdiction, including those within this state; any foreign
8 jurisdiction; or any state or territory within the United States, other than
9 this state.

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

12 Sec. 14. K.S.A. 2014 Supp. 22-4906 is hereby amended to read as
13 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted
14 of any of the following offenses, an offender's duration of registration shall
15 be, if confined, 15 years after the date of parole, discharge or release,
16 whichever date is most recent, or, if not confined, 15 years from the date
17 of conviction:

18 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
19 or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5505(a), and amendments
20 thereto;

21 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
22 K.S.A. 2014 Supp. 21-5511, and amendments thereto, when one of the
23 parties involved is less than 18 years of age;

24 (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
25 repeal, or K.S.A. 2014 Supp. 21-6421, prior to its amendment by section
26 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013,
27 when one of the parties involved is less than 18 years of age;

28 (D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
29 to its repeal, or K.S.A. 2014 Supp. 21-5513, and amendments thereto,
30 when one of the parties involved is less than 18 years of age;

31 (E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
32 or K.S.A. 2014 Supp. 21-5401, ~~and amendments thereto~~ prior to its repeal;

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

35 ~~(F)~~ (G) murder in the first degree, as defined in K.S.A. 21-3401, prior
36 to its repeal, or K.S.A. 2014 Supp. 21-5402, and amendments thereto;

37 ~~(G)~~ (H) murder in the second degree, as defined in K.S.A. 21-3402,
38 prior to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments
39 thereto;

40 ~~(H)~~ (I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
41 its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto;

42 ~~(I)~~ (J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
43 to its repeal, or ~~subsections (a)(1), (a)(2) or (a)(4) of~~ K.S.A. 2014 Supp.

1 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto;

2 ~~(J)~~ (K) criminal restraint, as defined in K.S.A. 21-3424, prior to its
3 repeal, or K.S.A. 2014 Supp. 21-5411, and amendments thereto, except by
4 a parent, and only when the victim is less than 18 years of age;

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

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

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

16 ~~(N)~~ (O) unlawful manufacture or attempting such of any controlled
17 substance or controlled substance analog, as defined in K.S.A. 65-4159,
18 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
19 K.S.A. 2014 Supp. 21-5703, and amendments thereto;

20 ~~(O)~~ (P) possession of ephedrine, pseudoephedrine, red phosphorus,
21 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
22 ammonia or phenylpropanolamine, or their salts, isomers or salts of
23 isomers with intent to use the product to manufacture a controlled
24 substance, as defined by ~~subsection (a) of~~ K.S.A. 65-7006(a), prior to its
25 repeal, ~~subsection (a) of~~ K.S.A. 2010 Supp. 21-36a09(a), prior to its
26 transfer, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5709(a), and
27 amendments thereto;

28 ~~(P)~~ (Q) K.S.A. 65-4161, prior to its repeal, ~~subsection (a)(1) of~~
29 K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or ~~subsection (a)~~
30 ~~(1)~~ of K.S.A. 2014 Supp. 21-5705(a)(1), and amendments thereto; or

31 ~~(Q)~~ (R) any attempt, conspiracy or criminal solicitation, as defined in
32 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014
33 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
34 offense defined in this subsection.

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

42 (b) (1) Except as provided in subsection (c), if convicted of any of
43 the following offenses, an offender's duration of registration shall be, if

1 confined, 25 years after the date of parole, discharge or release, whichever
2 date is most recent, or, if not confined, 25 years from the date of
3 conviction:

4 (A) Criminal sodomy, as defined in ~~subsection (a)(1) of K.S.A. 21-~~
5 ~~3505(a)(1), prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2014~~
6 ~~Supp. 21-5504(a)(1) or (a)(2), and amendments thereto, when one of the~~
7 ~~parties involved is less than 18 years of age;~~

8 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
9 prior to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5508(a), and~~
10 ~~amendments thereto;~~

11 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
12 repeal, or K.S.A. 2014 Supp. 21-5509, and amendments thereto;

13 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
14 repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5604(b), and~~
15 ~~amendments thereto;~~

16 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
17 to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5506(a), and~~
18 ~~amendments thereto;~~

19 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
20 its repeal, or K.S.A. 2014 Supp. 21-5512, and amendments thereto;

21 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
22 to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto, if
23 the victim is 14 or more years of age but less than 18 years of age;

24 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
25 its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5505, and
26 amendments thereto;

27 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
28 repeal, or K.S.A. 2014 Supp. 21-6420, prior to its amendment by section
29 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
30 the person selling sexual relations is 14 or more years of age but less than
31 18 years of age; or

32 (J) any attempt, conspiracy or criminal solicitation, as defined in
33 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014
34 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
35 offense defined in this subsection.

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

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

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

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

6 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
7 2014 Supp. 21-5503, and amendments thereto;

8 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
9 21-3511, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-
10 5508(b), and amendments thereto;

11 (3) aggravated indecent liberties with a child, as defined in K.S.A. 21-
12 3504, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-
13 5506(b), and amendments thereto;

14 (4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3)~~ of
15 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or~~
16 ~~(a)(4)~~ of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4), and amendments
17 thereto;

18 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
19 to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5504(b), and
20 amendments thereto;

21 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
22 to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5426(b), and
23 amendments thereto;

24 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
25 to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto, if
26 the victim is less than 14 years of age;

27 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
28 repeal, or K.S.A. 2014 Supp. 21-6420, prior to its amendment by section
29 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
30 the person selling sexual relations is less than 14 years of age;

31 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
32 ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5408(a), and amendments thereto;

33 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
34 repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5408(b), and
35 amendments thereto;

36 (11) commercial sexual exploitation of a child, as defined in K.S.A.
37 2014 Supp. 21-6422, and amendments thereto; or

38 (12) any attempt, conspiracy or criminal solicitation, as defined in
39 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014
40 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
41 offense defined in this subsection.

42 (e) Any person who has been declared a sexually violent predator
43 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall

1 register for such person's lifetime.

2 (f) Notwithstanding any other provisions of this section, for an
3 offender less than 14 years of age who is adjudicated as a juvenile offender
4 for an act which if committed by an adult would constitute a sexually
5 violent crime set forth in ~~subsection (e)~~ of K.S.A. 22-4902(c), and
6 amendments thereto, the court shall:

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

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

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

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

27 (g) Notwithstanding any other provisions of this section, for an
28 offender 14 years of age or more who is adjudicated as a juvenile offender
29 for an act which if committed by an adult would constitute a sexually
30 violent crime set forth in ~~subsection (e)~~ of K.S.A. 22-4902(c), and
31 amendments thereto, and such crime is not an off-grid felony or a felony
32 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
33 4704, prior to its repeal, or K.S.A. 2014 Supp. 21-6804, and amendments
34 thereto, the court shall:

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

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

1 (3) require registration, but such registration information shall not be
2 open to inspection by the public or posted on any internet website, as
3 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
4 registration but such registration is not open to the public, such offender
5 shall provide a copy of such court order to the registering law enforcement
6 agency at the time of registration. The registering law enforcement agency
7 shall forward a copy of such court order to the Kansas bureau of
8 investigation.

