

# Journal of the Senate

## SIXTIETH DAY

---

SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, May 3, 2017, 10:00 a.m.

The Senate was called to order by President Susan Wagle.  
The roll was called with 40 senators present.  
Invocation by Reverend Cecil T. Washington:

Lord, we come today on the eve of the National Day of Prayer. But, I'm grateful that we don't have to wait for a national pronouncement. For, according to Psalm 39:5, tomorrow isn't promised to us and we need prayer today.

Due to the value of the work being done here, the enemy of righteous progress hinders, and even undermines, the progress that blesses Your people.

So, Lord, I pray that You'll meet the needs of the these servants today. And, I thank You for the gift of prayer.

Lord, I want to reiterate the words of the Apostle John, when he expressed confidence in the fact that You hear and that You respond to the prayers of those who trust in You. Under the leading of Your Spirit, he said in 1 John 5:14-15, "<sup>14</sup> This is the confidence which we have before Him, that, if we ask anything according to His will, He hears us. <sup>15</sup> And if we know that He hears us in whatever we ask, we know that we have the requests which we have asked from Him."

So, Lord, help us to be like John today. We want Your will to prevail. And even though we don't always know what that is, that's what we want.

So, help us lean with confident assurance, that Your Word never fails. Increase our faith, that we may see Your powerful Hand moving in our affairs.

And when our faith falters, let our prayer be like that of the man in Matthew 9:24, when he asked You to help his unbelief,

Thank You, Lord, for hearing this prayer. In the name of Jesus, Amen.

The Pledge of Allegiance was led by President Wagle.

### POINT OF PERSONAL PRIVILEGE

Senator Faust-Goudeau rose on a Point of Personal Privilege to introduce, Brillian Lengeju, Princess of America Miss Kansas Teen 2017-2018. She was accompanied by her mother, Sein Langeju.

The senate honored Brillian with a standing ovation.

### MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **SB 14**.

The House adopts the Conference Committee report on **SB 112**.

The House accedes to the request of the Senate for a conference on **H Sub SB 120** and has appointed Representatives Finch, Patton and Carmichael as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 205** and has appointed Representatives Kelly, R. Powell and Finney as conferees on the part of the House.

The House announces the appointment of Representative Trimmer to replace Representative Finney as a conferee on **SB 205**

### **INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2184** was thereupon introduced and read by title.

### **INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senator Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1742—

A RESOLUTION congratulating and commending the Olathe Northwest High School Raven Dance Team for winning their eighth consecutive national title.

WHEREAS, On March 5, 2017, the Olathe Northwest High School Raven Dance Team won first place at the National Dance Alliance High School Nationals held in Orlando, Florida, for the eighth consecutive year. At the competition, the team competed against 138 of the most talented high school dance teams from around the country and the world; and

WHEREAS, The team earned first place distinction for their Large Varsity Jazz and International Pom routines, in which they competed against teams from Japan. In addition, they were named the 2017 Senior Grand Champions, the highest honor of the Alliance Nationals. This marks the first time the Raven Dance Team has won three first-place awards in the same competition; and

WHEREAS, The Raven Dance Team also received recognition for their sportsmanship, technical excellence, jazz-winning routine and innovative choreography; and

WHEREAS, The Raven Dance Team consists of 24 varsity members and 15 junior varsity members. These dedicated and talented young dancers strive to represent Olathe Northwest High School in a positive and spirited manner; and

WHEREAS, Varsity members perform at various school and community events and practice five days a week for up to two hours per day to prepare for games and other performances. The team dances are choreographed by head coach, Shannon Summers, and assistant coach, Alison Krumbiegel, with short routines being choreographed by the nine team leaders; and

WHEREAS, During football season, the team doubles as a color guard, performing at halftime with the band. In addition to their tremendous dance skills, they have received top scores and won awards for their auxiliary unit; and

WHEREAS, Each January, the varsity team competes in two regional competitions against other midwest high school dance teams in various categories, including jazz, hip hop, team performance, lyrical, novelty and pom, in order to earn a spot in the national competition held in March; and

