

SENATE BILL No. 478

By Committee on Federal and State Affairs

2-23

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; establishing the Kansas death penalty abolition fund; amending
5 K.S.A. 2015 Supp. 21-5419, 21-6614, 21-6618, 21-6620, 21-6622, 21-
6 6628, 21-6629, 21-6806, 22-3717, 22-4902, 22-4906, 38-2255, 38-
7 2271, 38-2312, 38-2365, 39-970, 65-5117, 72-1397 and 75-52,148 and
8 repealing the existing sections; also repealing K.S.A. 2015 Supp. 21-
9 5401, 21-6614f, 21-6617 and 21-6619.

10

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

12

New Section 1. (a) No person shall be sentenced to death for a crime
13 committed on or after July 1, 2016.

14

(b) Any person who is sentenced to death for a crime committed prior
15 to July 1, 2016, may be put to death pursuant to the provisions of article 40
16 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

17

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

19

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

20

(1) Intentional and premeditated killing of any person in the
21 commission of kidnapping, as defined in K.S.A. 2015 Supp. 21-5408, and
22 amendments thereto, or aggravated kidnapping, as defined in K.S.A. 2015
23 Supp. 21-5408(b), and amendments thereto, when the kidnapping or
24 aggravated kidnapping was committed with the intent to hold such person
25 for ransom;

26

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

29

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

34

(4) intentional and premeditated killing of the victim of one of the
35 following crimes in the commission of, or subsequent to, such crime:
36 Rape, as defined in K.S.A. 2015 Supp. 21-5503, and amendments thereto,

1 criminal sodomy, as defined in K.S.A. 2015 Supp. 21-5504(a)(3) or (a)(4),
2 and amendments thereto, or aggravated criminal sodomy, as defined in
3 K.S.A. 2015 Supp. 21-5504(b), and amendments thereto, or any attempt
4 thereof, as defined in K.S.A. 2015 Supp. 21-5301, and amendments
5 thereto;

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

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

11 (7) intentional and premeditated killing of a child under the age of 14
12 in the commission of kidnapping, as defined in K.S.A. 2015 Supp. 21-
13 5408(a), and amendments thereto, or aggravated kidnapping, as defined in
14 K.S.A. 2015 Supp. 21-5408(b), and amendments thereto, when the
15 kidnapping or aggravated kidnapping was committed with intent to
16 commit a sex offense upon or with the child or with intent that the child
17 commit or submit to a sex offense.

18 (b) For purposes of this section, "sex offense" means rape, as defined
19 in K.S.A. 2015 Supp. 21-5503, and amendments thereto, aggravated
20 indecent liberties with a child, as defined in K.S.A. 2015 Supp. 21-
21 5506(b), and amendments thereto, aggravated criminal sodomy, as defined
22 in K.S.A. 2015 Supp. 21-5504(b), and amendments thereto, prostitution, as
23 defined in K.S.A. 2015 Supp. 21-6419, and amendments thereto,
24 promoting prostitution, as defined in K.S.A. 2015 Supp. 21-6420, and
25 amendments thereto, or sexual exploitation of a child, as defined in K.S.A.
26 2015 Supp. 21-5510, and amendments thereto.

27 (c) Notwithstanding K.S.A. 2015 Supp. 21-5109(b)(1) or (b)(2), and
28 amendments thereto, when the same conduct of a defendant may establish
29 the commission of aggravated murder and the commission of another
30 crime under the laws of this state, the defendant may be prosecuted and
31 sentenced for each of such crimes.

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

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

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

1 supervision, functional incapacitation release pursuant to K.S.A. 22-3728,
2 and amendments thereto, or suspension, modification or reduction of
3 sentence. Upon sentencing a defendant to imprisonment for life without
4 the possibility of parole, the court shall commit the defendant to the
5 custody of the secretary of corrections and the court shall state in the
6 sentencing order of the judgment form or journal entry, whichever is
7 delivered with the defendant to the correctional institution, that the
8 defendant has been sentenced to imprisonment for life without the
9 possibility of parole.

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

12 New Sec. 4. (a) There is hereby established in the state treasury the
13 Kansas death penalty abolition fund which shall be administered by the
14 secretary of corrections. All expenditures from the Kansas death penalty
15 abolition fund shall be made in accordance with appropriation acts upon
16 warrants of the director of accounts and reports issued pursuant to
17 vouchers approved by the secretary of corrections or the designee of the
18 secretary.

19 (b) Annually, on or before June 30, the director of the budget shall
20 determine and certify to the director of accounts and reports the amount in
21 each account of the state general fund of a state agency that has been
22 determined by the director of the budget to be actual or projected cost
23 savings as a result of the abolition of the death penalty pursuant to section
24 1, and amendments thereto. Such cost savings shall include, but not be
25 limited to, cost avoidance in the prosecution, defense, corrections and
26 other associated costs resulting from the abolition of the death penalty.

27 (c) Annually, on July 1 or as soon thereafter as moneys are available,
28 the director of accounts and reports shall transfer the amount certified
29 pursuant to subsection (b) from each account of the state general fund of a
30 state agency that has been determined by the director of the budget to be
31 actual or projected cost savings to the Kansas death penalty abolition fund.

32 Sec. 5. K.S.A. 2015 Supp. 21-5419 is hereby amended to read as
33 follows: 21-5419. (a) As used in this section:

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

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

38 (b) This section shall not apply to:

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

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

43 (3) the lawful dispensation or administration of lawfully prescribed

1 medication.

2 (c) As used in K.S.A. 2015 Supp. ~~21-5401~~, 21-5402, 21-5403, 21-
3 5404, 21-5405, 21-5406 ~~and subsections (a) and (b) of~~, 21-5413(a) and (b)
4 and section 2, and amendments thereto, "person" and "human being" also
5 mean an unborn child.

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

7 Sec. 6. K.S.A. 2015 Supp. 21-6614 is hereby amended to read as
8 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
9 and (f), any person convicted in this state of a traffic infraction, cigarette
10 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
11 committed on or after July 1, 1993, any nongrid felony or felony ranked in
12 severity levels 6 through 10 of the nondrug grid, or for crimes committed
13 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
14 severity level 4 of the drug grid, or for crimes committed on or after July
15 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
16 the convicting court for the expungement of such conviction or related
17 arrest records if three or more years have elapsed since the person: (A)
18 Satisfied the sentence imposed; or (B) was discharged from probation, a
19 community correctional services program, parole, postrelease supervision,
20 conditional release or a suspended sentence.

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

26 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
27 3512, prior to its repeal, convicted of a violation of K.S.A. 2015 Supp. 21-
28 6419, and amendments thereto, or who entered into a diversion agreement
29 in lieu of further criminal proceedings for such violation, may petition the
30 convicting court for the expungement of such conviction or diversion
31 agreement and related arrest records if:

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

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

42 (c) Except as provided in subsections (e) and (f), no person may
43 petition for expungement until five or more years have elapsed since the

1 person satisfied the sentence imposed or the terms of a diversion
2 agreement or was discharged from probation, a community correctional
3 services program, parole, postrelease supervision, conditional release or a
4 suspended sentence, if such person was convicted of a class A, B or C
5 felony, or for crimes committed on or after July 1, 1993, if convicted of an
6 off-grid felony or any felony ranked in severity levels 1 through 5 of the
7 nondrug grid, or for crimes committed on or after July 1, 1993, but prior to
8 July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug
9 grid, or for crimes committed on or after July 1, 2012, any felony ranked
10 in severity levels 1 through 4 of the drug grid, or:

11 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
12 repeal, or K.S.A. 2015 Supp. 21-5406, and amendments thereto, or as
13 prohibited by any law of another state which is in substantial conformity
14 with that statute;

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

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

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

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

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

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

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

35 (d) (1) No person may petition for expungement until five or more
36 years have elapsed since the person satisfied the sentence imposed or the
37 terms of a diversion agreement or was discharged from probation, a
38 community correctional services program, parole, postrelease supervision,
39 conditional release or a suspended sentence, if such person was convicted
40 of a first violation of K.S.A. 8-1567 or K.S.A. 2015 Supp. 8-1025, and
41 amendments thereto, including any diversion for such violation.

42 (2) No person may petition for expungement until 10 or more years
43 have elapsed since the person satisfied the sentence imposed or was

1 discharged from probation, a community correctional services program,
2 parole, postrelease supervision, conditional release or a suspended
3 sentence, if such person was convicted of a second or subsequent violation
4 of K.S.A. 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments thereto.

5 (e) There shall be no expungement of convictions for the following
6 offenses or of convictions for an attempt to commit any of the following
7 offenses:

8 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
9 2015 Supp. 21-5503, and amendments thereto;

10 (2) indecent liberties with a child or aggravated indecent liberties
11 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
12 or K.S.A. 2015 Supp. 21-5506, and amendments thereto;

13 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
14 prior to its repeal, or K.S.A. 2015 Supp. 21-5504(a)(3) or (a)(4), and
15 amendments thereto;

16 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
17 to its repeal, or K.S.A. 2015 Supp. 21-5504, and amendments thereto;

18 (5) indecent solicitation of a child or aggravated indecent solicitation
19 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
20 or K.S.A. 2015 Supp. 21-5508, and amendments thereto;

21 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
22 to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto;

23 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
24 repeal, or K.S.A. 2015 Supp. 21-5604, and amendments thereto;

25 (8) endangering a child or aggravated endangering a child, as defined
26 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2015 Supp.
27 21-5601, and amendments thereto;

28 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
29 or K.S.A. 2015 Supp. 21-5602, and amendments thereto;

30 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
31 or K.S.A. 2015 Supp. 21-5401, ~~and amendments thereto~~ prior to its repeal;

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

34 ~~(H)~~ (12) murder in the first degree, as defined in K.S.A. 21-3401,
35 prior to its repeal, or K.S.A. 2015 Supp. 21-5402, and amendments
36 thereto;

37 ~~(I2)~~ (13) murder in the second degree, as defined in K.S.A. 21-3402,
38 prior to its repeal, or K.S.A. 2015 Supp. 21-5403, and amendments
39 thereto;

40 ~~(I3)~~ (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
41 to its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto;

42 ~~(I4)~~ (15) involuntary manslaughter, as defined in K.S.A. 21-3404,
43 prior to its repeal, or K.S.A. 2015 Supp. 21-5405, and amendments

1 thereto;

2 ~~(15)~~ (16) sexual battery, as defined in K.S.A. 21-3517, prior to its
3 repeal, or K.S.A. 2015 Supp. 21-5505, and amendments thereto, when the
4 victim was less than 18 years of age at the time the crime was committed;

5 ~~(16)~~ (17) aggravated sexual battery, as defined in K.S.A. 21-3518,
6 prior to its repeal, or K.S.A. 2015 Supp. 21-5505, and amendments
7 thereto;

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

10 ~~(18)~~ (19) any conviction for any offense in effect at any time prior to
11 July 1, 2011, that is comparable to any offense as provided in this
12 subsection.

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

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

23 (A) Defendant's full name;

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

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

27 (D) crime for which the defendant was arrested, convicted or
28 diverted;

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

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

32 (2) Except as otherwise provided by law, a petition for expungement
33 shall be accompanied by a docket fee in the amount of \$176. On and after
34 July 1, ~~2013~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court
35 may impose a charge, not to exceed \$19 per case, to fund the costs of non-
36 judicial personnel. The charge established in this section shall be the only
37 fee collected or moneys in the nature of a fee collected for the case. Such
38 charge shall only be established by an act of the legislature and no other
39 authority is established by law or otherwise to collect a fee.

40 (3) All petitions for expungement shall be docketed in the original
41 criminal action. Any person who may have relevant information about the
42 petitioner may testify at the hearing. The court may inquire into the
43 background of the petitioner and shall have access to any reports or

1 records relating to the petitioner that are on file with the secretary of
2 corrections or the prisoner review board.

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

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

8 (2) the circumstances and behavior of the petitioner warrant the
9 expungement; and

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

11 (i) When the court has ordered an arrest record, conviction or
12 diversion expunged, the order of expungement shall state the information
13 required to be contained in the petition. The clerk of the court shall send a
14 certified copy of the order of expungement to the Kansas bureau of
15 investigation which shall notify the federal bureau of investigation, the
16 secretary of corrections and any other criminal justice agency which may
17 have a record of the arrest, conviction or diversion. After the order of
18 expungement is entered, the petitioner shall be treated as not having been
19 arrested, convicted or diverted of the crime, except that:

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

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

25 (A) In any application for licensure as a private detective, private
26 detective agency, certification as a firearms trainer pursuant to K.S.A.
27 2015 Supp. 75-7b21, and amendments thereto, or employment as a
28 detective with a private detective agency, as defined by K.S.A. 75-7b01,
29 and amendments thereto; as security personnel with a private patrol
30 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
31 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
32 the Kansas department for aging and disability services;

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

35 (C) to aid in determining the petitioner's qualifications for
36 employment with the Kansas lottery or for work in sensitive areas within
37 the Kansas lottery as deemed appropriate by the executive director of the
38 Kansas lottery;

39 (D) to aid in determining the petitioner's qualifications for executive
40 director of the Kansas racing and gaming commission, for employment
41 with the commission or for work in sensitive areas in parimutuel racing as
42 deemed appropriate by the executive director of the commission, or to aid
43 in determining qualifications for licensure or renewal of licensure by the

1 commission;

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

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

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

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

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

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

19 (K) for applications received on and after July 1, 2006, to aid in
20 determining the petitioner's qualifications for a license to carry a concealed
21 weapon pursuant to the personal and family protection act, K.S.A. 2015
22 Supp. 75-7c01 et seq., and amendments thereto;

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

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

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

32 (j) Whenever a person is convicted of a crime, pleads guilty and pays
33 a fine for a crime, is placed on parole, postrelease supervision or
34 probation, is assigned to a community correctional services program, is
35 granted a suspended sentence or is released on conditional release, the
36 person shall be informed of the ability to expunge the arrest records or
37 conviction. Whenever a person enters into a diversion agreement, the
38 person shall be informed of the ability to expunge the diversion.

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

1 (2) Notwithstanding the provisions of subsection (k)(1), and except as
2 provided in K.S.A. 2015 Supp. 21-6304(a)(3)(A), and amendments
3 thereto, the expungement of a prior felony conviction does not relieve the
4 individual of complying with any state or federal law relating to the use,
5 shipment, transportation, receipt or possession of firearms by persons
6 previously convicted of a felony.