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

12 (h) Notwithstanding any other provisions of this section, an offender
13 14 years of age or more who is adjudicated as a juvenile offender for an
14 act which if committed by an adult would constitute a sexually violent
15 crime set forth in ~~subsection (e)~~ of K.S.A. 22-4902(c), and amendments
16 thereto, and such crime is an off-grid felony or a felony ranked in severity
17 level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its
18 repeal, or K.S.A. 2014 Supp. 21-6804, and amendments thereto, shall be
19 required to register for such offender's lifetime.

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

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

32 (k) For any person moving to Kansas who has been convicted or
33 adjudicated in an out of state court, or who was required to register under
34 an out of state law, the duration of registration shall be the length of time
35 required by the out of state jurisdiction or by the Kansas offender
36 registration act, whichever length of time is longer. The provisions of this
37 subsection shall apply to convictions or adjudications prior to June 1,
38 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
39 convictions or adjudications on or after June 1, 2006, and to persons who
40 moved to Kansas on or after June 1, 2006.

41 (l) For any person residing, maintaining employment or attending
42 school in this state who has been convicted or adjudicated by an out of
43 state court of an offense that is comparable to any crime requiring

1 registration pursuant to the Kansas offender registration act, but who was
2 not required to register in the jurisdiction of conviction or adjudication, the
3 duration of registration shall be the duration required for the comparable
4 offense pursuant to the Kansas offender registration act.

5 Sec. 15. K.S.A. 2014 Supp. 38-2255 is hereby amended to read as
6 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
7 disposition, the court shall give consideration to:

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

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

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

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

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

31 (C) immediate placement of the child is in the best interest of the
32 child; and

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

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

39 (d) *Custody of a child removed from the custody of a parent*. If the
40 court has made the findings required by subsection (c), the court shall
41 enter an order awarding custody to: A relative of the child or to a person
42 with whom the child has close emotional ties who shall not be required to
43 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,

1 and amendments thereto; any other suitable person; a shelter facility; a
2 youth residential facility; a staff secure facility, notwithstanding any other
3 provision of law, if the child has been subjected to human trafficking or
4 aggravated human trafficking, as defined by K.S.A. 2014 Supp. 21-5426,
5 and amendments thereto, or commercial sexual exploitation of a child, as
6 defined by K.S.A. 2014 Supp. 21-6422, and amendments thereto, or the
7 child committed an act which, if committed by an adult, would constitute a
8 violation of K.S.A. 2014 Supp. 21-6419, and amendments thereto; or, if
9 the child is 15 years of age or younger, or 16 or 17 years of age if the child
10 has no identifiable parental or family resources or shows signs of physical,
11 mental, emotional or sexual abuse, to the secretary. Custody awarded
12 under this subsection shall continue until further order of the court.

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

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

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

37 (4) The court may enter an order restraining any alleged perpetrator
38 of physical, mental or emotional abuse or sexual abuse of the child from
39 residing in the child's home; visiting, contacting, harassing or intimidating
40 the child, other family member or witness; or attempting to visit, contact,
41 harass or intimidate the child, other family member or witness. Such
42 restraining order shall be served by personal service pursuant to ~~subsection~~
43 ~~(a)~~ of K.S.A. 2014 Supp. 38-2237(a), and amendments thereto, on any

1 alleged perpetrator to whom the order is directed.

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

5 (e) *Further determinations regarding a child removed from the home.*
6 If custody has been awarded under subsection (d) to a person other than a
7 parent, a permanency plan shall be provided or prepared pursuant to
8 K.S.A. 2014 Supp. 38-2264, and amendments thereto. If a permanency
9 plan is provided at the dispositional hearing, the court may determine
10 whether reintegration is a viable alternative or, if reintegration is not a
11 viable alternative, whether the child should be placed for adoption or a
12 permanent custodian appointed. In determining whether reintegration is a
13 viable alternative, the court shall consider:

14 (1) Whether a parent has been found by a court to have committed
15 one of the following crimes or to have violated the law of another state
16 prohibiting such crimes or to have aided and abetted, attempted, conspired
17 or solicited the commission of one of these crimes: (A) *Capital murder,*
18 *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2014 Supp. 21-5401, prior to*
19 *its repeal; (B) aggravated murder, section 2, and amendments thereto; (C)*
20 *murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A.*
21 *2014 Supp. 21-5402, and amendments thereto; ~~(B) (D) murder in the~~*
22 *second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2014 Supp.*
23 *21-5403, and amendments thereto; ~~(C) capital murder, K.S.A. 21-3439,~~*
24 *prior to its repeal, or K.S.A. 2014 Supp. 21-5401, and amendments*
25 *thereto; ~~(D) (E) voluntary manslaughter, K.S.A. 21-3403, prior to its~~*
26 *repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto; or ~~(E) (F)~~*
27 *a felony battery that resulted in bodily injury;*

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

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

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

34 (5) whether the parents have failed to work diligently toward
35 reintegration;

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

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

40 (f) *Proceedings if reintegration is not a viable alternative.* If the court
41 determines that reintegration is not a viable alternative, proceedings to
42 terminate parental rights and permit placement of the child for adoption or
43 appointment of a permanent custodian shall be initiated unless the court

1 finds that compelling reasons have been documented in the case plan why
2 adoption or appointment of a permanent custodian would not be in the best
3 interests of the child. If compelling reasons have not been documented, the
4 county or district attorney shall file a motion within 30 days to terminate
5 parental rights or a motion to appoint a permanent custodian within 30
6 days and the court shall hold a hearing on the motion within 90 days of its
7 filing. No hearing is required when the parents voluntarily relinquish
8 parental rights or consent to the appointment of a permanent custodian.

9 (g) *Additional Orders*. In addition to or in lieu of any other order
10 authorized by this section:

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

18 (2) If the court has reason to believe that a child is before the court
19 due, in whole or in part, to the use or misuse of alcohol or a violation of
20 K.S.A. 2014 Supp. 21-5701 through 21-5717, and amendments thereto, by
21 the child, a parent of the child, or another person responsible for the care
22 of the child, the court may order the child, parent of the child or other
23 person responsible for the care of the child to submit to and complete an
24 alcohol and drug evaluation by a qualified person or agency and comply
25 with any recommendations. If the evaluation is performed by a
26 community-based alcohol and drug safety program certified pursuant to
27 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
28 other person responsible for the care of the child shall pay a fee not to
29 exceed the fee established by that statute. If the court finds that the child
30 and those legally liable for the child's support are indigent, the fee may be
31 waived. In no event shall the fee be assessed against the secretary.

32 (3) If child support has been requested and the parent or parents have
33 a duty to support the child, the court may order one or both parents to pay
34 child support and, when custody is awarded to the secretary, the court shall
35 order one or both parents to pay child support. The court shall determine,
36 for each parent separately, whether the parent is already subject to an order
37 to pay support for the child. If the parent is not presently ordered to pay
38 support for any child who is subject to the jurisdiction of the court and the
39 court has personal jurisdiction over the parent, the court shall order the
40 parent to pay child support in an amount determined under K.S.A. 2014
41 Supp. 38-2277, and amendments thereto. Except for good cause shown,
42 the court shall issue an immediate income withholding order pursuant to
43 K.S.A. 2014 Supp. 23-3101 et seq., and amendments thereto, for each

1 parent ordered to pay support under this subsection, regardless of whether
2 a payor has been identified for the parent. A parent ordered to pay child
3 support under this subsection shall be notified, at the hearing or otherwise,
4 that the child support order may be registered pursuant to K.S.A. 2014
5 Supp. 38-2279, and amendments thereto. The parent shall also be informed
6 that, after registration, the income withholding order may be served on the
7 parent's employer without further notice to the parent and the child support
8 order may be enforced by any method allowed by law. Failure to provide
9 this notice shall not affect the validity of the child support order.

