

SENATE BILL No. 22

By Committee on Judiciary

1-14

1 AN ACT concerning courts; relating to municipal court; amending K.S.A.
2 2014 Supp. 12-4516, 21-6614, 22-2410 and 22-3609 and repealing the
3 existing sections; also repealing K.S.A. 2014 Supp. 12-4516b and 21-
4 6614e.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2014 Supp. 12-4516 is hereby amended to read as
8 follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d), (e)
9 and (f), any person who has been convicted of a violation of a city
10 ordinance of this state may petition the convicting court for the
11 expungement of such conviction and related arrest records if three or more
12 years have elapsed since the person:

13 (A) Satisfied the sentence imposed; or

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

15 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any
16 person who has fulfilled the terms of a diversion agreement based on a
17 violation of a city ordinance of this state may petition the court for the
18 expungement of such diversion agreement and related arrest records if
19 three or more years have elapsed since the terms of the diversion
20 agreement were fulfilled.

21 (b) Any person convicted of a violation of any ordinance that is
22 prohibited by either ~~subsection (a) or (b)~~ of K.S.A. 2014 Supp. 12-
23 16,134(a) or (b), and amendments thereto, and which was adopted prior to
24 July 1, 2014, or who entered into a diversion agreement in lieu of further
25 criminal proceedings for such violation, may petition the convicting court
26 for the expungement of such conviction or diversion agreement and related
27 arrest records.

28 (c) Any person convicted of the violation of a city ordinance which
29 would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a
30 violation of K.S.A. 2014 Supp. 21-6419, and amendments thereto, or who
31 entered into a diversion agreement in lieu of further criminal proceedings
32 for such violation, may petition the convicting court for the expungement
33 of such conviction or diversion agreement and related arrest records if:

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

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

7 (d) No person may petition for expungement until five or more years
8 have elapsed since the person satisfied the sentence imposed or the terms
9 of a diversion agreement or was discharged from probation, parole,
10 conditional release or a suspended sentence, if such person was convicted
11 of the violation of a city ordinance which would also constitute:

12 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
13 repeal, or K.S.A. 2014 Supp. 21-5406, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

42 (A) Defendant's full name;

43 (B) full name of the defendant at the time of arrest, conviction or

- 1 diversion, if different than the defendant's current name;
- 2 (C) defendant's sex, race and date of birth;
- 3 (D) crime for which the defendant was arrested, convicted or
4 diverted;
- 5 (E) date of the defendant's arrest, conviction or diversion; and
- 6 (F) identity of the convicting court, arresting law enforcement agency
7 or diverting authority.
- 8 (2) A municipal court may prescribe a fee to be charged as costs for a
9 person petitioning for an order of expungement pursuant to this section.
- 10 (3) Any person who may have relevant information about the
11 petitioner may testify at the hearing. The court may inquire into the
12 background of the petitioner and shall have access to any reports or
13 records relating to the petitioner that are on file with the secretary of
14 corrections or the prisoner review board.
- 15 (h) At the hearing on the petition, the court shall order the petitioner's
16 arrest record, conviction or diversion expunged if the court finds that:
- 17 (1) The petitioner has not been convicted of a felony in the past two
18 years and no proceeding involving any such crime is presently pending or
19 being instituted against the petitioner;
- 20 (2) the circumstances and behavior of the petitioner warrant the
21 expungement; and
- 22 (3) the expungement is consistent with the public welfare.
- 23 (i) When the court has ordered an arrest record, conviction or
24 diversion expunged, the order of expungement shall state the information
25 required to be contained in the petition. The clerk of the court shall send a
26 certified copy of the order of expungement to the Kansas bureau of
27 investigation which shall notify the federal bureau of investigation, the
28 secretary of corrections and any other criminal justice agency which may
29 have a record of the arrest, conviction or diversion. *If the case was*
30 *appealed from municipal court, the clerk of the district court shall send a*
31 *certified copy of the order of expungement to the municipal court. The*
32 *municipal court shall order the case expunged once the certified copy of*
33 *the order of expungement is received.* After the order of expungement is
34 entered, the petitioner shall be treated as not having been arrested,
35 convicted or diverted of the crime, except that:
- 36 (1) Upon conviction for any subsequent crime, the conviction that
37 was expunged may be considered as a prior conviction in determining the
38 sentence to be imposed;
- 39 (2) the petitioner shall disclose that the arrest, conviction or diversion
40 occurred if asked about previous arrests, convictions or diversions:
- 41 (A) In any application for employment as a detective with a private
42 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
43 as security personnel with a private patrol operator, as defined by K.S.A.