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

12 (1) The person whose record was expunged;

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

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

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

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

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

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

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

40 (9) the governor or the Kansas racing and gaming commission, or a
41 designee of the commission, and the request is accompanied by a
42 statement that the request is being made to aid in determining
43 qualifications for executive director of the commission, for employment

- 1 with the commission, for work in sensitive areas in parimutuel racing as
2 deemed appropriate by the executive director of the commission or for
3 licensure, renewal of licensure or continued licensure by the commission;
- 4 (10) the Kansas racing and gaming commission, or a designee of the
5 commission, and the request is accompanied by a statement that the
6 request is being made to aid in determining qualifications of the following
7 under the Kansas expanded lottery act: (A) Lottery gaming facility
8 managers and prospective managers, racetrack gaming facility managers
9 and prospective managers, licensees and certificate holders; and (B) their
10 officers, directors, employees, owners, agents and contractors;
- 11 (11) the Kansas sentencing commission;
- 12 (12) the state gaming agency, and the request is accompanied by a
13 statement that the request is being made to aid in determining
14 qualifications: (A) To be an employee of the state gaming agency; or (B)
15 to be an employee of a tribal gaming commission or to hold a license
16 issued pursuant to a tribal-gaming compact;
- 17 (13) the Kansas securities commissioner or a designee of the
18 commissioner, and the request is accompanied by a statement that the
19 request is being made in conjunction with an application for registration as
20 a broker-dealer, agent, investment adviser or investment adviser
21 representative by such agency and the application was submitted by the
22 person whose record has been expunged;
- 23 (14) the Kansas commission on peace officers' standards and training
24 and the request is accompanied by a statement that the request is being
25 made to aid in determining certification eligibility as a law enforcement
26 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;
- 27 (15) a law enforcement agency and the request is accompanied by a
28 statement that the request is being made to aid in determining eligibility
29 for employment as a law enforcement officer as defined by K.S.A. 22-
30 2202, and amendments thereto;
- 31 (16) the attorney general and the request is accompanied by a
32 statement that the request is being made to aid in determining
33 qualifications for a license to carry a concealed weapon pursuant to the
34 personal and family protection act; or
- 35 (17) the Kansas bureau of investigation for the purposes of:
- 36 (A) Completing a person's criminal history record information within
37 the central repository, in accordance with K.S.A. 22-4701 et seq., and
38 amendments thereto; or
- 39 (B) providing information or documentation to the federal bureau of
40 investigation, in connection with the national instant criminal background
41 check system, to determine a person's qualification to possess a firearm.
- 42 (m) The provisions of subsection (l)(17) shall apply to records
43 created prior to, on and after July 1, 2011.

1 Sec. 7. K.S.A. 2015 Supp. 21-6618 is hereby amended to read as
2 follows: 21-6618. Upon conviction of a defendant of ~~capital~~ *aggravated*
3 murder and a finding that the defendant was less than 18 years of age at
4 the time of the commission thereof, the court shall sentence the defendant
5 as otherwise provided by law, and no sentence of ~~death or~~ life without the
6 possibility of parole shall be imposed ~~hereunder~~.

7 Sec. 8. K.S.A. 2015 Supp. 21-6620 is hereby amended to read as
8 follows: 21-6620. (a) (1) Except as provided in subsection (a)(2) and
9 K.S.A. 2015 Supp. 21-6618 and 21-6622, and amendments thereto, if a
10 defendant is convicted of the crime of ~~capital murder and a sentence of~~
11 ~~death is not imposed pursuant to subsection (c) of K.S.A. 2015 Supp. 21-~~
12 ~~6617, and amendments thereto, or requested pursuant to subsection (a) or~~
13 ~~(b) of K.S.A. 2015 Supp. 21-6617, and amendments thereto~~ *aggravated*
14 *murder*, the defendant shall be sentenced to life without the possibility of
15 parole *pursuant to section 3, and amendments thereto*.

16 (2) (A) Except as provided in subsection (a)(2)(B), a defendant
17 convicted of attempt to commit the crime of ~~capital~~ *aggravated* murder
18 shall be sentenced to imprisonment for life and shall not be eligible for
19 probation or suspension, modification or reduction of sentence. In
20 addition, the defendant shall not be eligible for parole prior to serving 25
21 years' imprisonment, and such 25 years' imprisonment shall not be reduced
22 by the application of good time credits. No other sentence shall be
23 permitted.

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

32 (b) The provisions of this subsection shall apply only to the crime of
33 murder in the first degree as described in ~~subsection (a)(2) of K.S.A. 2015~~
34 ~~Supp. 21-5402(a)(2), and amendments thereto, committed on or after July~~
35 ~~1, 2014.~~

36 (1) Except as provided in subsection (b)(2), a defendant convicted of
37 murder in the first degree as described in ~~subsection (a)(2) of K.S.A. 2015~~
38 ~~Supp. 21-5402(a)(2), and amendments thereto, shall be sentenced to~~
39 imprisonment for life and shall not be eligible for probation or suspension,
40 modification or reduction of sentence. In addition, the defendant shall not
41 be eligible for parole prior to serving 25 years' imprisonment, and such 25
42 years' imprisonment shall not be reduced by the application of good time
43 credits. No other sentence shall be permitted.

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

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

12 (1) (A) Except as provided in subsection (c)(1)(B), a defendant
13 convicted of murder in the first degree based upon the finding of
14 premeditated murder shall be sentenced pursuant to K.S.A. 2015 Supp. 21-
15 6623, and amendments thereto, unless the sentencing judge finds
16 substantial and compelling reasons, following a review of mitigating
17 circumstances, to impose the sentence specified in subsection (c)(2).

18 (B) The provisions of subsection (c)(1)(A) requiring the court to
19 impose the mandatory minimum term of imprisonment required by K.S.A.
20 2015 Supp. 21-6623, and amendments thereto, shall not apply if the court
21 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 600 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 (2) (A) If the sentencing judge does not impose the mandatory
28 minimum term of imprisonment required by K.S.A. 2015 Supp. 21-6623,
29 and amendments thereto, the judge shall state on the record at the time of
30 sentencing the substantial and compelling reasons therefor, and, except as
31 provided in subsection (c)(2)(B), the defendant shall be sentenced to
32 imprisonment for life and shall not be eligible for probation or suspension,
33 modification or reduction of sentence. In addition, the defendant shall not
34 be eligible for parole prior to serving 25 years' imprisonment, and such 25
35 years' imprisonment shall not be reduced by the application of good time
36 credits. No other sentence shall be permitted.

37 (B) The provisions of subsection (c)(2)(A) requiring the court to
38 impose a mandatory minimum term of imprisonment of 25 years shall not
39 apply if the court finds the defendant, because of the defendant's criminal
40 history classification, is subject to presumptive imprisonment pursuant to
41 the sentencing guidelines grid for nondrug crimes and the sentencing range
42 exceeds 300 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 (d) The provisions of this subsection shall apply only to the crime of
3 murder in the first degree based upon the finding of premeditated murder
4 committed on or after September 6, 2013.

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

11 (2) The court shall conduct a separate proceeding following the
12 determination of the defendant's guilt for the jury to determine whether
13 one or more aggravating circumstances exist. Such proceeding shall be
14 conducted by the court before a jury as soon as practicable. If any person
15 who served on the trial jury is unable to serve on the jury for the
16 proceeding, the court shall substitute an alternate juror who has been
17 impaneled for the trial jury. If there are insufficient alternate jurors to
18 replace trial jurors who are unable to serve at the proceeding, the court
19 may conduct such proceeding before a jury which may have 12 or less
20 jurors, but at no time less than six jurors. If the jury has been discharged
21 prior to the proceeding, a new jury shall be impaneled. Any decision of the
22 jury regarding the existence of an aggravating circumstance shall be
23 beyond a reasonable doubt. Jury selection procedures, qualifications of
24 jurors and grounds for exemption or challenge of prospective jurors in
25 criminal trials shall be applicable to the selection of such jury. The jury at
26 the proceeding may be waived in the manner provided by K.S.A. 22-3403,
27 and amendments thereto, for waiver of a trial jury. If the jury at the
28 proceeding has been waived, such proceeding shall be conducted by the
29 court.

30 (3) In the proceeding, evidence may be presented concerning any
31 matter relating to any of the aggravating circumstances enumerated in
32 K.S.A. 2015 Supp. 21-6624, and amendments thereto. Only such evidence
33 of aggravating circumstances as the prosecuting attorney has made known
34 to the defendant prior to the proceeding shall be admissible and no
35 evidence secured in violation of the constitution of the United States or of
36 the state of Kansas shall be admissible. No testimony by the defendant at
37 the time of the proceeding shall be admissible against the defendant at any
38 subsequent criminal proceeding. At the conclusion of the evidentiary
39 presentation, the court shall allow the parties a reasonable period of time in
40 which to present oral argument.

41 (4) At the conclusion of the evidentiary portion of the proceeding, the
42 court shall provide oral and written instructions to the jury to guide its
43 deliberations. If the prosecuting attorney relies on ~~subsection (a)~~ of K.S.A.

1 2015 Supp. 21-6624(a), and amendments thereto, as an aggravating
2 circumstance, and the court finds that one or more of the defendant's prior
3 convictions satisfy such subsection, the jury shall be instructed that a
4 certified journal entry of a prior conviction is presumed to prove the
5 existence of such prior conviction or convictions beyond a reasonable
6 doubt.

7 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
8 that one or more of the aggravating circumstances enumerated in K.S.A.
9 2015 Supp. 21-6624, and amendments thereto, exist, the jury shall
10 designate, in writing, signed by the foreman of the jury, the statutory
11 aggravating circumstances which it found. If, after a reasonable time for
12 deliberation, the jury is unable to reach a unanimous sentencing decision,
13 the court shall dismiss the jury and the defendant shall be sentenced as
14 provided by law. In nonjury cases, the court shall designate, in writing, the
15 specific circumstance or circumstances which the court found beyond a
16 reasonable doubt.

17 (6) If one or more of the aggravating circumstances enumerated in
18 K.S.A. 2015 Supp. 21-6624, and amendments thereto, are found to exist
19 beyond a reasonable doubt pursuant to this subsection, the defendant shall
20 be sentenced pursuant to K.S.A. 2015 Supp. 21-6623, and amendments
21 thereto, unless the sentencing judge finds substantial and compelling
22 reasons, following a review of mitigating circumstances, to impose the
23 sentence specified in this paragraph. If the sentencing judge does not
24 impose the mandatory minimum term of imprisonment required by K.S.A.
25 2015 Supp. 21-6623, and amendments thereto, the judge shall state on the
26 record at the time of sentencing the substantial and compelling reasons
27 therefor, and the defendant shall be sentenced to imprisonment for life and
28 shall not be eligible for probation or suspension, modification or reduction
29 of sentence. In addition, the defendant shall not be eligible for parole prior
30 to serving 25 years' imprisonment, and such 25 years' imprisonment shall
31 not be reduced by the application of good time credits. No other sentence
32 shall be permitted.

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

36 (1) If a defendant is convicted of murder in the first degree based
37 upon the finding of premeditated murder, upon reasonable notice by the
38 prosecuting attorney, the court shall conduct a separate sentencing
39 proceeding in accordance with this subsection to determine whether the
40 defendant shall be required to serve a mandatory minimum term of
41 imprisonment of 40 years or for crimes committed on and after July 1,
42 1999, a mandatory minimum term of imprisonment of 50 years or
43 sentenced as otherwise provided by law.

1 (2) The sentencing proceeding shall be conducted by the court before
2 a jury as soon as practicable. If the trial jury has been discharged prior to
3 sentencing, a new jury shall be impaneled. Any decision to impose a
4 mandatory minimum term of imprisonment of 40 or 50 years shall be by a
5 unanimous jury. Jury selection procedures, qualifications of jurors and
6 grounds for exemption or challenge of prospective jurors in criminal trials
7 shall be applicable to the selection of such jury. The jury at the sentencing
8 proceeding may be waived in the manner provided by K.S.A. 22-3403, and
9 amendments thereto, for waiver of a trial jury. If the jury at the sentencing
10 proceeding has been waived, such proceeding shall be conducted by the
11 court.

12 (3) In the sentencing proceeding, evidence may be presented
13 concerning any matter that the court deems relevant to the question of
14 sentence and shall include matters relating to any of the aggravating
15 circumstances enumerated in K.S.A. 2015 Supp. 21-6624, and
16 amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.
17 21-4636, prior to its repeal, and any mitigating circumstances. Any such
18 evidence which the court deems to have probative value may be received
19 regardless of its admissibility under the rules of evidence, provided that
20 the defendant is accorded a fair opportunity to rebut any hearsay
21 statements. Only such evidence of aggravating circumstances as the
22 prosecuting attorney has made known to the defendant prior to the
23 sentencing proceeding shall be admissible and no evidence secured in
24 violation of the constitution of the United States or of the state of Kansas
25 shall be admissible. Only such evidence of mitigating circumstances
26 subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto,
27 that the defendant has made known to the prosecuting attorney prior to the
28 sentencing proceeding shall be admissible. No testimony by the defendant
29 at the time of sentencing shall be admissible against the defendant at any
30 subsequent criminal proceeding. At the conclusion of the evidentiary
31 presentation, the court shall allow the parties a reasonable period of time in
32 which to present oral argument.

33 (4) At the conclusion of the evidentiary portion of the sentencing
34 proceeding, the court shall provide oral and written instructions to the jury
35 to guide its deliberations. If the prosecuting attorney relies on ~~subsection~~
36 ~~(a)~~ of K.S.A. 2015 Supp. 21-6624(a), and amendments thereto, or for
37 crimes committed prior to July 1, 2011, ~~subsection (a)~~ of K.S.A. 21-
38 4636(a), prior to its repeal, as an aggravating circumstance, and the court
39 finds that one or more of the defendant's prior convictions satisfy such
40 subsection, the jury shall be instructed that a certified journal entry of a
41 prior conviction is presumed to prove the existence of such prior
42 conviction or convictions beyond a reasonable doubt.

43 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt

1 that one or more of the aggravating circumstances enumerated in K.S.A.
2 2015 Supp. 21-6624, and amendments thereto, or for crimes committed
3 prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further,
4 that the existence of such aggravating circumstances is not outweighed by
5 any mitigating circumstances which are found to exist, the defendant shall
6 be sentenced pursuant to K.S.A. 2015 Supp. 21-6623, and amendments
7 thereto; otherwise, the defendant shall be sentenced as provided by law.
8 The sentencing jury shall designate, in writing, signed by the foreman of
9 the jury, the statutory aggravating circumstances which it found. ~~The trier~~
10 ~~of fact may make the findings required by this subsection for the purpose~~
11 ~~of determining whether to sentence a defendant pursuant to K.S.A. 2015~~
12 ~~Supp. 21-6623, and amendments thereto, notwithstanding contrary~~
13 ~~findings made by the jury or court pursuant to subsection (e) of K.S.A.~~
14 ~~2015 Supp. 21-6617, and amendments thereto, for the purpose of~~
15 ~~determining whether to sentence such defendant to death.~~ If, after a
16 reasonable time for deliberation, the jury is unable to reach a unanimous
17 sentencing decision, the court shall dismiss the jury and the defendant
18 shall be sentenced as provided by law. In nonjury cases, the court shall
19 designate in writing the specific circumstance or circumstances which the
20 court found beyond a reasonable doubt.