10 Sec. 16. K.S.A. 2014 Supp. 38-2271 is hereby amended to read as
11 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-
12 414, and amendments thereto, that a parent is unfit by reason of conduct or
13 condition which renders the parent unable to fully care for a child, if the
14 state establishes, by clear and convincing evidence, that:

15 (1) A parent has previously been found to be an unfit parent in
16 proceedings under K.S.A. 2014 Supp. 38-2266 et seq., and amendments
17 thereto, or comparable proceedings under the laws of another jurisdiction;

18 (2) a parent has twice before been convicted of a crime specified in
19 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
20 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
21 Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
22 through 21-6421, and amendments thereto, or comparable offenses under
23 the laws of another jurisdiction, or an attempt or attempts to commit such
24 crimes and the victim was under the age of 18 years;

25 (3) on two or more prior occasions a child in the physical custody of
26 the parent has been adjudicated a child in need of care as defined by
27 ~~subsection (d)(1), (d)(3), (d)(5) or (d)(11)~~ of K.S.A. 2014 Supp. 38-
28 2202(d)(1), (d)(3), (d)(5) or (d)(11), and amendments thereto, or
29 comparable proceedings under the laws of another jurisdiction;

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

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

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

43 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,

1 prior to its repeal, or K.S.A. 2014 Supp. 21-5401, *prior to its repeal,*
2 *aggravated murder, section 2,* and amendments thereto, murder in the first
3 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2014 Supp. 21-5402,
4 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
5 prior to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments
6 thereto, or voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or
7 K.S.A. 2014 Supp. 21-5404, and amendments thereto, or comparable
8 proceedings under the laws of another jurisdiction or, has been adjudicated
9 a juvenile offender because of an act which if committed by an adult
10 would be an offense as provided in this subsection, and the victim of such
11 murder was the other parent of the child;

12 (8) a parent abandoned or neglected the child after having knowledge
13 of the child's birth or either parent has been granted immunity from
14 prosecution for abandonment of the child under ~~subsection (b) of K.S.A.~~
15 ~~21-3604(b),~~ prior to its repeal, or ~~subsection (d) of K.S.A.~~ 2014 Supp. 21-
16 ~~5605(d),~~ and amendments thereto; or

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

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

22 (11) a father abandoned the mother after having knowledge of the
23 pregnancy;

24 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
25 repeal, or K.S.A. 2014 Supp. 21-5503, and amendments thereto, or
26 comparable proceedings under the laws of another jurisdiction resulting in
27 the conception of the child; or

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

32 (b) The burden of proof is on the parent to rebut the presumption of
33 unfitness by a preponderance of the evidence. In the absence of proof that
34 the parent is presently fit and able to care for the child or that the parent
35 will be fit and able to care for the child in the foreseeable future, the court
36 shall terminate parental rights in proceedings pursuant to K.S.A. 2014
37 Supp. 38-2266 et seq., and amendments thereto.

38 Sec. 17. K.S.A. 2014 Supp. 38-2312 is hereby amended to read as
39 follows: 38-2312. (a) Except as provided in subsection (b) and (c), any
40 records or files specified in this code concerning a juvenile may be
41 expunged upon application to a judge of the court of the county in which
42 the records or files are maintained. The application for expungement may
43 be made by the juvenile, if 18 years of age or older or, if the juvenile is

1 less than 18 years of age, by the juvenile's parent or next friend.

2 (b) There shall be no expungement of records or files concerning acts
3 committed by a juvenile which, if committed by an adult, would constitute
4 a violation of *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2014 Supp. 21-*
5 *5401, prior to its repeal, capital murder; section 2, and amendments*
6 *thereto, aggravated murder; K.S.A. 21-3401, prior to its repeal, or K.S.A.*
7 *2014 Supp. 21-5402, and amendments thereto, murder in the first degree;*
8 *K.S.A. 21-3402, prior to its repeal, or K.S.A. 2014 Supp. 21-5403, and*
9 *amendments thereto, murder in the second degree; K.S.A. 21-3403, prior*
10 *to its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto,*
11 *voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A.*
12 *2014 Supp. 21-5405, and amendments thereto, involuntary manslaughter;*
13 ~~*K.S.A. 21-3439, prior to its repeal, or K.S.A. 2014 Supp. 21-5401, and*~~
14 ~~*amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or*~~
15 ~~*subsection (a)(3) of K.S.A. 2014 Supp. 21-5405(a)(3), and amendments*~~
16 ~~*thereto, involuntary manslaughter while driving under the influence of*~~
17 ~~*alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2014 Supp.*~~
18 ~~*21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its*~~
19 ~~*repeal, or subsection (a) of K.S.A. 2014 Supp. 21-5506(a), and*~~
20 ~~*amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior*~~
21 ~~*to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5506(b), and*~~
22 ~~*amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-*~~
23 ~~*3506, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-*~~
24 ~~*5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.*~~
25 ~~*21-3510, prior to its repeal, or subsection (a) of K.S.A. 2014 Supp. 21-*~~
26 ~~*5508(a), and amendments thereto, indecent solicitation of a child; K.S.A.*~~
27 ~~*21-3511, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-*~~
28 ~~*5508(b), and amendments thereto, aggravated indecent solicitation of a*~~
29 ~~*child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2014 Supp. 21-5510,*~~
30 ~~*and amendments thereto, sexual exploitation of a child; K.S.A. 21-3603,*~~
31 ~~*prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5604(b), and*~~
32 ~~*amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal,*~~
33 ~~*or subsection (a) of K.S.A. 2014 Supp. 21-5601(a), and amendments*~~
34 ~~*thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.*~~
35 ~~*2014 Supp. 21-5602, and amendments thereto, abuse of a child; or which*~~
36 ~~*would constitute an attempt to commit a violation of any of the offenses*~~
37 ~~*specified in this subsection.*~~

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

1 (d) When a petition for expungement is filed, the court shall set a date
2 for a hearing on the petition and shall give notice thereof to the county or
3 district attorney. The petition shall state: (1) The juvenile's full name; (2)
4 the full name of the juvenile as reflected in the court record, if different
5 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
6 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
7 of the trial court. Except as otherwise provided by law, a petition for
8 expungement shall be accompanied by a docket fee in the amount of \$176.
9 On and after July 1, 2013, through July 1, 2015, the supreme court may
10 impose a charge, not to exceed \$19 per case, to fund the costs of non-
11 judicial personnel. All petitions for expungement shall be docketed in the
12 original action. Any person who may have relevant information about the
13 petitioner may testify at the hearing. The court may inquire into the
14 background of the petitioner.

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

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

19 (ii) one year has elapsed since the final discharge for an adjudication
20 concerning acts committed by a juvenile which, if committed by an adult,
21 would constitute a violation of K.S.A. 2014 Supp. 21-6419, and
22 amendments thereto;

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

28 (C) the circumstances and behavior of the petitioner warrant
29 expungement.