1 75-7b01, and amendments thereto; or with an institution, as defined in
2 K.S.A. 76-12a01, and amendments thereto, of the ~~department for children~~
3 ~~and families~~ *Kansas department for aging and disability services*;

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

6 (C) to aid in determining the petitioner's qualifications for
7 employment with the Kansas lottery or for work in sensitive areas within
8 the Kansas lottery as deemed appropriate by the executive director of the
9 Kansas lottery;

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

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

21 (F) upon application for a commercial driver's license under K.S.A.
22 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

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

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

43 (j) Whenever a person is convicted of an ordinance violation, pleads

1 guilty and pays a fine for such a violation, is placed on parole or probation
2 or is granted a suspended sentence for such a violation, the person shall be
3 informed of the ability to expunge the arrest records or conviction.
4 Whenever a person enters into a diversion agreement, the person shall be
5 informed of the ability to expunge the diversion.

6 (k) Subject to the disclosures required pursuant to subsection (i), in
7 any application for employment, license or other civil right or privilege, or
8 any appearance as a witness, a person whose arrest records, conviction or
9 diversion of an offense has been expunged under this statute may state that
10 such person has never been arrested, convicted or diverted of such offense.

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

16 (1) The person whose record was expunged;

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

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

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

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

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

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

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

1 the Kansas lottery as deemed appropriate by the executive director of the
2 Kansas lottery;

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

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

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

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

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

32 (14) the Kansas sentencing commission;

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

37 (16) a law enforcement agency and the request is accompanied by a
38 statement that the request is being made to aid in determining eligibility
39 for employment as a law enforcement officer as defined by K.S.A. 22-
40 2202, and amendments thereto.

41 Sec. 2. K.S.A. 2014 Supp. 21-6614 is hereby amended to read as
42 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d),
43 (e) and (f), any person convicted in this state of a traffic infraction,

1 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
2 for crimes committed on or after July 1, 1993, nondrug crimes ranked in
3 severity levels 6 through 10, or for crimes committed on or after July 1,
4 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the
5 drug grid, or for crimes committed on or after July 1, 2012, any felony
6 ranked in severity level 5 of the drug grid may petition the convicting
7 court for the expungement of such conviction or related arrest records if
8 three or more years have elapsed since the person: (A) Satisfied the
9 sentence imposed; or (B) was discharged from probation, a community
10 correctional services program, parole, postrelease supervision, conditional
11 release or a suspended sentence.

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

17 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
18 3512, prior to its repeal, convicted of a violation of K.S.A. 2014 Supp. 21-
19 6419, and amendments thereto, or who entered into a diversion agreement
20 in lieu of further criminal proceedings for such violation, may petition the
21 convicting court for the expungement of such conviction or diversion
22 agreement and related arrest records if:

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

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

33 (c) Except as provided in subsections (e) and (f), no person may
34 petition for expungement until five or more years have elapsed since the
35 person satisfied the sentence imposed or the terms of a diversion
36 agreement or was discharged from probation, a community correctional
37 services program, parole, postrelease supervision, conditional release or a
38 suspended sentence, if such person was convicted of a class A, B or C
39 felony, or for crimes committed on or after July 1, 1993, if convicted of an
40 off-grid felony or any nondrug crime ranked in severity levels 1 through 5,
41 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,
42 any felony ranked in severity levels 1 through 3 of the drug grid, or for
43 crimes committed on or after July 1, 2012, any felony ranked in severity

1 levels 1 through 4 of the drug grid, or:

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

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

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

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

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

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

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

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

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

34 (e) There shall be no expungement of convictions for the following
35 offenses or of convictions for an attempt to commit any of the following
36 offenses:

37 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
38 2014 Supp. 21-5503, and amendments thereto;

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

42 (3) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~
43 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or~~

1 ~~(a)(4)~~ of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4), and amendments
2 thereto;

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

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

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

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

12 (8) endangering a child or aggravated endangering a child, as defined
13 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2014 Supp.
14 21-5601, and amendments thereto;

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

17 (10) 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;

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

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

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

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

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

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

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

34 (18) any conviction for any offense in effect at any time prior to July
35 1, 2011, that is comparable to any offense as provided in this subsection.

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

42 (g) (1) When a petition for expungement is filed, the court shall set a
43 date for a hearing of such petition and shall cause notice of such hearing to

1 be given to the prosecutor and the arresting law enforcement agency. The
2 petition shall state the:

- 3 (A) Defendant's full name;
- 4 (B) full name of the defendant at the time of arrest, conviction or
5 diversion, if different than the defendant's current name;
- 6 (C) defendant's sex, race and date of birth;
- 7 (D) crime for which the defendant was arrested, convicted or
8 diverted;
- 9 (E) date of the defendant's arrest, conviction or diversion; and
- 10 (F) identity of the convicting court, arresting law enforcement
11 authority or diverting authority.