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

23 (1) Establish a procedural rule for sentencing proceedings, and as
24 such shall be construed and applied retroactively to all crimes committed
25 prior to the effective date of this act, except as provided further in this
26 subsection; (2) shall not apply to cases in which the defendant's conviction
27 and sentence were final prior to June 17, 2013, unless the conviction or
28 sentence has been vacated in a collateral proceeding, including, but not
29 limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3)
30 shall apply only in sentencing proceedings otherwise authorized by law.

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

40 (h) In the event any sentence imposed under this section is held to be
41 unconstitutional, the court having jurisdiction over a person previously
42 sentenced shall cause such person to be brought before the court and shall
43 sentence such person to the maximum term of imprisonment otherwise

1 provided by law.

2 (i) If any provision or provisions of this section or the application
3 thereof to any person or circumstance is held invalid, the invalidity shall
4 not affect other provisions or applications of this section which can be
5 given effect without the invalid provision or provisions or application, and
6 to this end the provisions of this section are severable.

7 Sec. 9. K.S.A. 2015 Supp. 21-6622 is hereby amended to read as
8 follows: 21-6622. (a) ~~If, under K.S.A. 2015 Supp. 21-6617, and~~
9 ~~amendments thereto, the county or district attorney has filed a notice of~~
10 ~~intent to request a separate sentencing proceeding to determine whether~~
11 ~~the defendant should be sentenced to death and the defendant is convicted~~
12 ~~of the crime of capital murder, the defendant's counsel or the warden of the~~
13 ~~correctional institution or sheriff having custody of the defendant may~~
14 ~~request a determination by the court of whether the defendant is a person~~
15 ~~with intellectual disability. If the court determines that there is not~~
16 ~~sufficient reason to believe that the defendant is a person with intellectual~~
17 ~~disability, the court shall so find and the defendant shall be sentenced in~~
18 ~~accordance with K.S.A. 2015 Supp. 21-6617, 21-6619, 21-6624, 21-6625,~~
19 ~~21-6628 and 21-6629, and amendments thereto. If the court determines~~
20 ~~that there is sufficient reason to believe that the defendant is a person with~~
21 ~~intellectual disability, the court shall conduct a hearing to determine~~
22 ~~whether the defendant is a person with intellectual disability.~~

23 (b) ~~If a defendant is convicted of the crime of capital murder and a~~
24 ~~sentence of death is not imposed~~ *aggravated murder*, or if a defendant is
25 convicted of the crime of murder in the first degree based upon the finding
26 of premeditated murder, the defendant's counsel or the warden of the
27 correctional institution or sheriff having custody of the defendant may
28 request a determination by the court of whether the defendant is a person
29 with intellectual disability. If the court determines that there is not
30 sufficient reason to believe that the defendant is a person with intellectual
31 disability, the court shall so find and the defendant shall be sentenced in
32 accordance with K.S.A. 2015 Supp. 21-6620, 21-6623, 21-6624 and 21-
33 6625, and amendments thereto. If the court determines that there is
34 sufficient reason to believe that the defendant is a person with intellectual
35 disability, the court shall conduct a hearing to determine whether the
36 defendant is a person with intellectual disability.

37 (e) (b) At the hearing, the court shall determine whether the defendant
38 is a person with intellectual disability. The court shall order a psychiatric
39 or psychological examination of the defendant. For that purpose, the court
40 shall appoint two licensed physicians or licensed psychologists, or one of
41 each, qualified by training and practice to make such examination, to
42 examine the defendant and report their findings in writing to the judge
43 within 14 days after the order of examination is issued. The defendant

1 shall have the right to present evidence and cross-examine any witnesses at
2 the hearing. No statement made by the defendant in the course of any
3 examination provided for by this section, whether or not the defendant
4 consents to the examination, shall be admitted in evidence against the
5 defendant in any criminal proceeding.

6 ~~(d) If, at the conclusion of a hearing pursuant to subsection (a), the~~
7 ~~court determines that the defendant is not a person with intellectual~~
8 ~~disability, the defendant shall be sentenced in accordance with K.S.A.~~
9 ~~2015 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629,~~
10 ~~and amendments thereto.~~

11 ~~(e) (c) If, at the conclusion of a hearing pursuant to subsection (b)~~
12 ~~this section, the court determines that the defendant is not a person with~~
13 ~~intellectual disability, the defendant shall be sentenced in accordance with~~
14 ~~K.S.A. 2015 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and~~
15 ~~amendments thereto.~~

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

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

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

30 Sec. 10. K.S.A. 2015 Supp. 21-6628 is hereby amended to read as
31 follows: 21-6628. (a) In the event the term of imprisonment for life
32 without the possibility of parole or any provision of K.S.A. 2015 Supp. 21-
33 6626 or 21-6627, and amendments thereto, authorizing such term is held to
34 be unconstitutional by the supreme court of Kansas or the United States
35 supreme court, the court having jurisdiction over a person previously
36 sentenced shall cause such person to be brought before the court and shall
37 modify the sentence to require no term of imprisonment for life without
38 the possibility of parole and shall sentence the defendant to the maximum
39 term of imprisonment otherwise provided by law.

40 ~~(b) In the event a sentence of death or any provision of chapter 252 of~~
41 ~~the 1994 Session Laws of Kansas authorizing such sentence is held to be~~
42 ~~unconstitutional by the supreme court of Kansas or the United States~~
43 ~~supreme court, the court having jurisdiction over a person previously~~

1 ~~sentenced shall cause such person to be brought before the court and shall~~
 2 ~~modify the sentence and resentence the defendant as otherwise provided~~
 3 ~~by law.~~

4 (e) In the event the mandatory term of imprisonment or any provision
 5 of chapter 341 of the 1994 Session Laws of Kansas authorizing such
 6 mandatory term is held to be unconstitutional by the supreme court of
 7 Kansas or the United States supreme court, the court having jurisdiction
 8 over a person previously sentenced shall cause such person to be brought
 9 before the court and shall modify the sentence to require no mandatory
 10 term of imprisonment and shall sentence the defendant as otherwise
 11 provided by law.

12 Sec. 11. K.S.A. 2015 Supp. 21-6629 is hereby amended to read as
 13 follows: 21-6629. (a) The provisions of K.S.A. 21-4622 through 21-4630,
 14 as they existed immediately prior to July 1, 1994, shall be applicable only
 15 to persons convicted of crimes committed on or after July 1, 1990, and
 16 before July 1, 1994.

17 (b) The provisions of K.S.A. 21-4622 through 21-4627 and 21-4629
 18 and 21-4630, as amended on July 1, 1994 and prior to their repeal, and
 19 K.S.A. 2015 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-
 20 6625 and ~~subsection (b) of 21-6628(b), and amendments thereto as they~~
 21 ~~existed immediately prior to July 1, 2016~~, shall be applicable only to
 22 persons convicted of crimes committed on or after July 1, 1994, *and*
 23 *before July 1, 2016*.

24 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.
 25 2015 Supp. 21-6620 through 21-6625 and ~~subsection (e) of 21-6628(c),~~
 26 ~~and amendments thereto as they existed immediately prior to July 1, 2016,~~
 27 shall be applicable only to persons convicted of crimes committed on or
 28 after July 1, 1994, *and before July 1, 2016*.

29 (d) *The provisions of K.S.A. 2015 Supp. 21-6618, 21-6620, 21-6622*
 30 *and 21-6628, as amended on July 1, 2016, and K.S.A. 2015 Supp. 21-*
 31 *6621, 21-6623, 21-6624 and 21-6625, and amendments thereto, shall be*
 32 *applicable only to persons convicted of crimes committed on or after July*
 33 *1, 2016.*

34 Sec. 12. K.S.A. 2015 Supp. 21-6806 is hereby amended to read as
 35 follows: 21-6806. (a) Sentences of imprisonment shall represent the time a
 36 person shall actually serve, subject to a reduction of the primary sentence
 37 for good time as authorized by K.S.A. 2015 Supp. 21-6821, and
 38 amendments thereto.

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

40 (c) Violations of K.S.A. 2015 Supp. ~~21-5401~~, 21-5402, 21-5421, 21-
 41 5422 and 21-5901, and amendments thereto, are off-grid crimes for the
 42 purpose of sentencing. Except as otherwise provided by K.S.A. 2015
 43 Supp. ~~21-6617~~, 21-6618, ~~21-6619~~, 21-6622, 21-6624, 21-6625, 21-6628

1 and 21-6629, and amendments thereto, the sentence shall be imprisonment
 2 for life and shall not be subject to statutory provisions for suspended
 3 sentence, community service or probation.

4 (d) As identified in K.S.A. 2015 Supp. 21-5426, 21-5503, 21-5504,
 5 21-5506, 21-5510 and 21-6422, and amendments thereto, if the offender is
 6 18 years of age or older and the victim is under 14 years of age, such
 7 violations are off-grid crimes for the purposes of sentencing. Except as
 8 provided in K.S.A. 2015 Supp. 21-6626, and amendments thereto, the
 9 sentence shall be imprisonment for life pursuant to K.S.A. 2015 Supp. 21-
 10 6627, and amendments thereto.

11 (e) *A violation of section 2, and amendments thereto, is an off-grid*
 12 *crime for the purposes of sentencing. Except as provided in K.S.A. 2015*
 13 *Supp. 21-6618 and 21-6622, and amendments thereto, the sentence shall*
 14 *be imprisonment for life without the possibility of parole pursuant to*
 15 *section 3, and amendments thereto.*

16 Sec. 13. K.S.A. 2015 Supp. 22-3717 is hereby amended to read as
 17 follows: 22-3717. (a) Except as otherwise provided by this section: K.S.A.
 18 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
 19 21-4638 and 21-4642, prior to their repeal; K.S.A. 2015 Supp. 21-6617,
 20 *prior to its repeal*, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and
 21 amendments thereto; *section 3, and amendments thereto*; and K.S.A. 8-
 22 1567, and amendments thereto; an inmate, including an inmate sentenced
 23 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2015 Supp. 21-
 24 6707, and amendments thereto, shall be eligible for parole after serving the
 25 entire minimum sentence imposed by the court, less good time credits.

26 (b) (1) An inmate sentenced to imprisonment for life without the
 27 possibility of parole pursuant to K.S.A. 2015 Supp. 21-6617, and
 28 amendments thereto, shall not be eligible for parole.

29 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
 30 their repeal, and K.S.A. 2015 Supp. 21-6620, 21-6623, 21-6624 and 21-
 31 6625, and amendments thereto, an inmate sentenced to imprisonment for
 32 the crime of: (A) Capital murder committed on or after July 1, 1994, shall
 33 be eligible for parole after serving 25 years of confinement, without
 34 deduction of any good time credits; (B) murder in the first degree based
 35 upon a finding of premeditated murder committed on or after July 1, 1994,
 36 but prior to July 1, 2014, shall be eligible for parole after serving 25 years
 37 of confinement, without deduction of any good time credits; and (C)
 38 murder in the first degree as described in ~~subsection (a)(2)~~ of K.S.A. 2015
 39 Supp. 21-5402(a)(2), and amendments thereto, committed on or after July
 40 1, 2014, shall be eligible for parole after serving 25 years of confinement,
 41 without deduction of any good time credits.

42 (3) Except as provided by subsections (b)(1), (b)(2) ~~and~~, (b)(5) *and*
 43 (b)(7), K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635

1 through 21-4638, prior to their repeal, and K.S.A. 2015 Supp. 21-6620,
2 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate
3 sentenced to imprisonment for an off-grid offense committed on or after
4 July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after
5 serving 15 years of confinement, without deduction of any good time
6 credits and an inmate sentenced to imprisonment for an off-grid offense
7 committed on or after July 1, 1999, shall be eligible for parole after
8 serving 20 years of confinement without deduction of any good time
9 credits.

10 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
11 repeal, an inmate sentenced for a class A felony committed before July 1,
12 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
13 its repeal, or K.S.A. 2015 Supp. 21-6707, and amendments thereto, shall
14 be eligible for parole after serving 15 years of confinement, without
15 deduction of any good time credits.

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

21 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
22 4643, prior to its repeal, or K.S.A. 2015 Supp. 21-6627, and amendments
23 thereto, committed on or after July 1, 2006, shall be eligible for parole
24 after serving the mandatory term of imprisonment without deduction of
25 any good time credits.

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

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

33 (A) The aggregate minimum sentences, as determined pursuant to
34 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2015 Supp. 21-6606, and
35 amendments thereto, less good time credits for those crimes which are not
36 class A felonies; and

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

39 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
40 4643, prior to its repeal, or K.S.A. 2015 Supp. 21-6627, and amendments
41 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
42 eligible for parole after serving the mandatory term of imprisonment.

43 (d) (1) Persons sentenced for crimes, other than off-grid crimes,

1 committed on or after July 1, 1993, or persons subject to subparagraph
2 (G), will not be eligible for parole, but will be released to a mandatory
3 period of postrelease supervision upon completion of the prison portion of
4 their sentence as follows:

5 (A) Except as provided in subparagraphs (D) and (E), persons
6 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
7 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
8 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
9 July 1, 2012, must serve 36 months on postrelease supervision.

10 (B) Except as provided in subparagraphs (D) and (E), persons
11 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
12 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
13 drug severity level 4 crimes committed on or after July 1, 2012, must serve
14 24 months on postrelease supervision.

15 (C) Except as provided in subparagraphs (D) and (E), persons
16 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
17 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
18 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
19 must serve 12 months on postrelease supervision.

20 (D) Persons sentenced to a term of imprisonment that includes a
21 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
22 amendments thereto, a sexually motivated crime in which the offender has
23 been ordered to register pursuant to ~~subsection (d)(1)(D)(vii)~~ of K.S.A. 22-
24 3717(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A.
25 21-3523, prior to its repeal, or K.S.A. 2015 Supp. 21-5509, and
26 amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to
27 its repeal, or K.S.A. 2015 Supp. 21-5512, and amendments thereto, shall
28 serve the period of postrelease supervision as provided in subsections (d)
29 (1)(A), (d)(1)(B) or (d)(1)(C) plus the amount of good time and program
30 credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal,
31 or K.S.A. 2015 Supp. 21-6821, and amendments thereto, on postrelease
32 supervision.

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

37 (ii) If the sentencing judge departs from the presumptive postrelease
38 supervision period, the judge shall state on the record at the time of
39 sentencing the substantial and compelling reasons for the departure.
40 Departures in this section are subject to appeal pursuant to K.S.A. 21-
41 4721, prior to its repeal, or K.S.A. 2015 Supp. 21-6820, and amendments
42 thereto.

43 (iii) In determining whether substantial and compelling reasons exist,

1 the court shall consider:

2 (a) Written briefs or oral arguments submitted by either the defendant
3 or the state;

4 (b) any evidence received during the proceeding;

5 (c) the presentence report, the victim's impact statement and any
6 psychological evaluation as ordered by the court pursuant to ~~subsection (e)~~
7 ~~of K.S.A. 21-4714(e)~~, prior to its repeal, or ~~subsection (e) of K.S.A. 2015~~
8 ~~Supp. 21-6813(e)~~, and amendments thereto; and

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

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

14 (v) In carrying out the provisions of subsection (d)(1)(D), the court
15 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2015 Supp. 21-
16 6817, and amendments thereto.