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

32 (f) Upon entry of an order expunging records or files, the offense
33 which the records or files concern shall be treated as if it never occurred,
34 except that upon conviction of a crime or adjudication in a subsequent
35 action under this code the offense may be considered in determining the
36 sentence to be imposed. The petitioner, the court and all law enforcement
37 officers and other public offices and agencies shall properly reply on
38 inquiry that no record or file exists with respect to the juvenile. Inspection
39 of the expunged files or records thereafter may be permitted by order of
40 the court upon petition by the person who is the subject thereof. The
41 inspection shall be limited to inspection by the person who is the subject of
42 the files or records and the person's designees.

43 (g) A certified copy of any order made pursuant to subsection (a) or

1 (d) shall be sent to the Kansas bureau of investigation, which shall notify
2 every juvenile or criminal justice agency which may possess records or
3 files ordered to be expunged. If the agency fails to comply with the order
4 within a reasonable time after its receipt, such agency may be adjudged in
5 contempt of court and punished accordingly.

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

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

12 (j) Nothing in this section shall be construed to permit or require
13 expungement of files or records related to a child support order registered
14 pursuant to the revised Kansas juvenile justice code.

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

19 (1) The person whose record was expunged;

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

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

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

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

33 (6) the Kansas lottery, and the request is accompanied by a statement
34 that the request is being made to aid in determining qualifications for
35 employment with the Kansas lottery or for work in sensitive areas within
36 the Kansas lottery as deemed appropriate by the executive director of the
37 Kansas lottery;

38 (7) the governor or the Kansas racing commission, or a designee of
39 the commission, and the request is accompanied by a statement that the
40 request is being made to aid in determining qualifications for executive
41 director of the commission, for employment with the commission, for
42 work in sensitive areas in parimutuel racing as deemed appropriate by the
43 executive director of the commission or for licensure, renewal of licensure

1 or continued licensure by the commission;

2 (8) the Kansas sentencing commission; or

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

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

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

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

12 Sec. 18. K.S.A. 2014 Supp. 38-2365 is hereby amended to read as
13 follows: 38-2365. (a) When a juvenile offender has been placed in the
14 custody of the commissioner, the commissioner shall have a reasonable
15 time to make a placement. If the juvenile offender has not been placed, any
16 party who believes that the amount of time elapsed without placement has
17 exceeded a reasonable time may file a motion for review with the court. In
18 determining what is a reasonable amount of time, matters considered by
19 the court shall include, but not be limited to, the nature of the underlying
20 offense, efforts made for placement of the juvenile offender and the
21 availability of a suitable placement. The commissioner shall notify the
22 court, the juvenile's attorney of record and the juvenile's parent, in writing,
23 of the initial placement and any subsequent change of placement as soon
24 as the placement has been accomplished. The notice to the juvenile
25 offender's parent shall be sent to such parent's last known address or
26 addresses. The court shall have no power to direct a specific placement by
27 the commissioner, but may make recommendations to the commissioner.
28 The commissioner may place the juvenile offender in an institution
29 operated by the commissioner, a youth residential facility or any other
30 appropriate placement. If the court has recommended an out-of-home
31 placement, the commissioner may not return the juvenile offender to the
32 home from which removed without first notifying the court of the plan.

33 (b) If a juvenile is in the custody of the commissioner, the
34 commissioner shall prepare and present a permanency plan at sentencing
35 or within 30 days thereafter. If a permanency plan is already in place under
36 a child in need of care proceeding, the court may adopt the plan under the
37 present proceeding. The written permanency plan shall provide for
38 reintegration of the juvenile into such juvenile's family or, if reintegration
39 is not a viable alternative, for other permanent placement of the juvenile.
40 Reintegration may not be a viable alternative when: (1) The parent has
41 been found by a court to have committed *capital murder*, K.S.A. 21-3439,
42 *prior to its repeal*, or K.S.A. 2014 Supp. 21-5401, *prior to its repeal*,
43 *aggravated murder*, section 2, and amendments thereto, murder in the first

1 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2014 Supp. 21-5402,
2 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
3 prior to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments
4 thereto, ~~capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2014~~
5 ~~Supp. 21-5401, and amendments thereto,~~ voluntary manslaughter, K.S.A.
6 21-3403, prior to its repeal, or K.S.A. 2014 Supp. 21-5404, and
7 amendments thereto, of a child or violated a law of another state which
8 prohibits such murder or manslaughter of a child;

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

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

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

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

18 (6) the juvenile has been in extended out-of-home placement as
19 defined in K.S.A. 2014 Supp. 38-2202, and amendments thereto.

20 (c) If the juvenile is placed in the custody of the commissioner, the
21 plan shall be prepared and submitted by the commissioner. If the juvenile
22 is placed in the custody of a facility or person other than the commissioner,
23 the plan shall be prepared and submitted by a court services officer. If the
24 permanency goal is reintegration into the family, the permanency plan
25 shall include measurable objectives and time schedules for reintegration.

26 (d) During the time a juvenile remains in the custody of the
27 commissioner, the commissioner shall submit to the court, at least every
28 six months, a written report of the progress being made toward the goals of
29 the permanency plan submitted pursuant to subsections (b) and (c) and the
30 specific actions taken to achieve the goals of the permanency plan. If the
31 juvenile is placed in foster care, the court may request the foster parent to
32 submit to the court, at least every six months, a report in regard to the
33 juvenile's adjustment, progress and condition. Such report shall be made a
34 part of the juvenile's court social file. The court shall review the plan
35 submitted by the commissioner and the report, if any, submitted by the
36 foster parent and determine whether reasonable efforts and progress have
37 been made to achieve the goals of the permanency plan. If the court
38 determines that progress is inadequate or that the permanency plan is no
39 longer viable, the court shall hold a hearing pursuant to subsection (e).

40 (e) When the commissioner has custody of the juvenile, a
41 permanency hearing shall be held no more than 12 months after the
42 juvenile is first placed outside such juvenile's home and at least every 12
43 months thereafter. Juvenile offenders who have been in extended out-of-

1 home placement shall be provided a permanency hearing within 30 days of
2 a request from the commissioner. The court may appoint a guardian ad
3 litem to represent the juvenile offender at the permanency hearing. At each
4 hearing, the court shall make a written finding whether reasonable efforts
5 have been made to accomplish the permanency goal and whether
6 continued out-of-home placement is necessary for the juvenile's safety.

7 (f) Whenever a hearing is required under subsection (e), the court
8 shall notify all interested parties of the hearing date, the commissioner,
9 foster parent and preadoptive parent or relatives providing care for the
10 juvenile and hold a hearing. Individuals receiving notice pursuant to this
11 subsection shall not be made a party to the action solely on the basis of this
12 notice and opportunity to be heard. After providing the persons receiving
13 notice an opportunity to be heard, the court shall determine whether the
14 juvenile's needs are being adequately met; whether services set out in the
15 permanency plan necessary for the safe return of the juvenile have been
16 made available to the parent with whom reintegration is planned; and
17 whether reasonable efforts and progress have been made to achieve the
18 goals of the permanency plan.

19 (g) If the court finds reintegration continues to be a viable alternative,
20 the court shall determine whether and, if applicable, when the juvenile will
21 be returned to the parent. The court may rescind any of its prior
22 dispositional orders and enter any dispositional order authorized by this
23 code or may order that a new plan for the reintegration be prepared and
24 submitted to the court. If reintegration cannot be accomplished as
25 approved by the court, the court shall be informed and shall schedule a
26 hearing pursuant to subsection (h). No such hearing is required when the
27 parent voluntarily relinquishes parental rights or agrees to appointment of
28 a permanent guardian.