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

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

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

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

31 (2) the circumstances and behavior of the petitioner warrant the
32 expungement; and

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

34 (i) When the court has ordered an arrest record, conviction or
35 diversion expunged, the order of expungement shall state the information
36 required to be contained in the petition. The clerk of the court shall send a
37 certified copy of the order of expungement to the Kansas bureau of
38 investigation which shall notify the federal bureau of investigation, the
39 secretary of corrections and any other criminal justice agency which may
40 have a record of the arrest, conviction or diversion. *If the case was*
41 *appealed from municipal court, the clerk of the district court shall send a*
42 *certified copy of the order of expungement to the municipal court. The*
43 *municipal court shall order the case expunged once the certified copy of*

1 *the order of expungement is received.* After the order of expungement is
2 entered, the petitioner shall be treated as not having been arrested,
3 convicted or diverted of the crime, except that:

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

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

9 (A) In any application for licensure as a private detective, private
10 detective agency, certification as a firearms trainer pursuant to K.S.A.
11 2014 Supp. 75-7b21, and amendments thereto, or employment as a
12 detective with a private detective agency, as defined by K.S.A. 75-7b01,
13 and amendments thereto; as security personnel with a private patrol
14 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
15 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
16 the Kansas department for aging and disability services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

38 (11) the Kansas sentencing commission;

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

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

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

11 (15) a law enforcement agency and the request is accompanied by a
12 statement that the request is being made to aid in determining eligibility
13 for employment as a law enforcement officer as defined by K.S.A. 22-
14 2202, and amendments thereto;

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

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

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

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

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

28 Sec. 3. K.S.A. 2014 Supp. 22-2410 is hereby amended to read as
29 follows: 22-2410. (a) Any person who has been arrested in this state may
30 petition the district court for the expungement of such arrest record.

31 (b) When a petition for expungement is filed, the court shall set a date
32 for hearing on such petition and shall cause notice of such hearing to be
33 given to the prosecuting attorney and the arresting law enforcement
34 agency. When a petition for expungement is filed, the official court file
35 shall be separated from the other records of the court, and shall be
36 disclosed only to a judge of the court and members of the staff of the court
37 designated by a judge of the district court, the prosecuting attorney, the
38 arresting law enforcement agency, or any other person when authorized by
39 a court order, subject to any conditions imposed by the order. Except as
40 otherwise provided by law, a petition for expungement shall be
41 accompanied by a docket fee in the amount of \$176. Except as provided
42 further, the docket fee established in this section shall be the only fee
43 collected or moneys in the nature of a fee collected for the docket fee.

1 Such fee shall only be established by an act of the legislature and no other
2 authority is established by law or otherwise to collect a fee. On and after
3 July 1, 2013, through July 1, 2015, the supreme court may impose an
4 additional charge, not to exceed \$19 per docket fee, to fund the costs of
5 non-judicial personnel. The petition shall state:

- 6 (1) The petitioner's full name;
- 7 (2) the full name of the petitioner at the time of arrest, if different
8 than the petitioner's current name;
- 9 (3) the petitioner's sex, race and date of birth;
- 10 (4) the crime for which the petitioner was arrested;
- 11 (5) the date of the petitioner's arrest; and
- 12 (6) the identity of the arresting law enforcement agency.

13 No surcharge or fee shall be imposed to any person filing a petition
14 pursuant to this section, who was arrested as a result of being a victim of
15 identity theft under K.S.A. 21-4018, prior to its repeal, or ~~subsection (a) of~~
16 K.S.A. 2014 Supp. 21-6107(a), and amendments thereto, or who has had
17 criminal charges dismissed because a court has found that there was no
18 probable cause for the arrest, the petitioner was found not guilty in court
19 proceedings or the charges have been dismissed. Any person who may
20 have relevant information about the petitioner may testify at the hearing.
21 The court may inquire into the background of the petitioner.

22 (c) At the hearing on a petition for expungement, the court shall order
23 the arrest record and subsequent court proceedings, if any, expunged upon
24 finding: (1) The arrest occurred because of mistaken identity;

- 25 (2) a court has found that there was no probable cause for the arrest;
- 26 (3) the petitioner was found not guilty in court proceedings; or
- 27 (4) the expungement would be in the best interests of justice and: (A)
28 Charges have been dismissed; or (B) no charges have been or are likely to
29 be filed.