17 (vi) Upon petition and payment of any restitution ordered pursuant to
18 K.S.A. 2015 Supp. 21-6604, and amendments thereto, the prisoner review
19 board may provide for early discharge from the postrelease supervision
20 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of
21 court ordered programs and completion of the presumptive postrelease
22 supervision period, as determined by the crime of conviction, pursuant to
23 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
24 postrelease supervision is at the discretion of the board.

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

28 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
29 repeal, or K.S.A. 2015 Supp. 21-5508, and amendments thereto, shall be
30 required to participate in a treatment program for sex offenders during the
31 postrelease supervision period.

32 (E) The period of postrelease supervision provided in subparagraphs
33 (A) and (B) may be reduced by up to 12 months and the period of
34 postrelease supervision provided in subparagraph (C) may be reduced by
35 up to six months based on the offender's compliance with conditions of
36 supervision and overall performance while on postrelease supervision. The
37 reduction in the supervision period shall be on an earned basis pursuant to
38 rules and regulations adopted by the secretary of corrections.

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

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

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

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

12 (4) Offenders whose crime of conviction was committed on or after
13 July 1, 2013, and whose probation, assignment to a community
14 correctional services program, suspension of sentence or nonprison
15 sanction is revoked pursuant to ~~subsection (e) of K.S.A. 22-3716(c)~~, and
16 amendments thereto, or whose underlying prison term expires while
17 serving a sanction pursuant to ~~subsection (e)(1)(C) or (e)(1)(D) of K.S.A.~~
18 ~~22-3716(c)(1)(C) or (c)(1)(D)~~, and amendments thereto, shall serve a
19 period of postrelease supervision upon the completion of the underlying
20 prison term.

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

22 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2015 Supp.
23 21-5503, and amendments thereto;

24 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
25 or ~~subsection (a) of K.S.A. 2015 Supp. 21-5506(a)~~, and amendments
26 thereto;

27 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
28 to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5506(b)~~, and
29 amendments thereto;

30 (D) criminal sodomy, ~~subsection (a)(2) and (a)(3) of K.S.A. 21-~~
31 ~~3505(a)(2) and (a)(3)~~, prior to its repeal, or ~~subsection (a)(3) and (a)(4) of~~
32 ~~K.S.A. 2015 Supp. 21-5504(a)(3) and (a)(4)~~, and amendments thereto;

33 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
34 or ~~subsection (b) of K.S.A. 2015 Supp. 21-5504(b)~~, and amendments
35 thereto;

36 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
37 or ~~subsection (a) of K.S.A. 2015 Supp. 21-5508(a)~~, and amendments
38 thereto;

39 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
40 to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5508(b)~~, and
41 amendments thereto;

42 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
43 or K.S.A. 2015 Supp. 21-5510, and amendments thereto;

1 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
2 ~~subsection (b) of K.S.A. 2015 Supp. 21-5505(b)~~, and amendments thereto;

3 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
4 ~~subsection (b) of K.S.A. 2015 Supp. 21-5604(b)~~, and amendments thereto;

5 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,
6 prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5426(b)~~, and
7 amendments thereto, if committed in whole or in part for the purpose of
8 the sexual gratification of the defendant or another;

9 (L) commercial sexual exploitation of a child, as defined in K.S.A.
10 2015 Supp. 21-6422, and amendments thereto; or

11 (M) an attempt, conspiracy or criminal solicitation, as defined in
12 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015
13 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
14 sexually violent crime as defined in this section.

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

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

25 (f) If a person is sentenced to prison for a crime committed on or after
26 July 1, 1993, while on probation, parole, conditional release or in a
27 community corrections program, for a crime committed prior to July 1,
28 1993, and the person is not eligible for retroactive application of the
29 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
30 4724, prior to its repeal, the new sentence shall not be aggregated with the
31 old sentence, but shall begin when the person is paroled or reaches the
32 conditional release date on the old sentence. If the offender was past the
33 offender's conditional release date at the time the new offense was
34 committed, the new sentence shall not be aggregated with the old sentence
35 but shall begin when the person is ordered released by the prisoner review
36 board or reaches the maximum sentence expiration date on the old
37 sentence, whichever is earlier. The new sentence shall then be served as
38 otherwise provided by law. The period of postrelease supervision shall be
39 based on the new sentence, except that those offenders whose old sentence
40 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
41 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
42 term of life imprisonment, for which there is no conditional release or
43 maximum sentence expiration date, shall remain on postrelease

1 supervision for life or until discharged from supervision by the prisoner
2 review board.

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

18 (h) The prisoner review board shall hold a parole hearing at least the
19 month prior to the month an inmate will be eligible for parole under
20 subsections (a), (b) and (c). At least one month preceding the parole
21 hearing, the county or district attorney of the county where the inmate was
22 convicted shall give written notice of the time and place of the public
23 comment sessions for the inmate to any victim of the inmate's crime who
24 is alive and whose address is known to the county or district attorney or, if
25 the victim is deceased, to the victim's family if the family's address is
26 known to the county or district attorney. Except as otherwise provided,
27 failure to notify pursuant to this section shall not be a reason to postpone a
28 parole hearing. In the case of any inmate convicted of an off-grid felony or
29 a class A felony, the secretary of corrections shall give written notice of the
30 time and place of the public comment session for such inmate at least one
31 month preceding the public comment session to any victim of such
32 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
33 amendments thereto. If notification is not given to such victim or such
34 victim's family in the case of any inmate convicted of an off-grid felony or
35 a class A felony, the board shall postpone a decision on parole of the
36 inmate to a time at least 30 days after notification is given as provided in
37 this section. Nothing in this section shall create a cause of action against
38 the state or an employee of the state acting within the scope of the
39 employee's employment as a result of the failure to notify pursuant to this
40 section. If granted parole, the inmate may be released on parole on the date
41 specified by the board, but not earlier than the date the inmate is eligible
42 for parole under subsections (a), (b) and (c). At each parole hearing and, if
43 parole is not granted, at such intervals thereafter as it determines

1 appropriate, the board shall consider: (1) Whether the inmate has
2 satisfactorily completed the programs required by any agreement entered
3 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
4 agreement; and (2) all pertinent information regarding such inmate,
5 including, but not limited to, the circumstances of the offense of the
6 inmate; the presentence report; the previous social history and criminal
7 record of the inmate; the conduct, employment, and attitude of the inmate
8 in prison; the reports of such physical and mental examinations as have
9 been made, including, but not limited to, risk factors revealed by any risk
10 assessment of the inmate; comments of the victim and the victim's family
11 including in person comments, contemporaneous comments and
12 prerecorded comments made by any technological means; comments of
13 the public; official comments; any recommendation by the staff of the
14 facility where the inmate is incarcerated; proportionality of the time the
15 inmate has served to the sentence a person would receive under the Kansas
16 sentencing guidelines for the conduct that resulted in the inmate's
17 incarceration; and capacity of state correctional institutions.

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

28 (j) (1) Before ordering the parole of any inmate, the prisoner review
29 board shall have the inmate appear either in person or via a video
30 conferencing format and shall interview the inmate unless impractical
31 because of the inmate's physical or mental condition or absence from the
32 institution. Every inmate while on parole shall remain in the legal custody
33 of the secretary of corrections and is subject to the orders of the secretary.
34 Whenever the board formally considers placing an inmate on parole and
35 no agreement has been entered into with the inmate under K.S.A. 75-
36 5210a, and amendments thereto, the board shall notify the inmate in
37 writing of the reasons for not granting parole. If an agreement has been
38 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
39 has not satisfactorily completed the programs specified in the agreement,
40 or any revision of such agreement, the board shall notify the inmate in
41 writing of the specific programs the inmate must satisfactorily complete
42 before parole will be granted. If parole is not granted only because of a
43 failure to satisfactorily complete such programs, the board shall grant

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

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

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

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

43 (3) Parolees and persons on postrelease supervision are, and shall

1 agree in writing to be, subject to search or seizure by any law enforcement
2 officer based on reasonable suspicion of the person violating conditions of
3 parole or postrelease supervision or reasonable suspicion of criminal
4 activity. Any law enforcement officer who conducts such a search shall
5 submit a written report to the appropriate parole officer no later than the
6 close of the next business day after such search. The written report shall
7 include the facts leading to such search, the scope of such search and any
8 findings resulting from such search.

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

17 (m) Whenever the prisoner review board orders the parole of an
18 inmate or establishes conditions for an inmate placed on postrelease
19 supervision, the board:

20 (1) Unless it finds compelling circumstances which would render a
21 plan of payment unworkable, shall order as a condition of parole or
22 postrelease supervision that the parolee or the person on postrelease
23 supervision pay any transportation expenses resulting from returning the
24 parolee or the person on postrelease supervision to this state to answer
25 criminal charges or a warrant for a violation of a condition of probation,
26 assignment to a community correctional services program, parole,
27 conditional release or postrelease supervision;

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

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

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

41 (5) unless it finds compelling circumstances which would render a
42 plan of payment unworkable, shall order that the parolee or person on
43 postrelease supervision reimburse the state for all or part of the

1 expenditures by the state board of indigents' defense services to provide
2 counsel and other defense services to the person. In determining the
3 amount and method of payment of such sum, the prisoner review board
4 shall take account of the financial resources of the person and the nature of
5 the burden that the payment of such sum will impose. Such amount shall
6 not exceed the amount claimed by appointed counsel on the payment
7 voucher for indigents' defense services or the amount prescribed by the
8 board of indigents' defense services reimbursement tables as provided in
9 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
10 previous payments for such services;

11 (6) shall order that the parolee or person on postrelease supervision
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; and

18 (7) shall order that the parolee or person on postrelease supervision
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.

23 (n) If the court which sentenced an inmate specified at the time of
24 sentencing the amount and the recipient of any restitution ordered as a
25 condition of parole or postrelease supervision, the prisoner review board
26 shall order as a condition of parole or postrelease supervision that the
27 inmate pay restitution in the amount and manner provided in the journal
28 entry unless the board finds compelling circumstances which would render
29 a plan of restitution unworkable.

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

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

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

41 (r) An inmate who is allocated regular good time credits as provided
42 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
43 good time credits in increments of not more than 90 days per meritorious

1 act. These credits may be awarded by the secretary of corrections when an
2 inmate has acted in a heroic or outstanding manner in coming to the
3 assistance of another person in a life threatening situation, preventing
4 injury or death to a person, preventing the destruction of property or taking
5 actions which result in a financial savings to the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
34 4643, prior to its repeal, or K.S.A. 2015 Supp. 21-6627, and amendments
35 thereto, for crimes committed on or after July 1, 2006, shall be placed on
36 parole for life and shall not be discharged from supervision by the prisoner
37 review board. When the board orders the parole of an inmate pursuant to
38 this subsection, the board shall order as a condition of parole that the
39 inmate be electronically monitored for the duration of the inmate's natural
40 life.

41 (v) Whenever the prisoner review board orders a person to be
42 electronically monitored pursuant to this section, or the court orders a
43 person to be electronically monitored pursuant to ~~subsection (r)~~ of K.S.A.

1 2015 Supp. 21-6604(*r*), and amendments thereto, the board shall order the
2 person to reimburse the state for all or part of the cost of such monitoring.
3 In determining the amount and method of payment of such sum, the board
4 shall take account of the financial resources of the person and the nature of
5 the burden that the payment of such sum will impose.

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

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

15 (B) As used in this subsection, all other terms have the meanings
16 provided by K.S.A. 2015 Supp. 21-5510, and amendments thereto.

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

22 Sec. 14. K.S.A. 2015 Supp. 22-4902 is hereby amended to read as
23 follows: 22-4902. As used in the Kansas offender registration act, unless
24 the context otherwise requires:

25 (a) "Offender" means:

26 (1) A sex offender;

27 (2) a violent offender;

28 (3) a drug offender;

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

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

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

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

36 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for
37 an act which if committed by an adult would constitute the commission of
38 a sexually violent crime, unless the court, on the record, finds that the act
39 involved non-forcible sexual conduct, the victim was at least 14 years of
40 age and the offender was not more than four years older than the victim;

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

42 (4) on or after July 1, 1997, is convicted of any of the following
43 crimes when one of the parties involved is less than 18 years of age:

- 1 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
2 K.S.A. 2015 Supp. 21-5511, and amendments thereto;
- 3 (B) criminal sodomy, as defined in ~~subsection (a)(1) of~~ K.S.A. 21-
4 3505(a)(1), prior to its repeal, or ~~subsection (a)(1) or (a)(2) of~~ K.S.A. 2015
5 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto;
- 6 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
7 repeal, or K.S.A. 2015 Supp. 21-6420, prior to its amendment by section
8 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;
- 9 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
10 repeal, or K.S.A. 2015 Supp. 21-6421, prior to its amendment by section
11 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or
- 12 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
13 to its repeal, or K.S.A. 2015 Supp. 21-5513, and amendments thereto;
- 14 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
15 to its repeal, or ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5505(a), and
16 amendments thereto;
- 17 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
18 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
19 K.S.A. 2015 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
20 of an offense defined in this subsection; or
- 21 (7) has been convicted of an offense that is comparable to any crime
22 defined in this subsection, or any out of state conviction for an offense that
23 under the laws of this state would be an offense defined in this subsection.
- 24 (c) "Sexually violent crime" means:
- 25 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
26 2015 Supp. 21-5503, and amendments thereto;
- 27 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
28 to its repeal, or ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5506(a), and
29 amendments thereto;
- 30 (3) aggravated indecent liberties with a child, as defined in K.S.A.
31 21-3504, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-
32 5506(b), and amendments thereto;
- 33 (4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~
34 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or~~
35 ~~(a)(4) of~~ K.S.A. 2015 Supp. 21-5504(a)(3) or (a)(4), and amendments
36 thereto;
- 37 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
38 to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5504(b), and
39 amendments thereto;
- 40 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
41 prior to its repeal, or ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5508(a), and
42 amendments thereto;
- 43 (7) aggravated indecent solicitation of a child, as defined in K.S.A.