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

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

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

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

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

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

7 (3) there are one or more documented reasons why such filing would
8 not be in the best interests of the juvenile. Documented reasons may
9 include, but are not limited to: The juvenile has close emotional bonds
10 with a parent which should not be broken; the juvenile is 14 years of age
11 or older and, after advice and counsel, refuses to be adopted; insufficient
12 grounds exist for termination of parental rights; the juvenile is an
13 unaccompanied refugee minor; or there are international legal or
14 compelling foreign policy reasons precluding termination of parental
15 rights.

16 Sec. 19. K.S.A. 2014 Supp. 39-970 is hereby amended to read as
17 follows: 39-970. (a) (1) No person shall knowingly operate an adult care
18 home if, in the adult care home, there works any person who has been
19 convicted of or has been adjudicated a juvenile offender because of having
20 committed an act which if done by an adult would constitute the
21 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
22 repeal, or K.S.A. 2014 Supp. 21-5401, *prior to its repeal, aggravated*
23 *murder, pursuant to section 2,* and amendments thereto, first degree
24 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2014
25 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
26 to ~~subsection (a) of~~ K.S.A. 21-3402(a), prior to its repeal, or ~~subsection (a)~~
27 ~~of~~ K.S.A. 2014 Supp. 21-5403(a), and amendments thereto, voluntary
28 manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A.
29 2014 Supp. 21-5404, and amendments thereto, assisting suicide, pursuant
30 to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2014 Supp. 21-5407, and
31 amendments thereto, mistreatment of a dependent adult, pursuant to
32 K.S.A. 21-3437, prior to its repeal, or K.S.A. 2014 Supp. 21-5417, and
33 amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal,
34 or K.S.A. 2014 Supp. 21-5503, and amendments thereto, indecent liberties
35 with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or ~~subsection~~
36 ~~(a) of~~ K.S.A. 2014 Supp. 21-5506(a), and amendments thereto, aggravated
37 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
38 repeal, or ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5506(b), and
39 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
40 3506, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-
41 5504(b), and amendments thereto, indecent solicitation of a child, pursuant
42 to K.S.A. 21-3510, prior to its repeal, or ~~subsection (a) of~~ K.S.A. 2014
43 Supp. 21-5508(a), and amendments thereto, aggravated indecent

1 solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or
2 ~~subsection (b) of K.S.A. 2014 Supp. 21-5508(b)~~, and amendments thereto,
3 sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its
4 repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto, sexual
5 battery, pursuant to K.S.A. 21-3517, prior to its repeal, or ~~subsection (a) of~~
6 K.S.A. 2014 Supp. 21-5505(a), and amendments thereto, or aggravated
7 sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or
8 ~~subsection (b) of K.S.A. 2014 Supp. 21-5505(b)~~, and amendments thereto,
9 an attempt to commit any of the crimes listed in this subsection (a)(1),
10 pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2014 Supp. 21-
11 5301, and amendments thereto, a conspiracy to commit any of the crimes
12 listed in this subsection (a)(1), pursuant to K.S.A. 21-3302, prior to its
13 repeal, or K.S.A. 2014 Supp. 21-5302, and amendments thereto, or
14 criminal solicitation of any of the crimes listed in this subsection (a)(1),
15 pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2014 Supp. 21-
16 5303, and amendments thereto, or similar statutes of other states or the
17 federal government. The provisions of subsection (a)(2)(C) shall not apply
18 to any person who is employed by an adult care home on July 1, 2010, and
19 while continuously employed by the same adult care home.

20 (2) A person operating an adult care home may employ an applicant
21 who has been convicted of any of the following if five or more years have
22 elapsed since the applicant satisfied the sentence imposed or was
23 discharged from probation, a community correctional services program,
24 parole, postrelease supervision, conditional release or a suspended
25 sentence; or if five or more years have elapsed since the applicant has been
26 finally discharged from the custody of the commissioner of juvenile justice
27 or from probation or has been adjudicated a juvenile offender, whichever
28 time is longer: (A) a felony conviction for a crime which is described in: (A)
29 Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their
30 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or
31 K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
32 amendments thereto, except those crimes listed in subsection (a)(1); (B)
33 articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to
34 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
35 Annotated, or K.S.A. 2014 Supp. 21-6419 through 21-6421, and
36 amendments thereto, except those crimes listed in subsection (a)(1) and
37 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2014 Supp. 21-5606, and
38 amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
39 2014 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
40 any of the crimes listed in this subsection (a)(2), pursuant to K.S.A. 21-
41 3301, prior to its repeal, or K.S.A. 2014 Supp. 21-5301, and amendments
42 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
43 (a)(2), pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2014

1 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of
2 the crimes listed in subsection (a)(2), pursuant to K.S.A. 21-3303, prior to
3 its repeal, or K.S.A. 2014 Supp. 21-5303, and amendments thereto; or (G)
4 similar statutes of other states or the federal government.

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

10 (c) The secretary for aging and disability services shall have access to
11 any criminal history record information in the possession of the Kansas
12 bureau of investigation regarding any criminal history information,
13 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
14 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and
15 21-5801, and amendments thereto, adjudications of a juvenile offender
16 which if committed by an adult would have been a felony conviction, and
17 adjudications of a juvenile offender for an offense described in K.S.A. 21-
18 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
19 5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
20 concerning persons working in an adult care home. The secretary shall
21 have access to these records for the purpose of determining whether or not
22 the adult care home meets the requirements of this section. The Kansas
23 bureau of investigation may charge to the Kansas department for aging and
24 disability services a reasonable fee for providing criminal history record
25 information under this subsection.

26 (d) For the purpose of complying with this section, the operator of an
27 adult care home shall request from the Kansas department for aging and
28 disability services information regarding any criminal history information,
29 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
30 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and
31 21-5801, and amendments thereto, adjudications of a juvenile offender
32 which if committed by an adult would have been a felony conviction, and
33 adjudications of a juvenile offender for an offense described in K.S.A. 21-
34 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
35 5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
36 and which relates to a person who works in the adult care home, or is
37 being considered for employment by the adult care home, for the purpose
38 of determining whether such person is subject to the provision of this
39 section. For the purpose of complying with this section, the operator of an
40 adult care home shall receive from any employment agency which
41 provides employees to work in the adult care home written certification
42 that such employees are not prohibited from working in the adult care
43 home under this section. For the purpose of complying with this section,

1 information relating to convictions and adjudications by the federal
2 government or to convictions and adjudications in states other than Kansas
3 shall not be required until such time as the secretary for aging and
4 disability services determines the search for such information could
5 reasonably be performed and the information obtained within a two-week
6 period. For the purpose of complying with this section, a person who
7 operates an adult care home may hire an applicant for employment on a
8 conditional basis pending the results from the Kansas department for aging
9 and disability services of a request for information under this subsection.
10 No adult care home, the operator or employees of an adult care home or an
11 employment agency, or the operator or employees of an employment
12 agency, shall be liable for civil damages resulting from any decision to
13 employ, to refuse to employ or to discharge from employment any person
14 based on such adult care home's compliance with the provisions of this
15 section if such adult care home or employment agency acts in good faith to
16 comply with this section.

17 (e) The secretary for aging and disability services shall charge each
18 person requesting information under this section a fee equal to cost, not to
19 exceed \$10, for each name about which an information request has been
20 submitted to the department under this section.