WHEREAS, Members of the varsity team are: Brooke Allen, Amy Anderson, Skylar Batty, Chloe Bartels, Avery Boland, Mady Cole, Alexis Cross-Tunley, Andie Dain, Destane Doughty, Kennedy Dyro, Sarah Glass, Abby Good, Taylor Lang, Jade Osborn, Jiani Osborn, Alexandra Privat, Grace Rasmussen, Lily Riederer, Haley Scalabrin, Layne Steffen, Gabby Thomas, Carley Uhl, Olivia Whitenack and Molly Winegar; and

WHEREAS, The junior varsity team was established in 2010. Like the varsity team, they perform special guest routines at various school and community events and practice four days per week for up to two hours per day. The junior varsity team also competes in two regional competitions each January; and

WHEREAS, To prepare for their regional and national competitions, the teams sacrifice part of their winter break and weekends for extra practice time. The team members work hard each year to maintain their tradition of success: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Olathe Northwest High School Raven Dance Team, their parents, coaches, administration, faculty and entire student body for the team's eighth consecutive national title win, and we wish them continued success in the future; and

*Be it further resolved:* That the Secretary of the Senate shall send 25 enrolled copies of this resolution to Senator Lynn.

On emergency motion of Senator Lynn **SR 1742** was adopted unanimously.

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

---

The senate met pursuant to recess with President Wagle in the chair.

#### **ORIGINAL MOTION**

Senator Denning moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 112; S Sub HB 2053; HB 2301, HB 2356.**

On motion of Senator Denning, the Senate recessed until 2:00 p.m..

---

The senate met pursuant to recess with Vice President Jeff Longbine in the chair.

#### **MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2184.**

The House adopts the Conference Committee report on **H Sub SB 42.**

The House adopts the Conference Committee report on **HB 2096.**

The House accedes to the request of the Senate for a conference on **HB 2041** and has appointed Representatives Finch, Patton and Carmichael as conferees on the part of the House.

#### **FINAL ACTION ON CONSENT CALENDAR**

**HB 2356** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

**HB 2356**, AN ACT concerning state contracts and purchases; relating to competitive bids; bid preferences to certified businesses; recertification; amending K.S.A. 2016 Supp. 75-3740 and repealing the existing section.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 1; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Present and Passing: Hilderbrand.

The bill passed.

### CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Longbine moved the Senate concur in House amendments to **SB 205**.

**SB 205**, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; participating service credit; providing certain death benefits to surviving spouses; exempting state board of regents retirement plan members from certain employment after retirement provisions; determining actuarial equivalent or actuarial computation interest factor; amending K.S.A. 74-4913, 74-4956 and 74-4959 and K.S.A. 2016 Supp. 74-4914 and 74-49,123 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 74-4914f.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 1; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Present and Passing: Hilderbrand.

The Senate concurred.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 112** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 1, before line 9, by inserting:

"WHEREAS, The provisions of K.S.A. 2016 Supp. 21-6804(y), as amended by this act, shall be known and may be cited as the law enforcement protection act.

Now, therefore:";

On page 4, in line 5, by striking "or department of corrections"; in line 18, by striking "or department of corrections"; in line 29, after "(d)" by inserting "In determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense under this section, a court shall consider information presented to the court

relating to any current or prior protective order issued against such person.

(e) ";

Also on page 4, by striking all in line 36;

On page 5, in line 2, before the period, by inserting:

"; and

(3) "protective order" means:

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

(B) a protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265;

(C) a restraining order issued pursuant to K.S.A. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, or K.S.A. 60-1607, prior to its transfer;

(D) an order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, postrelease supervision or at any other time during the criminal case or upon appeal that orders the person to refrain from having any direct or indirect contact with a family or household member;

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

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

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 7, following line 25, by inserting:

"Sec. 5. On and after July 1, 2017, K.S.A. 2016 Supp. 21-6412 is hereby amended to read as follows: 21-6412. (a) Cruelty to animals is:

(1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;

(2) knowingly abandoning any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(5) knowingly but not maliciously killing or injuring any animal; or

(6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the

completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;

(4) rodeo practices accepted by the rodeo cowboys' association;