1 21-3511, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-
2 5508(b), and amendments thereto;

3 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
4 to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto;

5 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
6 its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5505(b), and
7 amendments thereto;

8 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
9 repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5604(b), and
10 amendments thereto;

11 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
12 repeal, and K.S.A. 2015 Supp. 21-5509, and amendments thereto;

13 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
14 its repeal, or K.S.A. 2015 Supp. 21-5512, and amendments thereto;

15 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
16 prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5426(b), and
17 amendments thereto, if committed in whole or in part for the purpose of
18 the sexual gratification of the defendant or another;

19 (14) commercial sexual exploitation of a child, as defined in K.S.A.
20 2015 Supp. 21-6422, and amendments thereto;

21 (15) any conviction or adjudication for an offense that is comparable
22 to a sexually violent crime as defined in this subsection, or any out of state
23 conviction or adjudication for an offense that under the laws of this state
24 would be a sexually violent crime as defined in this subsection;

25 (16) an attempt, conspiracy or criminal solicitation, as defined in
26 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015
27 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
28 violent crime, as defined in this subsection; or

29 (17) any act which has been determined beyond a reasonable doubt to
30 have been sexually motivated, unless the court, on the record, finds that
31 the act involved non-forcible sexual conduct, the victim was at least 14
32 years of age and the offender was not more than four years older than the
33 victim. As used in this paragraph, "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 (d) "Sexually violent predator" means any person who, on or after
37 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
38 59-29a01 et seq., and amendments thereto.

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

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

42 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
43 or K.S.A. 2015 Supp. 21-5401, ~~and amendments thereto prior to its repeal;~~

- 1 (B) *aggravated murder, as defined in section 2, and amendments*
 2 *thereto;*
- 3 ~~(B)~~ (C) *murder in the first degree, as defined in K.S.A. 21-3401, prior*
 4 *to its repeal, or K.S.A. 2015 Supp. 21-5402, and amendments thereto;*
- 5 ~~(C)~~ (D) *murder in the second degree, as defined in K.S.A. 21-3402,*
 6 *prior to its repeal, or K.S.A. 2015 Supp. 21-5403, and amendments*
 7 *thereto;*
- 8 ~~(D)~~ (E) *voluntary manslaughter, as defined in K.S.A. 21-3403, prior*
 9 *to its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto;*
- 10 ~~(E)~~ (F) *involuntary manslaughter, as defined in K.S.A. 21-3404, prior*
 11 *to its repeal, or ~~subsections (a)(1), (a)(2) or (a)(4) of K.S.A. 2015 Supp.~~*
 12 *21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto. The provisions of*
 13 *this paragraph shall not apply to violations of ~~subsection (a)(3) of K.S.A.~~*
 14 *2015 Supp. 21-5405(a)(3), and amendments thereto, which occurred on or*
 15 *after July 1, 2011, through July 1, 2013;*
- 16 ~~(F)~~ (G) *kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,*
 17 *or ~~subsection (a) of K.S.A. 2015 Supp. 21-5408(a), and amendments~~*
 18 *thereto;*
- 19 ~~(G)~~ (H) *aggravated kidnapping, as defined in K.S.A. 21-3421, prior*
 20 *to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5408(b), and~~*
 21 *amendments thereto;*
- 22 ~~(H)~~ (I) *criminal restraint, as defined in K.S.A. 21-3424, prior to its*
 23 *repeal, or K.S.A. 2015 Supp. 21-5411, and amendments thereto, except by*
 24 *a parent, and only when the victim is less than 18 years of age; or*
- 25 ~~(I)~~ (J) *aggravated human trafficking, as defined in K.S.A. 21-3447,*
 26 *prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5426(b), and~~*
 27 *amendments thereto, if not committed in whole or in part for the purpose*
 28 *of the sexual gratification of the defendant or another;*
- 29 (2) *on or after July 1, 2006, is convicted of any person felony and the*
 30 *court makes a finding on the record that a deadly weapon was used in the*
 31 *commission of such person felony;*
- 32 (3) *has been convicted of an offense that is comparable to any crime*
 33 *defined in this subsection, any out of state conviction for an offense that*
 34 *under the laws of this state would be an offense defined in this subsection;*
 35 *or*
- 36 (4) *is convicted of an attempt, conspiracy or criminal solicitation, as*
 37 *defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or*
 38 *K.S.A. 2015 Supp. 21-5301, 21-5302 and 21-5303, and amendments*
 39 *thereto, of an offense defined in this subsection.*
- 40 (f) *"Drug offender" includes any person who, on or after July 1, 2007:*
 41 (1) *Is convicted of any of the following crimes:*
 42 (A) *Unlawful manufacture or attempting such of any controlled*
 43 *substance or controlled substance analog, as defined in K.S.A. 65-4159,*

1 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
2 K.S.A. 2015 Supp. 21-5703, and amendments thereto;

3 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
4 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
5 ammonia or phenylpropanolamine, or their salts, isomers or salts of
6 isomers with intent to use the product to manufacture a controlled
7 substance, as defined in ~~subsection (a) of~~ K.S.A. 65-7006(a), prior to its
8 repeal, ~~subsection (a) of~~ K.S.A. 2010 Supp. 21-36a09(a), prior to its
9 transfer, or ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5709(a), and
10 amendments thereto;

11 (C) K.S.A. 65-4161, prior to its repeal, ~~subsection (a)(1) of~~ K.S.A.
12 2010 Supp. 21-36a05(a)(1), prior to its transfer, or ~~subsection (a)(1) of~~
13 K.S.A. 2015 Supp. 21-5705(a)(1), and amendments thereto. The
14 provisions of this paragraph shall not apply to violations of ~~subsections (a)~~
15 ~~(2) through (a)(6) or (b) of~~ K.S.A. 2010 Supp. 21-36a05(a)(2) ~~through (a)~~
16 ~~(6) or (b) which occurred on or after July 1, 2009, through April 15, 2010;~~

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

21 (3) is or has been convicted of an attempt, conspiracy or criminal
22 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
23 their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302 and 21-5303, and
24 amendments thereto, of an offense defined in this subsection.

25 (g) Convictions or adjudications which result from or are connected
26 with the same act, or result from crimes committed at the same time, shall
27 be counted for the purpose of this section as one conviction or
28 adjudication. Any conviction or adjudication set aside pursuant to law is
29 not a conviction or adjudication for purposes of this section. A conviction
30 or adjudication from any out of state court shall constitute a conviction or
31 adjudication for purposes of this section.

32 (h) "School" means any public or private educational institution,
33 including, but not limited to, postsecondary school, college, university,
34 community college, secondary school, high school, junior high school,
35 middle school, elementary school, trade school, vocational school or
36 professional school providing training or education to an offender for three
37 or more consecutive days or parts of days, or for 10 or more
38 nonconsecutive days in a period of 30 consecutive days.

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

43 (j) "Reside" means to stay, sleep or maintain with regularity or

1 temporarily one's person and property in a particular place other than a
2 location where the offender is incarcerated. It shall be presumed that an
3 offender resides at any and all locations where the offender stays, sleeps or
4 maintains the offender's person for three or more consecutive days or parts
5 of days, or for ten or more nonconsecutive days in a period of 30
6 consecutive days.

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

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

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

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

18 (o) "Registering entity" means any person, agency or other
19 governmental unit, correctional facility or registering law enforcement
20 agency responsible for obtaining the required information from, and
21 explaining the required registration procedures to, any person required to
22 register pursuant to the Kansas offender registration act. "Registering
23 entity" shall include, but not be limited to, sheriff's offices, tribal police
24 departments and correctional facilities.

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

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

31 (r) "Out of state" means: the District of Columbia; any federal,
32 military or tribal jurisdiction, including those within this state; any foreign
33 jurisdiction; or any state or territory within the United States, other than
34 this state.

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

37 Sec. 15. K.S.A. 2015 Supp. 22-4906 is hereby amended to read as
38 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted
39 of any of the following offenses, an offender's duration of registration shall
40 be, if confined, 15 years after the date of parole, discharge or release,
41 whichever date is most recent, or, if not confined, 15 years from the date of
42 conviction:

43 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,

- 1 or ~~subsection (a)~~ of K.S.A. 2015 Supp. 21-5505(a), and amendments
 2 thereto;
- 3 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
 4 K.S.A. 2015 Supp. 21-5511, and amendments thereto, when one of the
 5 parties involved is less than 18 years of age;
- 6 (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
 7 repeal, or K.S.A. 2015 Supp. 21-6421, prior to its amendment by section
 8 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013,
 9 when one of the parties involved is less than 18 years of age;
- 10 (D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
 11 to its repeal, or K.S.A. 2015 Supp. 21-5513, and amendments thereto,
 12 when one of the parties involved is less than 18 years of age;
- 13 (E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
 14 or K.S.A. 2015 Supp. 21-5401, ~~and amendments thereto prior to its repeal~~;
- 15 (F) *aggravated murder, as defined in section 2, and amendments*
 16 *thereto*;
- 17 ~~(G)~~ (G) murder in the first degree, as defined in K.S.A. 21-3401, prior
 18 to its repeal, or K.S.A. 2015 Supp. 21-5402, and amendments thereto;
- 19 ~~(H)~~ (H) murder in the second degree, as defined in K.S.A. 21-3402,
 20 prior to its repeal, or K.S.A. 2015 Supp. 21-5403, and amendments
 21 thereto;
- 22 ~~(I)~~ (I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
 23 its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto;
- 24 ~~(J)~~ (J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
 25 to its repeal, or ~~subsections (a)(1), (a)(2) or (a)(4)~~ of K.S.A. 2015 Supp.
 26 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto;
- 27 ~~(K)~~ (K) criminal restraint, as defined in K.S.A. 21-3424, prior to its
 28 repeal, or K.S.A. 2015 Supp. 21-5411, and amendments thereto, except by
 29 a parent, and only when the victim is less than 18 years of age;
- 30 ~~(L)~~ (L) any act which has been determined beyond a reasonable
 31 doubt to have been sexually motivated, unless the court, on the record,
 32 finds that the act involved non-forcible sexual conduct, the victim was at
 33 least 14 years of age and the offender was not more than four years older
 34 than the victim;
- 35 ~~(M)~~ (M) conviction of any person required by court order to register
 36 for an offense not otherwise required as provided in the Kansas offender
 37 registration act;
- 38 ~~(N)~~ (N) conviction of any person felony and the court makes a
 39 finding on the record that a deadly weapon was used in the commission of
 40 such person felony;
- 41 ~~(O)~~ (O) unlawful manufacture or attempting such of any controlled
 42 substance or controlled substance analog, as defined in K.S.A. 65-4159,
 43 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or

1 K.S.A. 2015 Supp. 21-5703, and amendments thereto;

2 ~~(P)~~ (P) possession of ephedrine, pseudoephedrine, red phosphorus,
3 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
4 ammonia or phenylpropanolamine, or their salts, isomers or salts of
5 isomers with intent to use the product to manufacture a controlled
6 substance, as defined by ~~subsection (a)~~ of K.S.A. 65-7006(a), prior to its
7 repeal, ~~subsection (a)~~ of K.S.A. 2010 Supp. 21-36a09(a), prior to its
8 transfer, or ~~subsection (a)~~ of K.S.A. 2015 Supp. 21-5709(a), and
9 amendments thereto;

10 ~~(P)~~ (Q) K.S.A. 65-4161, prior to its repeal, ~~subsection (a)(1)~~ of
11 K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or ~~subsection (a)~~
12 ~~(H)~~ of K.S.A. 2015 Supp. 21-5705(a)(1), and amendments thereto; or

13 ~~(Q)~~ (R) any attempt, conspiracy or criminal solicitation, as defined in
14 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015
15 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
16 offense defined in this subsection.

17 (2) Except as otherwise provided by the Kansas offender registration
18 act, the duration of registration terminates, if not confined, at the
19 expiration of 15 years from the date of conviction. Any period of time
20 during which any offender is incarcerated in any jail or correctional
21 facility or during which the offender does not comply with any and all
22 requirements of the Kansas offender registration act shall not count toward
23 the duration of registration.

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

29 (A) Criminal sodomy, as defined in ~~subsection (a)(1)~~ of K.S.A. 21-
30 3505(a)(1), prior to its repeal, or ~~subsection (a)(1) or (a)(2)~~ of K.S.A. 2015
31 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto, when one of the
32 parties involved is less than 18 years of age;

33 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
34 prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2015 Supp. 21-5508(a), and
35 amendments thereto;

36 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
37 repeal, or K.S.A. 2015 Supp. 21-5509, and amendments thereto;

38 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
39 repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5604(b), and
40 amendments thereto;

41 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
42 to its repeal, or ~~subsection (a)~~ of K.S.A. 2015 Supp. 21-5506(a), and
43 amendments thereto;

1 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
2 its repeal, or K.S.A. 2015 Supp. 21-5512, and amendments thereto;

3 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
4 to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto, if
5 the victim is 14 or more years of age but less than 18 years of age;

6 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
7 its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5505(b), and
8 amendments thereto;

9 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
10 repeal, or K.S.A. 2015 Supp. 21-6420, prior to its amendment by section
11 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
12 the person selling sexual relations is 14 or more years of age but less than
13 18 years of age; or

14 (J) any attempt, conspiracy or criminal solicitation, as defined in
15 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015
16 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
17 offense defined in this subsection.

18 (2) Except as otherwise provided by the Kansas offender registration
19 act, the duration of registration terminates, if not confined, at the
20 expiration of 25 years from the date of conviction. Any period of time
21 during which any offender is incarcerated in any jail or correctional
22 facility or during which the offender does not comply with any and all
23 requirements of the Kansas offender registration act shall not count toward
24 the duration of registration.

25 (c) Upon a second or subsequent conviction of an offense requiring
26 registration, an offender's duration of registration shall be for such
27 offender's lifetime.

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

31 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
32 2015 Supp. 21-5503, and amendments thereto;

33 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
34 21-3511, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-
35 5508(b), and amendments thereto;

36 (3) aggravated indecent liberties with a child, as defined in K.S.A.
37 21-3504, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-
38 5506(b), and amendments thereto;

39 (4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~
40 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or~~
41 ~~(a)(4) of~~ K.S.A. 2015 Supp. 21-5504(a)(3) or (a)(4), and amendments
42 thereto;

43 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior

1 to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5504(b), and
2 amendments thereto;

3 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
4 to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5426(b), and
5 amendments thereto;

6 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
7 to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto, if
8 the victim is less than 14 years of age;

9 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
10 repeal, or K.S.A. 2015 Supp. 21-6420, prior to its amendment by section
11 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
12 the person selling sexual relations is less than 14 years of age;

13 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
14 ~~subsection (a)~~ of K.S.A. 2015 Supp. 21-5408(a), and amendments thereto;

15 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
16 repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5408(b), and
17 amendments thereto;

18 (11) commercial sexual exploitation of a child, as defined in K.S.A.
19 2015 Supp. 21-6422, and amendments thereto; or

20 (12) any attempt, conspiracy or criminal solicitation, as defined in
21 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015
22 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
23 offense defined in this subsection.

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

27 (f) Notwithstanding any other provisions of this section, for an
28 offender less than 14 years of age 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, the court shall:

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

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

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

1 registration but such registration is not open to the public, such offender
2 shall provide a copy of such court order to the registering law enforcement
3 agency at the time of registration. The registering law enforcement agency
4 shall forward a copy of such court order to the Kansas bureau of
5 investigation.