21 (f) (1) The secretary for aging and disability services shall provide
22 each operator requesting information under this section with the criminal
23 history record information concerning any criminal history information
24 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
25 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and
26 21-5801, and amendments thereto, in writing and within three working
27 days of receipt of such information from the Kansas bureau of
28 investigation. The criminal history record information shall be provided
29 regardless of whether the information discloses that the subject of the
30 request has been convicted of an offense enumerated in subsection (a).

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

43 (3) Whenever the criminal history record information reveals that the

1 subject of the request has no criminal history on record, the secretary shall
2 provide notice to each operator requesting information under this section,
3 in writing and within three working days after receipt of such information
4 from the Kansas bureau of investigation.

5 (4) The secretary for aging and disability services shall not provide
6 each operator requesting information under this section with the juvenile
7 criminal history record information which relates to a person subject to a
8 background check as is provided by K.S.A. 2014 Supp. 38-2326, and
9 amendments thereto, except for adjudications of a juvenile offender for an
10 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2014
11 Supp. 21-5801, and amendments thereto. The secretary shall notify the
12 operator that requested the information, in writing and within three
13 working days of receipt of such information from the Kansas bureau of
14 investigation, whether juvenile criminal history record information
15 received pursuant to this section reveals that the operator would or would
16 not be prohibited by this section from employing the subject of the request
17 for information and whether such information contains adjudications of a
18 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
19 repeal, or K.S.A. 2014 Supp. 21-5801, and amendments thereto.

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

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

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

32 (i) An operator may request from the Kansas department for aging
33 and disability services criminal history information on persons employed
34 under subsections (g) and (h).

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

38 (k) The operator of an adult care home shall not be required under
39 this section to conduct a background check on an applicant for
40 employment with the adult care home if the applicant has been the subject
41 of a background check under this act within one year prior to the
42 application for employment with the adult care home. The operator of an
43 adult care home where the applicant was the subject of such background

1 check may release a copy of such background check to the operator of an
2 adult care home where the applicant is currently applying.

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

8 (m) For purposes of this section, the Kansas bureau of investigation
9 shall report any criminal history information, convictions under K.S.A. 21-
10 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
11 5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
12 adjudications of a juvenile offender which if committed by an adult would
13 have been a felony conviction, and adjudications of a juvenile offender for
14 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
15 their repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~
16 and 21-5801, and amendments thereto, to the secretary for aging and
17 disability services when a background check is requested.

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

20 Sec. 20. K.S.A. 2014 Supp. 65-5117 is hereby amended to read as
21 follows: 65-5117. (a) (1) No person shall knowingly operate a home health
22 agency if, for the home health agency, there works any person who has
23 been convicted of or has been adjudicated a juvenile offender because of
24 having committed an act which if done by an adult would constitute the
25 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
26 repeal, or K.S.A. 2014 Supp. 21-5401, *prior to its repeal, aggravated*
27 *murder, pursuant to section 2*, and amendments thereto, first degree
28 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2014
29 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
30 to ~~subsection (a) of K.S.A. 21-3402(a)~~, prior to its repeal, or ~~subsection (a)~~
31 ~~of K.S.A. 2014 Supp. 21-5403(a)~~, and amendments thereto, voluntary
32 manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A.
33 2014 Supp. 21-5404, and amendments thereto, assisting suicide, pursuant
34 to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2014 Supp. 21-5407, and
35 amendments thereto, mistreatment of a dependent adult, pursuant to
36 K.S.A. 21-3437, prior to its repeal, or K.S.A. 2014 Supp. 21-5417, and
37 amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal,
38 or K.S.A. 2014 Supp. 21-5503, and amendments thereto, indecent liberties
39 with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or ~~subsection~~
40 ~~(a) of K.S.A. 2014 Supp. 21-5506(a)~~, and amendments thereto, aggravated
41 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
42 repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5506(b)~~, and
43 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-

1 3506, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-
2 5504(b), and amendments thereto, indecent solicitation of a child, pursuant
3 to K.S.A. 21-3510, prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2014
4 Supp. 21-5508(a), and amendments thereto, aggravated indecent
5 solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or
6 ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5508(b), and amendments thereto,
7 sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its
8 repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto, sexual
9 battery, pursuant to K.S.A. 21-3517, prior to its repeal, or ~~subsection (a)~~ of
10 K.S.A. 2014 Supp. 21-5505(a), and amendments thereto, or aggravated
11 sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or
12 ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5505(b), and amendments thereto,
13 an attempt to commit any of the crimes listed in this subsection (a)(1),
14 pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2014 Supp. 21-
15 5301, and amendments thereto, a conspiracy to commit any of the crimes
16 listed in this subsection (a)(1), pursuant to K.S.A. 21-3302, prior to its
17 repeal, or K.S.A. 2014 Supp. 21-5302, and amendments thereto, or
18 criminal solicitation of any of the crimes listed in this subsection (a)(1),
19 pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2014 Supp. 21-
20 5303, and amendments thereto, or similar statutes of other states or the
21 federal government. The provisions of subsection (a)(2)(C) shall not apply
22 to any person who is employed by a home health agency on July 1, 2010,
23 and while continuously employed by the same home health agency.

24 (2) A person operating a home health agency may employ an
25 applicant who has been convicted of any of the following if five or more
26 years have elapsed since the applicant satisfied the sentence imposed or
27 was discharged from probation, a community correctional services
28 program, parole, postrelease supervision, conditional release or a
29 suspended sentence; or if five or more years have elapsed since the
30 applicant has been finally discharged from the custody of the
31 commissioner of juvenile justice or from probation or has been adjudicated
32 a juvenile offender, whichever time is longer: A felony conviction for a
33 crime which is described in: (A) Article 34 of chapter 21 of the Kansas
34 Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the
35 Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-
36 6326 or 21-6418, and amendments thereto, except those crimes listed in
37 subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
38 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
39 Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419 through 21-
40 6421, and amendments thereto, except those crimes listed in subsection (a)
41 (1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2014 Supp. 21-5606,
42 and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
43 2014 Supp. 21-5801, and amendments thereto; (D) an attempt to commit

1 any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-
2 3301, prior to its repeal, or K.S.A. 2014 Supp. 21-5301, and amendments
3 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
4 (a)(2) pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2014 Supp.
5 21-5302, and amendments thereto; (F) criminal solicitation of any of the
6 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, prior to its
7 repeal, or K.S.A. 2014 Supp. 21-5303, and amendments thereto; or (G)
8 similar statutes of other states or the federal government.

9 (b) No person shall operate a home health agency if such person has
10 been found to be a person in need of a guardian or a conservator, or both,
11 as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.
12 The provisions of this subsection shall not apply to a minor found to be in
13 need of a guardian or conservator for reasons other than impairment.

14 (c) The secretary of health and environment shall have access to any
15 criminal history record information in the possession of the Kansas bureau
16 of investigation regarding any criminal history information, convictions
17 under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or
18 K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801,
19 and amendments thereto, adjudications of a juvenile offender which if
20 committed by an adult would have been a felony conviction, and
21 adjudications of a juvenile offender for an offense described in K.S.A. 21-
22 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
23 5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
24 concerning persons working for a home health agency. The secretary shall
25 have access to these records for the purpose of determining whether or not
26 the home health agency meets the requirements of this section. The Kansas
27 bureau of investigation may charge to the department of health and
28 environment a reasonable fee for providing criminal history record
29 information under this subsection.