(5) the humane killing of an animal ~~which that~~ is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, ~~pound~~ or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of ~~an incorporated humane society, the operator of an animal shelter or pound,~~ a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such ~~society, shelter or pound;~~

(6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) the killing of any animal by any person at any time ~~which that~~ may be found outside of the owned or rented property of the owner or custodian of such animal and ~~which that~~ is found injuring or posing a threat to any person, farm animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) laying an equine down for medical or identification purposes;

(10) normal or accepted practices of pest control, as defined in ~~subsection (x) of~~ K.S.A. 2-2438a(x), and amendments thereto; or

(11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or

officer or agent of any ~~incorporated humane society~~, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, ~~which~~ that clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of ~~a duly incorporated humane society~~ an animal shelter or licensed veterinarian for treatment, boarding or other care or, if an officer of such ~~humane society~~ animal shelter or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. ~~If the animal is placed in the care of an animal shelter, the animal shelter shall notify~~ The owner or custodian, if known or reasonably ascertainable, shall be notified in writing. If the owner or custodian is charged with a violation of this section, ~~the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court to be allowed in the county in which the animal was taken into custody to place the animal for adoption or euthanize transfer ownership of the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal transferred.~~

(f) The owner or custodian of an animal ~~placed for adoption or killed transferred~~ pursuant to subsection (e) shall not be entitled to recover damages for the ~~placement or killing transfer~~ of such animal unless the owner proves that such ~~placement or killing transfer~~ was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, ~~and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime~~, such animal shall not be returned to or remain with such person. Such animal may be turned over to ~~a duly incorporated humane society~~ an animal shelter or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Animal shelter" means the same as such term is defined in K.S.A. 47-1701, and amendments thereto;

(2) "equine" means a horse, pony, mule, jenny, donkey or hinny; and

~~(2)~~ (3) "maliciously" means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

Sec. 6. On and after July 1, 2017, K.S.A. 2016 Supp. 21-6414 is hereby amended to read as follows: 21-6414. (a) Unlawful conduct of dog fighting is:

(1) Causing, for amusement or gain, any dog to fight with or injure another dog, with no requirement of culpable mental state;

(2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or

(3) training, owning, keeping, transporting or selling any dog with the intent of having it fight with or injure another dog.

(b) Unlawful possession of dog fighting paraphernalia is possession, with the intent to use in the unlawful conduct of dog fighting, any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia.

(c) Unlawful attendance of dog fighting is, entering or remaining on the premises where the unlawful conduct of dog fighting is occurring, whether the person knows or has reason to know that dog fighting is occurring on the premises.

(d) (1) Unlawful conduct of dog fighting is a severity level 10, nonperson felony.

(2) Unlawful possession of dog fighting paraphernalia is a class A nonperson misdemeanor.

(3) Unlawful attendance of dog fighting is a class B nonperson misdemeanor.

(e) When a person is arrested under this section, a law enforcement agency may take into custody any dog on the premises where the dog fight is alleged to have occurred and any dog owned or kept on the premises of any person arrested for unlawful conduct of dog fighting, unlawful attendance of dog fighting, or unlawful possession of dog fighting paraphernalia.

(f) When a law enforcement agency takes custody of a dog under this section, such agency may place the dog in the care of ~~a duly incorporated humane society~~ an animal shelter or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose, such dog may be humanely killed. The dog may be sedated, isolated or restrained if such officer, agent or veterinarian determines it to be in the best interest of the dog, other animals at the animal shelter or personnel of the animal shelter. ~~If the dog is placed in the care of an animal shelter, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby~~ The law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court in the county in which the animal was taken into custody to be allowed to place the dog for adoption or euthanize transfer ownership of the dog at any time after 21 days after the dog is taken into custody, unless the owner or custodian of the dog files a renewable cash or performance bond with the county clerk of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Upon receiving such petition, the court shall determine whether the dog may be ~~placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal transferred.~~ Except as provided in subsection (g), if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a type of dog that is not commonly bred or trained for aggressive conduct, the district or county attorney shall order that the dog be returned to its owner when the dog is not needed as evidence in a case filed under this section or K.S.A. 2016 Supp. 21-6412, and amendments thereto. The owner or keeper of a dog ~~placed for adoption or humanely killed~~ transferred under this

subsection shall not be entitled to damages unless the owner or keeper proves that such ~~placement or killing transfer~~ was unwarranted.