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

9 (g) Notwithstanding any other provisions of this section, for an
10 offender 14 years of age or more who is adjudicated as a juvenile offender
11 for an act which if committed by an adult would constitute a sexually
12 violent crime set forth in ~~subsection (e) of K.S.A. 22-4902(c)~~, and
13 amendments thereto, and such crime is not an off-grid felony or a felony
14 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
15 4704, prior to its repeal, or K.S.A. 2015 Supp. 21-6804, and amendments
16 thereto, the court shall:

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

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

26 (3) require registration, but such registration information shall not be
27 open to inspection by the public or posted on any internet website, as
28 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
29 registration but such registration is not open to the public, such offender
30 shall provide a copy of such court order to the registering law enforcement
31 agency at the time of registration. The registering law enforcement agency
32 shall forward a copy of such court order to the Kansas bureau of
33 investigation.

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

37 (h) Notwithstanding any other provisions of this section, an offender
38 14 years of age or more who is adjudicated as a juvenile offender for an
39 act which if committed by an adult would constitute a sexually violent
40 crime set forth in ~~subsection (e) of K.S.A. 22-4902(c)~~, and amendments
41 thereto, and such crime is an off-grid felony or a felony ranked in severity
42 level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its
43 repeal, or K.S.A. 2015 Supp. 21-6804, and amendments thereto, shall be

1 required to register for such offender's lifetime.

2 (i) Notwithstanding any other provision of law, if a diversionary
3 agreement or probation order, either adult or juvenile, or a juvenile
4 offender sentencing order, requires registration under the Kansas offender
5 registration act for an offense that would not otherwise require registration
6 as provided in ~~subsection (a)(5) of K.S.A 22-4902(a)(5)~~, and amendments
7 thereto, then all provisions of the Kansas offender registration act shall
8 apply, except that the duration of registration shall be controlled by such
9 diversionary agreement, probation order or juvenile offender sentencing
10 order.

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

14 (k) For any person moving to Kansas who has been convicted or
15 adjudicated in an out of state court, or who was required to register under
16 an out of state law, the duration of registration shall be the length of time
17 required by the out of state jurisdiction or by the Kansas offender
18 registration act, whichever length of time is longer. The provisions of this
19 subsection shall apply to convictions or adjudications prior to June 1,
20 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
21 convictions or adjudications on or after June 1, 2006, and to persons who
22 moved to Kansas on or after June 1, 2006.

23 (l) For any person residing, maintaining employment or attending
24 school in this state who has been convicted or adjudicated by an out of
25 state court of an offense that is comparable to any crime requiring
26 registration pursuant to the Kansas offender registration act, but who was
27 not required to register in the jurisdiction of conviction or adjudication, the
28 duration of registration shall be the duration required for the comparable
29 offense pursuant to the Kansas offender registration act.

30 Sec. 16. K.S.A. 2015 Supp. 38-2255 is hereby amended to read as
31 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
32 disposition, the court shall give consideration to:

- 33 (1) The child's physical, mental and emotional condition;
- 34 (2) the child's need for assistance;
- 35 (3) the manner in which the parent participated in the abuse, neglect
36 or abandonment of the child;
- 37 (4) any relevant information from the intake and assessment process;
38 and
- 39 (5) the evidence received at the dispositional hearing.

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

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

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

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

13 (C) immediate placement of the child is in the best interest of the
14 child; and

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

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

21 (d) *Custody of a child removed from the custody of a parent.* If the
22 court has made the findings required by subsection (c), the court shall
23 enter an order awarding custody to: A relative of the child or to a person
24 with whom the child has close emotional ties who shall not be required to
25 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
26 and amendments thereto; any other suitable person; a shelter facility; a
27 youth residential facility; a staff secure facility, notwithstanding any other
28 provision of law, if the child has been subjected to human trafficking or
29 aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426,
30 and amendments thereto, or commercial sexual exploitation of a child, as
31 defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or the
32 child committed an act which, if committed by an adult, would constitute a
33 violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto; or, if
34 the child is 15 years of age or younger, or 16 or 17 years of age if the child
35 has no identifiable parental or family resources or shows signs of physical,
36 mental, emotional or sexual abuse, to the secretary. Custody awarded
37 under this subsection shall continue until further order of the court.

38 (1) When custody is awarded to the secretary, the secretary shall
39 consider any placement recommendation by the court and notify the court
40 of the placement or proposed placement of the child within 10 days of the
41 order awarding custody. After providing the parties or interested parties
42 notice and opportunity to be heard, the court may determine whether the
43 secretary's placement or proposed placement is contrary to the welfare or

1 in the best interests of the child. In making that determination the court
2 shall consider the health and safety needs of the child and the resources
3 available to meet the needs of children in the custody of the secretary. If
4 the court determines that the placement or proposed placement is contrary
5 to the welfare or not in the best interests of the child, the court shall notify
6 the secretary, who shall then make an alternative placement.

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

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

19 (4) The court may enter an order restraining any alleged perpetrator
20 of physical, mental or emotional abuse or sexual abuse of the child from
21 residing in the child's home; visiting, contacting, harassing or intimidating
22 the child, other family member or witness; or attempting to visit, contact,
23 harass or intimidate the child, other family member or witness. Such
24 restraining order shall be served by personal service pursuant to ~~subsection~~
25 ~~(a)~~ of K.S.A. 2015 Supp. 38-2237(a), and amendments thereto, on any
26 alleged perpetrator to whom the order is directed.

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

30 (e) *Further determinations regarding a child removed from the home.*
31 If custody has been awarded under subsection (d) to a person other than a
32 parent, a permanency plan shall be provided or prepared pursuant to
33 K.S.A. 2015 Supp. 38-2264, and amendments thereto. If a permanency
34 plan is provided at the dispositional hearing, the court may determine
35 whether reintegration is a viable alternative or, if reintegration is not a
36 viable alternative, whether the child should be placed for adoption or a
37 permanent custodian appointed. In determining whether reintegration is a
38 viable alternative, the court shall consider:

39 (1) Whether a parent has been found by a court to have committed
40 one of the following crimes or to have violated the law of another state
41 prohibiting such crimes or to have aided and abetted, attempted, conspired
42 or solicited the commission of one of these crimes: (A) *Capital murder;*
43 *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2015 Supp. 21-5401, prior to*

1 *its repeal; (B) aggravated murder, section 2, and amendments thereto; (C)*
2 *murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A.*
3 *2015 Supp. 21-5402, and amendments thereto; ~~(B) (D) murder in the~~*
4 *second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2015 Supp.*
5 *21-5403, and amendments thereto; ~~(C) capital murder, K.S.A. 21-3439,~~*
6 *~~prior to its repeal, or K.S.A. 2015 Supp. 21-5401, and amendments~~*
7 *~~thereto; (D) (E) voluntary manslaughter, K.S.A. 21-3403, prior to its~~*
8 *repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto; or ~~(E) (F)~~*
9 *a felony battery that resulted in bodily injury;*

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

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

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

16 (5) whether the parents have failed to work diligently toward
17 reintegration;

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

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

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

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

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

43 (2) If the court has reason to believe that a child is before the court

1 due, in whole or in part, to the use or misuse of alcohol or a violation of
2 K.S.A. 2015 Supp. 21-5701 through 21-5717, and amendments thereto, by
3 the child, a parent of the child, or another person responsible for the care
4 of the child, the court may order the child, parent of the child or other
5 person responsible for the care of the child to submit to and complete an
6 alcohol and drug evaluation by a qualified person or agency and comply
7 with any recommendations. If the evaluation is performed by a
8 community-based alcohol and drug safety program certified pursuant to
9 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
10 other person responsible for the care of the child shall pay a fee not to
11 exceed the fee established by that statute. If the court finds that the child
12 and those legally liable for the child's support are indigent, the fee may be
13 waived. In no event shall the fee be assessed against the secretary.

14 (3) If child support has been requested and the parent or parents have
15 a duty to support the child, the court may order one or both parents to pay
16 child support and, when custody is awarded to the secretary, the court shall
17 order one or both parents to pay child support. The court shall determine,
18 for each parent separately, whether the parent is already subject to an order
19 to pay support for the child. If the parent is not presently ordered to pay
20 support for any child who is subject to the jurisdiction of the court and the
21 court has personal jurisdiction over the parent, the court shall order the
22 parent to pay child support in an amount determined under K.S.A. 2015
23 Supp. 38-2277, and amendments thereto. Except for good cause shown,
24 the court shall issue an immediate income withholding order pursuant to
25 K.S.A. 2015 Supp. 23-3101 et seq., and amendments thereto, for each
26 parent ordered to pay support under this subsection, regardless of whether
27 a payor has been identified for the parent. A parent ordered to pay child
28 support under this subsection shall be notified, at the hearing or otherwise,
29 that the child support order may be registered pursuant to K.S.A. 2015
30 Supp. 38-2279, and amendments thereto. The parent shall also be informed
31 that, after registration, the income withholding order may be served on the
32 parent's employer without further notice to the parent and the child support
33 order may be enforced by any method allowed by law. Failure to provide
34 this notice shall not affect the validity of the child support order.

35 Sec. 17. K.S.A. 2015 Supp. 38-2271 is hereby amended to read as
36 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-
37 414, and amendments thereto, that a parent is unfit by reason of conduct or
38 condition which renders the parent unable to fully care for a child, if the
39 state establishes, by clear and convincing evidence, that:

40 (1) A parent has previously been found to be an unfit parent in
41 proceedings under K.S.A. 2015 Supp. 38-2266 et seq., and amendments
42 thereto, or comparable proceedings under the laws of another jurisdiction;

43 (2) a parent has twice before been convicted of a crime specified in

1 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
2 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
3 Annotated, or K.S.A. 2015 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
4 through 21-6421, and amendments thereto, or comparable offenses under
5 the laws of another jurisdiction, or an attempt or attempts to commit such
6 crimes and the victim was under the age of 18 years;

7 (3) on two or more prior occasions a child in the physical custody of
8 the parent has been adjudicated a child in need of care as defined by
9 K.S.A. 2015 Supp. 38-2202(d)(1), (d)(3), (d)(5) or (d)(11), and
10 amendments thereto, or comparable proceedings under the laws of another
11 jurisdiction;

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

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

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

25 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
26 prior to its repeal, or K.S.A. 2015 Supp. 21-5401, *prior to its repeal,*
27 *aggravated murder, section 2,* and amendments thereto, murder in the first
28 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2015 Supp. 21-5402,
29 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
30 prior to its repeal, or K.S.A. 2015 Supp. 21-5403, and amendments
31 thereto, voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or
32 K.S.A. 2015 Supp. 21-5404, and amendments thereto, human trafficking
33 or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their
34 repeal, or K.S.A. 2015 Supp. 21-5426, and amendments thereto, or
35 commercial sexual exploitation of a child, K.S.A. 2015 Supp. 21-6422,
36 and amendments thereto, or comparable proceedings under the laws of
37 another jurisdiction or, has been adjudicated a juvenile offender because of
38 an act which if committed by an adult would be an offense as provided in
39 this subsection, and the victim of such murder was the other parent of the
40 child;

41 (8) a parent abandoned or neglected the child after having knowledge
42 of the child's birth or either parent has been granted immunity from
43 prosecution for abandonment of the child under K.S.A. 21-3604(b), prior

1 to its repeal, or K.S.A. 2015 Supp. 21-5605(d), and amendments thereto;
2 or

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

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

8 (11) a father abandoned the mother after having knowledge of the
9 pregnancy;

10 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
11 repeal, or K.S.A. 2015 Supp. 21-5503, and amendments thereto, or
12 comparable proceedings under the laws of another jurisdiction resulting in
13 the conception of the child; or

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

18 (b) The burden of proof is on the parent to rebut the presumption of
19 unfitness by a preponderance of the evidence. In the absence of proof that
20 the parent is presently fit and able to care for the child or that the parent
21 will be fit and able to care for the child in the foreseeable future, the court
22 shall terminate parental rights in proceedings pursuant to K.S.A. 2015
23 Supp. 38-2266 et seq., and amendments thereto.

24 Sec. 18. K.S.A. 2015 Supp. 38-2312 is hereby amended to read as
25 follows: 38-2312. (a) Except as provided in subsection (b) and (c), any
26 records or files specified in this code concerning a juvenile may be
27 expunged upon application to a judge of the court of the county in which
28 the records or files are maintained. The application for expungement may
29 be made by the juvenile, if 18 years of age or older or, if the juvenile is
30 less than 18 years of age, by the juvenile's parent or next friend.

31 (b) There shall be no expungement of records or files concerning acts
32 committed by a juvenile which, if committed by an adult, would constitute
33 a violation of *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2015 Supp. 21-*
34 *5401, prior to its repeal, capital murder; section 2, and amendments*
35 *thereto, aggravated murder; K.S.A. 21-3401, prior to its repeal, or K.S.A.*
36 *2015 Supp. 21-5402, and amendments thereto, murder in the first degree;*
37 *K.S.A. 21-3402, prior to its repeal, or K.S.A. 2015 Supp. 21-5403, and*
38 *amendments thereto, murder in the second degree; K.S.A. 21-3403, prior*
39 *to its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto,*
40 *voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A.*
41 *2015 Supp. 21-5405, and amendments thereto, involuntary manslaughter;*
42 ~~*K.S.A. 21-3439, prior to its repeal, or K.S.A. 2015 Supp. 21-5401, and*~~
43 ~~*amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or*~~

1 K.S.A. 2015 Supp. 21-5405(a)(3), and amendments thereto, involuntary
2 manslaughter while driving under the influence of alcohol or drugs; K.S.A.
3 21-3502, prior to its repeal, or K.S.A. 2015 Supp. 21-5503, and
4 amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A.
5 2015 Supp. 21-5506(a), and amendments thereto, indecent liberties with a
6 child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2015 Supp. 21-
7 5506(b), and amendments thereto, aggravated indecent liberties with a
8 child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2015 Supp. 21-
9 5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.
10 21-3510, prior to its repeal, or K.S.A. 2015 Supp. 21-5508(a), and
11 amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior
12 to its repeal, or K.S.A. 2015 Supp. 21-5508(b), and amendments thereto,
13 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its
14 repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto, sexual
15 exploitation of a child; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2015
16 Supp. 21-5604(b), and amendments thereto, aggravated incest; K.S.A. 21-
17 3608, prior to its repeal, or K.S.A. 2015 Supp. 21-5601(a), and
18 amendments thereto, endangering a child; K.S.A. 21-3609, prior to its
19 repeal, or K.S.A. 2015 Supp. 21-5602, and amendments thereto, abuse of a
20 child; or which would constitute an attempt to commit a violation of any of
21 the offenses specified in this subsection.