30 (d) When the court has ordered expungement of an arrest record and
31 subsequent court proceedings, if any, the order shall state the information
32 required to be stated in the petition and shall state the grounds for
33 expungement under subsection (c). The clerk of the court shall send a
34 certified copy of the order to the Kansas bureau of investigation which
35 shall notify the federal bureau of investigation, the secretary of corrections
36 and any other criminal justice agency which may have a record of the
37 arrest. *If the case was appealed from municipal court, the clerk of the*
38 *district court shall send a certified copy of the order of expungement to the*
39 *municipal court. The municipal court shall order the case expunged once*
40 *the certified copy of the order of expungement is received.* If an order of
41 expungement is entered, the petitioner shall be treated as not having been
42 arrested.

43 (e) If the ground for expungement is as provided in subsection (c)(4),

1 the court shall determine whether, in the interests of public welfare, the
2 records should be available for any of the following purposes: (1) In any
3 application for employment as a detective with a private detective agency,
4 as defined in K.S.A. 75-7b01, and amendments thereto; as security
5 personnel with a private patrol operator, as defined by K.S.A. 75-7b01,
6 and amendments thereto; or with an institution, as defined in K.S.A. 76-
7 12a01, and amendments thereto, of the Kansas department for aging and
8 disability services;

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

11 (3) to aid in determining the petitioner's 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 (4) to aid in determining the petitioner's qualifications for executive
16 director of the Kansas racing commission, for employment with the
17 commission or for work in sensitive areas in parimutuel racing as deemed
18 appropriate by the executive director of the commission, or to aid in
19 determining qualifications for licensure or renewal of licensure by the
20 commission;

21 (5) in any application for a commercial driver's license under K.S.A.
22 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

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

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

43 (h) Whenever a petitioner's arrest records have been expunged as

1 provided in this section, the custodian of the records of arrest,
2 incarceration due to arrest or court proceedings related to the arrest, shall
3 not disclose the arrest or any information related to the arrest, except as
4 directed by the order of expungement or when requested by the person
5 whose arrest record was expunged.

6 (i) The docket fee collected at the time the petition for expungement
7 is filed shall be disbursed in accordance with K.S.A. 20-362, and
8 amendments thereto.

9 Sec. 4. K.S.A. 2014 Supp. 22-3609 is hereby amended to read as
10 follows: 22-3609. (†) (a) The defendant shall have the right to appeal to
11 the district court of the county from any judgment of a municipal court
12 which adjudges the defendant guilty of a violation of the ordinances of any
13 municipality of Kansas or any findings of contempt. The appeal shall be
14 assigned by the chief judge to a district judge. The appeal shall stay all
15 further proceedings upon the judgment appealed from.

16 (‡) (b) An appeal to the district court shall be taken by filing, in the
17 district court of the county in which the municipal court is located, a notice
18 of appeal and any appearance bond required by the municipal court.
19 Municipal court clerks are hereby authorized to accept notices of appeal
20 and appearance bonds under this subsection and shall forward such notices
21 and bonds to the district court. No appeal shall be filed until after the
22 sentence has been imposed. No appeal shall be taken more than 14 days
23 after the date the sentence is imposed.

24 (‡) (c) The notice of appeal shall designate the judgment or part of
25 the judgment appealed from. The defendant shall cause notice of the
26 appeal to be served upon the city attorney prosecuting the case. The judge
27 whose judgment is appealed from or the clerk of the court, if there is one,
28 shall certify the complaint and warrant to the district court of the county,
29 but failure to do so shall not affect the validity of the appeal.

30 (†) (d) Except as provided herein, the trial of municipal appeal cases
31 shall be to the court unless a jury trial is requested in writing by the
32 defendant not later than seven days after first notice of trial assignment is
33 given to the defendant or such defendant's counsel. The time requirement
34 provided in this subsection regarding when a jury trial shall be requested
35 may be waived in the discretion of the court upon a finding that imposing
36 such time requirement would cause undue hardship or prejudice to the
37 defendant. A jury in a municipal appeal case shall consist of six members.
38 All appeals taken by a defendant from a municipal judge in contempt
39 findings, cigarette or tobacco infraction or traffic infraction cases shall be
40 tried by the court.

41 (‡) (e) Notwithstanding the other provisions of this section, appeal
42 from a conviction rendered pursuant to ~~subsection (b)~~ of K.S.A. 12-
43 4416(b), and amendments thereto, shall be conducted only on the record of

1 the stipulation of facts relating to the complaint.

2 *(f) At the conclusion of the case, the district court shall send notice of*
3 *dismissal, conviction or acquittal to the municipal court clerk.*

4 Sec. 5. K.S.A. 2014 Supp. 12-4516, 12-4516b, 21-6614, 21-6614e,
5 22-2410 and 22-3609 are hereby repealed.

6 Sec. 6. This act shall take effect and be in force from and after its
7 publication in the statute book.