30 (d) For the purpose of complying with this section, the operator of a
31 home health agency shall request from the department of health and
32 environment information regarding any criminal history information,
33 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
34 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and
35 21-5801, and amendments thereto, adjudications of a juvenile offender
36 which if committed by an adult would have been a felony conviction, and
37 adjudications of a juvenile offender for an offense described in K.S.A. 21-
38 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
39 5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
40 and which relates to a person who works for the home health agency or is
41 being considered for employment by the home health agency, for the
42 purpose of determining whether such person is subject to the provisions of
43 this section. For the purpose of complying with this section, information

1 relating to convictions and adjudications by the federal government or to
2 convictions and adjudications in states other than Kansas shall not be
3 required until such time as the secretary of health and environment
4 determines the search for such information could reasonably be performed
5 and the information obtained within a two-week period. For the purpose of
6 complying with this section, the operator of a home health agency shall
7 receive from any employment agency which provides employees to work
8 for the home health agency written certification that such employees are
9 not prohibited from working for the home health agency under this
10 section. For the purpose of complying with this section, a person who
11 operates a home health agency may hire an applicant for employment on a
12 conditional basis pending the results from the department of health and
13 environment of a request for information under this subsection. No home
14 health agency, the operator or employees of a home health agency or an
15 employment agency, or the operator or employees of an employment
16 agency, which provides employees to work for the home health agency
17 shall be liable for civil damages resulting from any decision to employ, to
18 refuse to employ or to discharge from employment any person based on
19 such home health agency's compliance with the provisions of this section
20 if such home health agency or employment agency acts in good faith to
21 comply with this section.

22 (e) The secretary of health and environment shall charge each person
23 requesting information under this section a fee equal to cost, not to exceed
24 \$10, for each name about which an information request has been submitted
25 under this section.

26 (f) (1) The secretary of health and environment shall provide each
27 operator requesting information under this section with the criminal
28 history record information concerning any criminal history information
29 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
30 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and
31 21-5801, and amendments thereto, in writing and within three working
32 days of receipt of such information from the Kansas bureau of
33 investigation. The criminal history record information shall be provided
34 regardless of whether the information discloses that the subject of the
35 request has been convicted of an offense enumerated in subsection (a).

36 (2) When an offense enumerated in subsection (a) exists in the
37 criminal history record information, and when further confirmation
38 regarding criminal history record information is required from the
39 appropriate court of jurisdiction or Kansas department of corrections, the
40 secretary shall notify each operator that requests information under this
41 section in writing and within three working days of receipt from the
42 Kansas bureau of investigation that further confirmation is required. The
43 secretary shall provide to the operator requesting information under this

1 section information in writing and within three working days of receipt of
2 such information from the appropriate court of jurisdiction or Kansas
3 department of corrections regarding confirmation regarding the criminal
4 history record information.

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

10 (4) The secretary of health and environment shall not provide each
11 operator requesting information under this section with the juvenile
12 criminal history record information which relates to a person subject to a
13 background check as is provided by K.S.A. 2014 Supp. 38-2326, and
14 amendments thereto, except for adjudications of a juvenile offender for an
15 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2014
16 Supp. 21-5801, and amendments thereto. The secretary shall notify the
17 operator that requested the information, in writing and within three
18 working days of receipt of such information from the Kansas bureau of
19 investigation, whether juvenile criminal history record information
20 received pursuant to this section reveals that the operator would or would
21 not be prohibited by this section from employing the subject of the request
22 for information and whether such information contains adjudications of a
23 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
24 repeal, or K.S.A. 2014 Supp. 21-5801, and amendments thereto.

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

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

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

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

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

1 (k) The operator of a home health agency shall not be required under
2 this section to conduct a background check on an applicant for
3 employment with the home health agency if the applicant has been the
4 subject of a background check under this act within one year prior to the
5 application for employment with the home health agency. The operator of
6 a home health agency where the applicant was the subject of such
7 background check may release a copy of such background check to the
8 operator of a home health agency where the applicant is currently
9 applying.

10 (l) For purposes of this section, the Kansas bureau of investigation
11 shall only report felony convictions, convictions under K.S.A. 21-3437,
12 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-5417,
13 ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
14 adjudications of a juvenile offender which if committed by an adult would
15 have been a felony conviction, and adjudications of a juvenile offender for
16 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
17 their repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~
18 and 21-5801, and amendments thereto, to the secretary of health and
19 environment when a background check is requested.

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

23 Sec. 21. K.S.A. 2014 Supp. 72-1397 is hereby amended to read as
24 follows: 72-1397. (a) The state board of education shall not knowingly
25 issue a license to or renew the license of any person who has been
26 convicted of:

27 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
28 2014 Supp. 21-5503, and amendments thereto;

29 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
30 to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5506(a)~~, and
31 amendments thereto;

32 (3) aggravated indecent liberties with a child, as defined in K.S.A. 21-
33 3504, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-
34 5506(b)~~, and amendments thereto;

35 (4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~
36 ~~K.S.A. 21-3505(a)(2) or (a)(3)~~, prior to its repeal, or ~~subsection (a)(3) or~~
37 ~~(a)(4) of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4)~~, and amendments
38 thereto;

39 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
40 to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5504(b)~~, and
41 amendments thereto;

42 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
43 prior to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5508(a)~~, and

1 amendments thereto;

2 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
3 21-3511, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-
4 5508(b), and amendments thereto;

5 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
6 to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto;

7 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
8 repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5604(b), and
9 amendments thereto;

10 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
11 prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5601(b), and
12 amendments thereto;

13 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
14 or K.S.A. 2014 Supp. 21-5602, and amendments thereto;

15 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
16 or K.S.A. 2014 Supp. 21-5401, ~~and amendments thereto~~ prior to its repeal;

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

19 ~~(13)~~ (14) murder in the first degree, as defined in K.S.A. 21-3401,
20 prior to its repeal, or K.S.A. 2014 Supp. 21-5402, and amendments
21 thereto;

22 ~~(14)~~ (15) murder in the second degree, as defined in K.S.A. 21-3402,
23 prior to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments
24 thereto;

25 ~~(15)~~ (16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
26 to its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto;

27 ~~(16)~~ (17) involuntary manslaughter, as defined in K.S.A. 21-3404,
28 prior to its repeal, or K.S.A. 2014 Supp. 21-5405, and amendments
29 thereto;

30 ~~(17)~~ (18) involuntary manslaughter while driving under the influence
31 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;

32 ~~(18)~~ (19) sexual battery, as defined in K.S.A. 21-3517, prior to its
33 repeal, or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5505(a), and
34 amendments thereto, when, at the time the crime was committed, the
35 victim was less than 18 years of age or a student of the person committing
36 such crime;

37 ~~(19)~~ (20) aggravated sexual battery, as defined in K.S.A. 21-3518,
38 prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5505(b), and
39 amendments thereto;

40 ~~(20)~~ (21) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
41 2014 Supp. 21-5301, and amendments thereto, to commit any act specified
42 in this subsection;

43 ~~(21)~~ (22) conspiracy under K.S.A. 21-3302, prior to its repeal, or

1 K.S.A. 2014 Supp. 21-5302, and amendments thereto, to commit any act
2 specified in this subsection;

3 ~~(22)~~ (23) an act in another state or by the federal government that is
4 comparable to any act described in this subsection; or

5 ~~(23)~~ (24) an offense in effect at any time prior to the effective date of
6 this act that is comparable to an offense as provided in this subsection.