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

28 (d) When a petition for expungement is filed, the court shall set a date
29 for a hearing on the petition and shall give notice thereof to the county or
30 district attorney. The petition shall state: (1) The juvenile's full name; (2)
31 the full name of the juvenile as reflected in the court record, if different
32 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
33 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
34 of the trial court. Except as otherwise provided by law, a petition for
35 expungement shall be accompanied by a docket fee in the amount of \$176.
36 On and after July 1, 2015, through June 30, 2017, the supreme court may
37 impose a charge, not to exceed \$19 per case, to fund the costs of non-
38 judicial personnel. All petitions for expungement shall be docketed in the
39 original action. Any person who may have relevant information about the
40 petitioner may testify at the hearing. The court may inquire into the
41 background of the petitioner.

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

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

3 (ii) one year has elapsed since the final discharge for an adjudication
4 concerning acts committed by a juvenile which, if committed by an adult,
5 would constitute a violation of K.S.A. 2015 Supp. 21-6419, and
6 amendments thereto;

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

12 (C) the circumstances and behavior of the petitioner warrant
13 expungement.

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

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

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

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

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

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

42 (k) Whenever the records or files of any adjudication have been
43 expunged under the provisions of this section, the custodian of the records

1 or files of adjudication relating to that offense shall not disclose the
2 existence of such records or files, except when requested by:

3 (1) The person whose record was expunged;

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

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

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

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

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

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

29 (8) the Kansas sentencing commission; or

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

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

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

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

39 Sec. 19. K.S.A. 2015 Supp. 38-2365 is hereby amended to read as
40 follows: 38-2365. (a) When a juvenile offender has been placed in the
41 custody of the commissioner, the commissioner shall have a reasonable
42 time to make a placement. If the juvenile offender has not been placed, any
43 party who believes that the amount of time elapsed without placement has

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

17 (b) If a juvenile is in the custody of the commissioner, the
18 commissioner shall prepare and present a permanency plan at sentencing
19 or within 30 days thereafter. If a permanency plan is already in place under
20 a child in need of care proceeding, the court may adopt the plan under the
21 present proceeding. The written permanency plan shall provide for
22 reintegration of the juvenile into such juvenile's family or, if reintegration
23 is not a viable alternative, for other permanent placement of the juvenile.
24 Reintegration may not be a viable alternative when: (1) The parent has
25 been found by a court to have committed *capital murder*, K.S.A. 21-3439,
26 *prior to its repeal*, or K.S.A. 2015 Supp. 21-5401, *prior to its repeal*,
27 *aggravated murder*, section 2, and amendments thereto, murder in the first
28 degree, K.S.A. 21-3401, *prior to its repeal*, or K.S.A. 2015 Supp. 21-5402,
29 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
30 *prior to its repeal*, or K.S.A. 2015 Supp. 21-5403, and amendments
31 thereto, ~~capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2015~~
32 ~~Supp. 21-5401, and amendments thereto~~, voluntary manslaughter, K.S.A.
33 21-3403, *prior to its repeal*, or K.S.A. 2015 Supp. 21-5404, and
34 amendments thereto, of a child or violated a law of another state which
35 prohibits such murder or manslaughter of a child;

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

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

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

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

3 (6) the juvenile has been in extended out-of-home placement as
4 defined in K.S.A. 2015 Supp. 38-2202, and amendments thereto.

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

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

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

35 (f) Whenever a hearing is required under subsection (e), the court
36 shall notify all interested parties of the hearing date, the commissioner,
37 foster parent and preadoptive parent or relatives providing care for the
38 juvenile and hold a hearing. Individuals receiving notice pursuant to this
39 subsection shall not be made a party to the action solely on the basis of this
40 notice and opportunity to be heard. After providing the persons receiving
41 notice an opportunity to be heard, the court shall determine whether the
42 juvenile's needs are being adequately met; whether services set out in the
43 permanency plan necessary for the safe return of the juvenile have been

1 made available to the parent with whom reintegration is planned; and
2 whether reasonable efforts and progress have been made to achieve the
3 goals of the permanency plan.

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

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

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

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

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

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

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

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

1 Sec. 20. K.S.A. 2015 Supp. 39-970 is hereby amended to read as
2 follows: 39-970. (a) (1) No person shall knowingly operate an adult care
3 home if, in the adult care home, there works any person who has been
4 convicted of or has been adjudicated a juvenile offender because of having
5 committed an act which if done by an adult would constitute the
6 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
7 repeal, or K.S.A. 2015 Supp. 21-5401, *prior to its repeal, aggravated*
8 *murder, pursuant to section 2*, and amendments thereto, first degree
9 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2015
10 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
11 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2015 Supp. 21-5403(a),
12 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-
13 3403, prior to its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments
14 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or
15 K.S.A. 2015 Supp. 21-5407, and amendments thereto, mistreatment of a
16 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-
17 3437, prior to its repeal, or K.S.A. 2015 Supp. 21-5417, and amendments
18 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,
19 or K.S.A. 2015 Supp. 21-5426(a), and amendments thereto, aggravated
20 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
21 K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, rape, pursuant to
22 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2015 Supp. 21-5503, and
23 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-
24 3503, prior to its repeal, or K.S.A. 2015 Supp. 21-5506(a), and
25 amendments thereto, aggravated indecent liberties with a child, pursuant to
26 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2015 Supp. 21-5506(b), and
27 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
28 3506, prior to its repeal, or K.S.A. 2015 Supp. 21-5504(b), and
29 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
30 21-3510, prior to its repeal, or K.S.A. 2015 Supp. 21-5508(a), and
31 amendments thereto, aggravated indecent solicitation of a child, pursuant
32 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2015 Supp. 21-5508(b),
33 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.
34 21-3516, prior to its repeal, or K.S.A. 2015 Supp. 21-5510, and
35 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to
36 its repeal, or K.S.A. 2015 Supp. 21-5505(a), and amendments thereto,
37 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,
38 or K.S.A. 2015 Supp. 21-5505(b), and amendments thereto, commercial
39 sexual exploitation of a child, pursuant to K.S.A. 2015 Supp. 21-6422, and
40 amendments thereto, an attempt to commit any of the crimes listed in this
41 subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A.
42 2015 Supp. 21-5301, and amendments thereto, a conspiracy to commit any
43 of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3302,

1 prior to its repeal, or K.S.A. 2015 Supp. 21-5302, and amendments
2 thereto, or criminal solicitation of any of the crimes listed in this
3 subsection (a)(1), pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A.
4 2015 Supp. 21-5303, and amendments thereto, or similar statutes of other
5 states or the federal government. The provisions of subsection (a)(2)(C)
6 shall not apply to any person who is employed by an adult care home on
7 July 1, 2010, and while continuously employed by the same adult care
8 home.

9 (2) A person operating an adult care home may employ an applicant
10 who has been convicted of any of the following if five or more years have
11 elapsed since the applicant satisfied the sentence imposed or was
12 discharged from probation, a community correctional services program,
13 parole, postrelease supervision, conditional release or a suspended
14 sentence; or if five or more years have elapsed since the applicant has been
15 finally discharged from the custody of the commissioner of juvenile justice
16 or from probation or has been adjudicated a juvenile offender, whichever
17 time is longer: A felony conviction for a crime which is described in: (A)
18 Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their
19 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or
20 K.S.A. 2015 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
21 amendments thereto, except those crimes listed in subsection (a)(1); (B)
22 articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to
23 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
24 Annotated, or K.S.A. 2015 Supp. 21-6419 through 21-6421, and
25 amendments thereto, except those crimes listed in subsection (a)(1) and
26 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2015 Supp. 21-5606, and
27 amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
28 2015 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
29 any of the crimes listed in this subsection (a)(2), pursuant to K.S.A. 21-
30 3301, prior to its repeal, or K.S.A. 2015 Supp. 21-5301, and amendments
31 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
32 (a)(2), pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2015
33 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of
34 the crimes listed in subsection (a)(2), pursuant to K.S.A. 21-3303, prior to
35 its repeal, or K.S.A. 2015 Supp. 21-5303, and amendments thereto; or (G)
36 similar statutes of other states or the federal government.

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

42 (c) The secretary for aging and disability services shall have access to
43 any criminal history record information in the possession of the Kansas

1 bureau of investigation regarding any criminal history information,
2 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
3 repeal, or K.S.A. 2015 Supp. 21-5417, 21-5505(a) and 21-5801, and
4 amendments thereto, adjudications of a juvenile offender which if
5 committed by an adult would have been a felony conviction, and
6 adjudications of a juvenile offender for an offense described in K.S.A. 21-
7 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2015 Supp. 21-
8 5417, 21-5505(a) and 21-5801, and amendments thereto, concerning
9 persons working in an adult care home. The secretary shall have access to
10 these records for the purpose of determining whether or not the adult care
11 home meets the requirements of this section. The Kansas bureau of
12 investigation may charge to the Kansas department for aging and disability
13 services a reasonable fee for providing criminal history record information
14 under this subsection.

15 (d) For the purpose of complying with this section, the operator of an
16 adult care home shall request from the Kansas department for aging and
17 disability services information regarding any criminal history information,
18 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
19 repeal, or K.S.A. 2015 Supp. 21-5417, 21-5505(a) and 21-5801, and
20 amendments thereto, adjudications of a juvenile offender which if
21 committed by an adult would have been a felony conviction, and
22 adjudications of a juvenile offender for an offense described in K.S.A. 21-
23 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2015 Supp. 21-
24 5417, 21-5505(a) and 21-5801, and amendments thereto, and which relates
25 to a person who works in the adult care home, or is being considered for
26 employment by the adult care home, for the purpose of determining
27 whether such person is subject to the provision of this section. For the
28 purpose of complying with this section, the operator of an adult care home
29 shall receive from any employment agency which provides employees to
30 work in the adult care home written certification that such employees are
31 not prohibited from working in the adult care home under this section. For
32 the purpose of complying with this section, information relating to
33 convictions and adjudications by the federal government or to convictions
34 and adjudications in states other than Kansas shall not be required until
35 such time as the secretary for aging and disability services determines the
36 search for such information could reasonably be performed and the
37 information obtained within a two-week period. For the purpose of
38 complying with this section, a person who operates an adult care home
39 may hire an applicant for employment on a conditional basis pending the
40 results from the Kansas department for aging and disability services of a
41 request for information under this subsection. No adult care home, the
42 operator or employees of an adult care home or an employment agency, or
43 the operator or employees of an employment agency, shall be liable for

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

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

10 (f) (1) The secretary for aging and disability services shall provide
11 each operator requesting information under this section with the criminal
12 history record information concerning any criminal history information
13 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
14 repeal, or K.S.A. 2015 Supp. 21-5417, 21-5505(a) and 21-5801, and
15 amendments thereto, in writing and within three working days of receipt of
16 such information from the Kansas bureau of investigation. The criminal
17 history record information shall be provided regardless of whether the
18 information discloses that the subject of the request has been convicted of
19 an offense enumerated in subsection (a).

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

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

37 (4) The secretary for aging and disability services shall not provide
38 each operator requesting information under this section with the juvenile
39 criminal history record information which relates to a person subject to a
40 background check as is provided by K.S.A. 2015 Supp. 38-2326, and
41 amendments thereto, except for adjudications of a juvenile offender for an
42 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2015
43 Supp. 21-5801, and amendments thereto. The secretary shall notify the

1 operator that requested the information, in writing and within three
2 working days of receipt of such information from the Kansas bureau of
3 investigation, whether juvenile criminal history record information
4 received pursuant to this section reveals that the operator would or would
5 not be prohibited by this section from employing the subject of the request
6 for information and whether such information contains adjudications of a
7 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
8 repeal, or K.S.A. 2015 Supp. 21-5801, and amendments thereto.

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

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

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

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

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

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

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

40 (m) For purposes of this section, the Kansas bureau of investigation
41 shall report any criminal history information, convictions under K.S.A. 21-
42 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2015 Supp. 21-
43 5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of

1 a juvenile offender which if committed by an adult would have been a
2 felony conviction, and adjudications of a juvenile offender for an offense
3 described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal,
4 or K.S.A. 2015 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments
5 thereto, to the secretary for aging and disability services when a
6 background check is requested.

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

9 Sec. 21. K.S.A. 2015 Supp. 65-5117 is hereby amended to read as
10 follows: 65-5117. (a) (1) No person shall knowingly operate a home health
11 agency if, for the home health agency, there works any person who has
12 been convicted of or has been adjudicated a juvenile offender because of
13 having committed an act which if done by an adult would constitute the
14 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
15 repeal, or K.S.A. 2015 Supp. 21-5401, *prior to its repeal, aggravated*
16 *murder, pursuant to section 2*, and amendments thereto, first degree
17 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2015
18 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
19 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2015 Supp. 21-5403(a),
20 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-
21 3403, prior to its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments
22 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or
23 K.S.A. 2015 Supp. 21-5407, and amendments thereto, mistreatment of a
24 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-
25 3437, prior to its repeal, or K.S.A. 2015 Supp. 21-5417, and amendments
26 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,
27 or K.S.A. 2015 Supp. 21-5426(a), and amendments thereto, aggravated
28 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
29 K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, rape, pursuant to
30 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2015 Supp. 21-5503, and
31 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-
32 3503, prior to its repeal, or K.S.A. 2015 Supp. 21-5506(a), and
33 amendments thereto, aggravated indecent liberties with a child, pursuant to
34 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2015 Supp. 21-5506(b), and
35 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
36 3506, prior to its repeal, or K.S.A. 2015 Supp. 21-5504(b), and
37 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
38 21-3510, prior to its repeal, or K.S.A. 2015 Supp. 21-5508(a), and
39 amendments thereto, aggravated indecent solicitation of a child, pursuant
40 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2015 Supp. 21-5508(b),
41 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.
42 21-3516, prior to its repeal, or K.S.A. 2015 Supp. 21-5510, and
43 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to

1 its repeal, or K.S.A. 2015 Supp. 21-5505(a), and amendments thereto,
2 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,
3 or K.S.A. 2015 Supp. 21-5505(b), and amendments thereto, commercial
4 sexual exploitation of a child, pursuant to K.S.A. 2015 Supp. 21-6422, and
5 amendments thereto, an attempt to commit any of the crimes listed in this
6 subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A.
7 2015 Supp. 21-5301, and amendments thereto, a conspiracy to commit any
8 of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3302,
9 prior to its repeal, or K.S.A. 2015 Supp. 21-5302, and amendments
10 thereto, or criminal solicitation of any of the crimes listed in this
11 subsection (a)(1), pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A.
12 2015 Supp. 21-5303, and amendments thereto, or similar statutes of other
13 states or the federal government. The provisions of subsection (a)(2)(C)
14 shall not apply to any person who is employed by a home health agency on
15 July 1, 2010, and while continuously employed by the same home health
16 agency.