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

11 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
12 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes
13 Annotated, and amendments thereto, or any felony violation of any
14 provision of the uniform controlled substances act prior to July 1, 2009;

15 (2) a felony described in any section of article 34 of chapter 21 of the
16 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
17 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325,
18 21-6326 or 21-6418, and amendments thereto, other than an act specified
19 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
20 repeal, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5413(a), and
21 amendments thereto, or domestic battery, as described in K.S.A. 21-3412a,
22 prior to its repeal, or K.S.A. 2014 Supp. 21-5414, and amendments
23 thereto, if the victim is a minor or student;

24 (3) a felony described in any section of article 35 of chapter 21 of the
25 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
26 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419 through
27 21-6421, and amendments thereto, other than an act specified in
28 subsection (a);

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

33 (5) a felony described in article 37 of chapter 21 of the Kansas
34 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
35 Kansas Statutes Annotated, or ~~subsection (a)(6) of~~ K.S.A. 2014 Supp. 21-
36 6412(a)(6), and amendments thereto;

37 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
38 repeal, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-6401(a), and
39 amendments thereto, promoting obscenity to minors, as described in
40 K.S.A. 21-4301a, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2014
41 Supp. 21-6401(b), and amendments thereto, or promoting to minors
42 obscenity harmful to minors, as described in K.S.A. 21-4301c, prior to its
43 repeal, or K.S.A. 2014 Supp. 21-6402, and amendments thereto;

1 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
2 repeal, or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5601(a), and
3 amendments thereto;

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

7 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2014
8 Supp. 21-5301, and amendments thereto, to commit any act specified in
9 this subsection;

10 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
11 2014 Supp. 21-5302, and amendments thereto, to commit any act specified
12 in this subsection; or

13 (11) an act committed in violation of a federal law or in violation of
14 another state's law that is comparable to any act described in this
15 subsection.

16 (c) The state board of education may issue a license to or renew the
17 license of a person who has been convicted of committing an offense or
18 act described in subsection (b) or who has entered into a criminal diversion
19 agreement after having been charged with an offense or act described in
20 subsection (b) if the state board determines, following a hearing, that the
21 person has been rehabilitated for a period of at least five years from the
22 date of conviction of the offense or commission of the act or, in the case of
23 a person who has entered into a criminal diversion agreement, that the
24 person has satisfied the terms and conditions of the agreement. The state
25 board of education may consider factors including, but not limited to, the
26 following in determining whether to grant a license:

27 (1) The nature and seriousness of the offense or act;

28 (2) the conduct of the person subsequent to commission of the offense
29 or act;

30 (3) the time elapsed since the commission of the offense or act;

31 (4) the age of the person at the time of the offense or act;

32 (5) whether the offense or act was an isolated or recurring incident;

33 and

34 (6) discharge from probation, pardon or expungement.

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

39 (e) The county or district attorney shall file a report with the state
40 board of education indicating the name, address and social security
41 number of any person who has been determined to have committed any
42 offense or act specified in subsection (a) or (b) or to have entered into a
43 criminal diversion agreement after having been charged with any offense

1 or act specified in subsection (b). Such report shall be filed within 30 days
2 of the date of the determination that the person has committed any such act
3 or entered into any such diversion agreement.

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

7 Sec. 22. K.S.A. 2014 Supp. 75-52,148 is hereby amended to read as
8 follows: 75-52,148. (a) The department of corrections shall be required to
9 review and report on the following serious offenses committed by sex
10 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while
11 such offenders are in the custody of the secretary of corrections:

12 (1) Murder in the first degree, as defined in K.S.A. 2014 Supp. 21-
13 5402, and amendments thereto;

14 (2) murder in the second degree, as defined in K.S.A. 2014 Supp. 21-
15 5403, and amendments thereto;

16 (3) ~~capital murder, as defined in K.S.A. 2014 Supp. 21-5401-~~
17 ~~aggravated murder, as defined in section 2,~~ and amendments thereto;

18 (4) rape, as defined in K.S.A. 2014 Supp. 21-5503, and amendments
19 thereto;

20 (5) aggravated criminal sodomy, as defined in ~~subsection (b) of~~
21 K.S.A. 2014 Supp. 21-5504(b), and amendments thereto;

22 (6) sexual exploitation of a child, as defined in K.S.A. 2014 Supp. 21-
23 5510, and amendments thereto;

24 (7) kidnapping as defined in ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-
25 5408(a), and amendments thereto;

26 (8) aggravated kidnapping, as defined in ~~subsection (b) of~~ K.S.A.
27 2014 Supp. 21-5408(b), and amendments thereto;

28 (9) criminal restraint, as defined in K.S.A. 2014 Supp. 21-5411, and
29 amendments thereto;

30 (10) indecent solicitation of a child, as defined in ~~subsection (a) of~~
31 K.S.A. 2014 Supp. 21-5508(a), and amendments thereto;

32 (11) aggravated indecent solicitation of a child, as defined in
33 ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5508(b), and amendments thereto;

34 (12) indecent liberties with a child, as defined in ~~subsection (a) of~~
35 K.S.A. 2014 Supp. 21-5506(a), and amendments thereto;

36 (13) aggravated indecent liberties with a child, as defined in
37 ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5506(b), and amendments thereto;

38 (14) criminal sodomy, as defined in ~~subsection (a) of~~ K.S.A. 2014
39 Supp. 21-5504(a), and amendments thereto;

40 (15) child abuse, as defined in K.S.A. 2014 Supp. 21-5602, and
41 amendments thereto;

42 (16) aggravated robbery, as defined in ~~subsection (b) of~~ K.S.A. 2014
43 Supp. 21-5420(b), and amendments thereto;

- 1 (17) burglary, as defined in ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-
2 5807(a), and amendments thereto;
- 3 (18) aggravated burglary, as defined in ~~subsection (b)~~ of K.S.A. 2014
4 Supp. 21-5807(b), and amendments thereto;
- 5 (19) theft, as defined in K.S.A. 2014 Supp. 21-5801, and amendments
6 thereto;
- 7 (20) vehicular homicide, as defined in K.S.A. 2014 Supp. 21-5406,
8 and amendments thereto;
- 9 (21) involuntary manslaughter while driving under the influence, as
10 defined in ~~subsection (a)(3)~~ of K.S.A. 2014 Supp. 21-5405(a)(3), and
11 amendments thereto; or
- 12 (22) stalking, as defined in K.S.A. 2014 Supp. 21-5427, and
13 amendments thereto.
- 14 (b) The secretary of corrections shall submit such report to the
15 speaker of the house of representatives and the president of the senate
16 annually, beginning January 1, 2007.
- 17 Sec. 23. K.S.A. 2014 Supp. 21-5401, 21-5419, 21-6614, 21-6614e,
18 21-6617, 21-6618, 21-6619, 21-6620, 21-6622, 21-6628, 21-6629, 21-
19 6806, 22-3717, 22-4902, 22-4906, 38-2255, 38-2271, 38-2312, 38-2365,
20 39-970, 65-5117, 72-1397 and 75-52,148 are hereby repealed.
- 21 Sec. 24. This act shall take effect and be in force from and after its
22 publication in the statute book.