17 (2) A person operating a home health agency may employ an
18 applicant who has been convicted of any of the following if five or more
19 years have elapsed since the applicant satisfied the sentence imposed or
20 was discharged from probation, a community correctional services
21 program, parole, postrelease supervision, conditional release or a
22 suspended sentence; or if five or more years have elapsed since the
23 applicant has been finally discharged from the custody of the
24 commissioner of juvenile justice or from probation or has been adjudicated
25 a juvenile offender, whichever time is longer: A felony conviction for a
26 crime which is described in: (A) Article 34 of chapter 21 of the Kansas
27 Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the
28 Kansas Statutes Annotated, or K.S.A. 2015 Supp. 21-6104, 21-6325, 21-
29 6326 or 21-6418, and amendments thereto, except those crimes listed in
30 subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
31 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
32 Kansas Statutes Annotated, or K.S.A. 2015 Supp. 21-6419 through 21-
33 6421, and amendments thereto, except those crimes listed in subsection (a)
34 (1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2015 Supp. 21-5606,
35 and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
36 2015 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
37 any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-
38 3301, prior to its repeal, or K.S.A. 2015 Supp. 21-5301, and amendments
39 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
40 (a)(2) pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2015 Supp.
41 21-5302, and amendments thereto; (F) criminal solicitation of any of the
42 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, prior to its
43 repeal, or K.S.A. 2015 Supp. 21-5303, and amendments thereto; or (G)

1 similar statutes of other states or the federal government.

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

7 (c) The secretary of health and environment shall have access to any
8 criminal history record information in the possession of the Kansas bureau
9 of investigation regarding any criminal history information, convictions
10 under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or
11 K.S.A. 2015 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments
12 thereto, adjudications of a juvenile offender which if committed by an
13 adult would have been a felony conviction, and adjudications of a juvenile
14 offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-
15 3701, prior to their repeal, or K.S.A. 2015 Supp. 21-5417, 21-5505(a) and
16 21-5801, and amendments thereto, concerning persons working for a home
17 health agency. The secretary shall have access to these records for the
18 purpose of determining whether or not the home health agency meets the
19 requirements of this section. The Kansas bureau of investigation may
20 charge to the department of health and environment a reasonable fee for
21 providing criminal history record information under this subsection.

22 (d) For the purpose of complying with this section, the operator of a
23 home health agency shall request from the department of health and
24 environment information regarding any criminal history information,
25 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
26 repeal, or K.S.A. 2015 Supp. 21-5417, 21-5505(a) and 21-5801, and
27 amendments thereto, adjudications of a juvenile offender which if
28 committed by an adult would have been a felony conviction, and
29 adjudications of a juvenile offender for an offense described in K.S.A. 21-
30 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2015 Supp. 21-
31 5417, 21-5505(a) and 21-5801, and amendments thereto, and which relates
32 to a person who works for the home health agency or is being considered
33 for employment by the home health agency, for the purpose of determining
34 whether such person is subject to the provisions of this section. For the
35 purpose of complying with this section, information relating to convictions
36 and adjudications by the federal government or to convictions and
37 adjudications in states other than Kansas shall not be required until such
38 time as the secretary of health and environment determines the search for
39 such information could reasonably be performed and the information
40 obtained within a two-week period. For the purpose of complying with this
41 section, the operator of a home health agency shall receive from any
42 employment agency which provides employees to work for the home
43 health agency written certification that such employees are not prohibited

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

14 (e) The secretary of health and environment shall charge each person
15 requesting information under this section a fee equal to cost, not to exceed
16 \$10, for each name about which an information request has been submitted
17 under this section.

18 (f) (1) The secretary of health and environment shall provide each
19 operator requesting information under this section with the criminal
20 history record information concerning any criminal history information
21 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
22 repeal, or K.S.A. 2015 Supp. 21-5417, 21-5505(a) and 21-5801, and
23 amendments thereto, in writing and within three working days of receipt of
24 such information from the Kansas bureau of investigation. The criminal
25 history record information shall be provided regardless of whether the
26 information discloses that the subject of the request has been convicted of
27 an offense enumerated in subsection (a).

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

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

1 from the Kansas bureau of investigation.

2 (4) The secretary of health and environment shall not provide each
3 operator requesting information under this section with the juvenile
4 criminal history record information which relates to a person subject to a
5 background check as is provided by K.S.A. 2015 Supp. 38-2326, and
6 amendments thereto, except for adjudications of a juvenile offender for an
7 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2015
8 Supp. 21-5801, and amendments thereto. The secretary shall notify the
9 operator that requested the information, in writing and within three
10 working days of receipt of such information from the Kansas bureau of
11 investigation, whether juvenile criminal history record information
12 received pursuant to this section reveals that the operator would or would
13 not be prohibited by this section from employing the subject of the request
14 for information and whether such information contains adjudications of a
15 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
16 repeal, or K.S.A. 2015 Supp. 21-5801, and amendments thereto.

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

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

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

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

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

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

1 applying.

2 (l) For purposes of this section, the Kansas bureau of investigation
3 shall only report felony convictions, convictions under K.S.A. 21-3437,
4 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2015 Supp. 21-5417,
5 21-5505(a) and 21-5801, and amendments thereto, adjudications of a
6 juvenile offender which if committed by an adult would have been a
7 felony conviction, and adjudications of a juvenile offender for an offense
8 described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal,
9 or K.S.A. 2015 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments
10 thereto, to the secretary of health and environment when a background
11 check is requested.

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

15 Sec. 22. K.S.A. 2015 Supp. 72-1397 is hereby amended to read as
16 follows: 72-1397. (a) The state board of education shall not knowingly
17 issue a license to or renew the license of any person who has been
18 convicted of:

19 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
20 2015 Supp. 21-5503, and amendments thereto;

21 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
22 to its repeal, or K.S.A. 2015 Supp. 21-5506(a), and amendments thereto;

23 (3) aggravated indecent liberties with a child, as defined in K.S.A.
24 21-3504, prior to its repeal, or K.S.A. 2015 Supp. 21-5506(b), and
25 amendments thereto;

26 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
27 prior to its repeal, or K.S.A. 2015 Supp. 21-5504(a)(3) or (a)(4), and
28 amendments thereto;

29 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
30 to its repeal, or K.S.A. 2015 Supp. 21-5504(b), and amendments thereto;

31 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
32 prior to its repeal, or K.S.A. 2015 Supp. 21-5508(a), and amendments
33 thereto;

34 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
35 21-3511, prior to its repeal, or K.S.A. 2015 Supp. 21-5508(b), and
36 amendments thereto;

37 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
38 to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto;

39 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
40 repeal, or K.S.A. 2015 Supp. 21-5604(b), and amendments thereto;

41 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
42 prior to its repeal, or K.S.A. 2015 Supp. 21-5601(b), and amendments
43 thereto;

- 1 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
2 or K.S.A. 2015 Supp. 21-5602, and amendments thereto;
- 3 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
4 or K.S.A. 2015 Supp. 21-5401, ~~and amendments thereto~~ *prior to its repeal*;
- 5 (13) *aggravated murder, as defined in section 2, and amendments*
6 *thereto*;
- 7 ~~(13)~~ (14) murder in the first degree, as defined in K.S.A. 21-3401,
8 prior to its repeal, or K.S.A. 2015 Supp. 21-5402, and amendments
9 thereto;
- 10 ~~(14)~~ (15) murder in the second degree, as defined in K.S.A. 21-3402,
11 prior to its repeal, or K.S.A. 2015 Supp. 21-5403, and amendments
12 thereto;
- 13 ~~(15)~~ (16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
14 to its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto;
- 15 ~~(16)~~ (17) involuntary manslaughter, as defined in K.S.A. 21-3404,
16 prior to its repeal, or K.S.A. 2015 Supp. 21-5405, and amendments
17 thereto;
- 18 ~~(17)~~ (18) involuntary manslaughter while driving under the influence
19 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 20 ~~(18)~~ (19) sexual battery, as defined in K.S.A. 21-3517, prior to its
21 repeal, or K.S.A. 2015 Supp. 21-5505(a), and amendments thereto, when,
22 at the time the crime was committed, the victim was less than 18 years of
23 age or a student of the person committing such crime;
- 24 ~~(19)~~ (20) aggravated sexual battery, as defined in K.S.A. 21-3518,
25 prior to its repeal, or K.S.A. 2015 Supp. 21-5505(b), and amendments
26 thereto;
- 27 ~~(20)~~ (21) commercial sexual exploitation of a child, as defined in
28 K.S.A. 2015 Supp. 21-6422, and amendments thereto;
- 29 ~~(21)~~ (22) human trafficking, as defined in K.S.A. 21-3446, prior to its
30 repeal, or K.S.A. 2015 Supp. 21-5426(a), and amendments thereto;
- 31 ~~(22)~~ (23) aggravated human trafficking, as defined in K.S.A. 21-
32 3447, prior to its repeal, or K.S.A. 2015 Supp. 21-5426(b), and
33 amendments thereto;
- 34 ~~(23)~~ (24) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
35 2015 Supp. 21-5301, and amendments thereto, to commit any act specified
36 in this subsection;
- 37 ~~(24)~~ (25) conspiracy under K.S.A. 21-3302, prior to its repeal, or
38 K.S.A. 2015 Supp. 21-5302, and amendments thereto, to commit any act
39 specified in this subsection;
- 40 ~~(25)~~ (26) an act in another state or by the federal government that is
41 comparable to any act described in this subsection; or
- 42 ~~(26)~~ (27) an offense in effect at any time prior to the effective date of
43 this act that is comparable to an offense as provided in this subsection.

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

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

9 (2) a felony described in any section of article 34 of chapter 21 of the
10 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
11 of the Kansas Statutes Annotated, or K.S.A. 2015 Supp. 21-6104, 21-6325,
12 21-6326 or 21-6418, and amendments thereto, other than an act specified
13 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
14 repeal, or K.S.A. 2015 Supp. 21-5413(a), and amendments thereto, or
15 domestic battery, as described in K.S.A. 21-3412a, prior to its repeal, or
16 K.S.A. 2015 Supp. 21-5414, and amendments thereto, if the victim is a
17 minor or student;

18 (3) a felony described in any section of article 35 of chapter 21 of the
19 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
20 of the Kansas Statutes Annotated, or K.S.A. 2015 Supp. 21-6419 through
21 21-6421, and amendments thereto, other than an act specified in
22 subsection (a);

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

27 (5) a felony described in article 37 of chapter 21 of the Kansas
28 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
29 Kansas Statutes Annotated, or K.S.A. 2015 Supp. 21-6412(a)(6), and
30 amendments thereto;

31 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
32 repeal, or K.S.A. 2015 Supp. 21-6401(a), and amendments thereto,
33 promoting obscenity to minors, as described in K.S.A. 21-4301a, prior to
34 its repeal, or K.S.A. 2015 Supp. 21-6401(b), and amendments thereto, or
35 promoting to minors obscenity harmful to minors, as described in K.S.A.
36 21-4301c, prior to its repeal, or K.S.A. 2015 Supp. 21-6402, and
37 amendments thereto;

38 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
39 repeal, or K.S.A. 2015 Supp. 21-5601(a), and amendments thereto;

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

43 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2015

1 Supp. 21-5301, and amendments thereto, to commit any act specified in
2 this subsection;

3 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
4 2015 Supp. 21-5302, and amendments thereto, to commit any act specified
5 in this subsection; or

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

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

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

21 (2) the conduct of the person subsequent to commission of the
22 offense or act;

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

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

25 (5) whether the offense or act was an isolated or recurring incident;
26 and

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

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

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

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

43 Sec. 23. K.S.A. 2015 Supp. 75-52,148 is hereby amended to read as

1 follows: 75-52,148. (a) The department of corrections shall be required to
2 review and report on the following serious offenses committed by sex
3 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while
4 such offenders are in the custody of the secretary of corrections:

5 (1) Murder in the first degree, as defined in K.S.A. 2015 Supp. 21-
6 5402, and amendments thereto;

7 (2) murder in the second degree, as defined in K.S.A. 2015 Supp. 21-
8 5403, and amendments thereto;

9 (3) ~~capital murder, as defined in K.S.A. 2015 Supp. 21-5401, and~~
10 ~~amendments thereto~~ *aggravated murder, as defined in section 2, and*
11 *amendments thereto;*

12 (4) rape, as defined in K.S.A. 2015 Supp. 21-5503, and amendments
13 thereto;

14 (5) aggravated criminal sodomy, as defined in ~~subsection (b) of~~
15 ~~K.S.A. 2015 Supp. 21-5504(b)~~, and amendments thereto;

16 (6) sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-
17 5510, and amendments thereto;

18 (7) kidnapping as defined in ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-
19 5408(a), and amendments thereto;

20 (8) aggravated kidnapping, as defined in ~~subsection (b) of~~ K.S.A.
21 2015 Supp. 21-5408(b), and amendments thereto;

22 (9) criminal restraint, as defined in K.S.A. 2015 Supp. 21-5411, and
23 amendments thereto;

24 (10) indecent solicitation of a child, as defined in ~~subsection (a) of~~
25 ~~K.S.A. 2015 Supp. 21-5508(a)~~, and amendments thereto;

26 (11) aggravated indecent solicitation of a child, as defined in
27 ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5508(b), and amendments thereto;

28 (12) indecent liberties with a child, as defined in ~~subsection (a) of~~
29 ~~K.S.A. 2015 Supp. 21-5506(a)~~, and amendments thereto;

30 (13) aggravated indecent liberties with a child, as defined in
31 ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5506(b), and amendments thereto;

32 (14) criminal sodomy, as defined in ~~subsection (a) of~~ K.S.A. 2015
33 Supp. 21-5504(a), and amendments thereto;

34 (15) child abuse, as defined in K.S.A. 2015 Supp. 21-5602, and
35 amendments thereto;

36 (16) aggravated robbery, as defined in ~~subsection (b) of~~ K.S.A. 2015
37 Supp. 21-5420(b), and amendments thereto;

38 (17) burglary, as defined in ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-
39 5807(a), and amendments thereto;

40 (18) aggravated burglary, as defined in ~~subsection (b) of~~ K.S.A. 2015
41 Supp. 21-5807(b), and amendments thereto;

42 (19) theft, as defined in K.S.A. 2015 Supp. 21-5801, and amendments
43 thereto;

1 (20) vehicular homicide, as defined in K.S.A. 2015 Supp. 21-5406,
2 and amendments thereto;

3 (21) involuntary manslaughter while driving under the influence, as
4 defined in ~~subsection (a)(3)~~ of K.S.A. 2015 Supp. 21-5405(a)(3), and
5 amendments thereto; or

6 (22) stalking, as defined in K.S.A. 2015 Supp. 21-5427, and
7 amendments thereto.

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

11 Sec. 24. K.S.A. 2015 Supp. 21-5401, 21-5419, 21-6614, 21-6614f,
12 21-6617, 21-6618, 21-6619, 21-6620, 21-6622, 21-6628, 21-6629, 21-
13 6806, 22-3717, 22-4902, 22-4906, 38-2255, 38-2271, 38-2312, 38-2365,
14 39-970, 65-5117, 72-1397 and 75-52,148 are hereby repealed.

15 Sec. 25. This act shall take effect and be in force from and after its
16 publication in the statute book.