(g) If a person is convicted of unlawful conduct of dog fighting, unlawful attendance of dog fighting or unlawful possession of dog fighting paraphernalia, a dog taken into custody pursuant to subsection (e) shall not be returned to such person and the court shall order the owner or keeper to pay to the animal shelter or licensed veterinarian all expenses incurred for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to conviction of the owner or keeper. Disposition of such dog shall be in accordance with K.S.A. 2016 Supp. 21-6412, and amendments thereto. If no such conviction results, the dog shall be returned to the owner or keeper and the court shall order the county where the dog was taken into custody to pay to the law enforcement agency, veterinarian or animal shelter all expenses incurred ~~by the shelter~~ for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to its return.

(h) A person who violates the provisions of this section may also be prosecuted for, convicted of; and punished for cruelty to animals.

(i) As used in this section, "animal shelter" means the same as such term is defined in K.S.A. 47-1701, and amendments thereto.

Sec. 7. On and after July 1, 2017, K.S.A. 2016 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	283 272 258	297 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	238 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	156 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	45 41 38	38 34 31	34 31 28
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 23	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	24 22 21	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

<b>LEGEND</b>
Presumptive Probation
Presumptive Fine
Presumptive Imprisonment

(b) Sentences expressed in the sentencing guidelines grid for nondrug crimes represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

- (A) Prison sentence;
- (B) maximum potential reduction to such sentence as a result of good time; and
- (C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:

- (A) Prison sentence; and
  - (B) duration of the nonprison sanction at the sentencing hearing.
- (f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of K.S.A. 2016 Supp. 21-5412(d), and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A. 2016 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, K.S.A. 2016 Supp. 21-5414(b)(3), K.S.A. 2016 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2016 Supp. 21-6412 and K.S.A. 2016 Supp. 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 2016 Supp. 21-6807, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 2016 Supp. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 2016 Supp. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 2016 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, K.S.A. 2016 Supp. 21-5414(b)(3), K.S.A. 2016 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2016 Supp. 21-6412 and K.S.A. 2016 Supp. 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary

of corrections, except that the term of imprisonment for felony violations of K.S.A. 2016 Supp. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 2016 Supp. 21-6609, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

(A) The commission of one or more person felonies; or

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

(C) its members have a common name or common identifying sign or symbol; and

(D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas

Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of K.S.A. 2016 Supp. 21-5807(a)(1), and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2016 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-3715(a) or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A. 2016 Supp. 21-5807(a)(1) or (a)(2), or K.S.A. 2016 Supp. 21-5807(b), and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 2016 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 2016 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of K.S.A. 21-3705(b), prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 2016 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) The sentence for a felony violation of theft of property as defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, or burglary as defined in K.S.A. 2016 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, or burglary as defined in K.S.A. 2016 Supp. 21-5807(a), and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2016 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in K.S.A. 2016 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2016 Supp. 21-5807, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program will serve

community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of K.S.A. 2016 Supp. 21-6824(f)(1), and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) The sentence for a felony violation of theft of property as defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2016 Supp. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in K.S.A. 2016 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2016 Supp. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) As used in this section, an "optional nonprison sentence" is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

- (1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and
- (2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or
- (3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison

sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of K.S.A. 2016 Supp. 21-5413(c)(2), and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(s) The sentence for a violation of K.S.A. 2016 Supp. 21-5512, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding beyond a reasonable doubt that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months' imprisonment.

(2) The sentence imposed pursuant to subsection (t)(1) shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) As used in this subsection, "ballistic resistant material" means: (A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and (B) any homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A. 2016 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2016 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2016 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(v) The sentence for a third or subsequent violation of K.S.A. 8-1568, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(w) The sentence for aggravated criminal damage to property as defined in K.S.A. 2016 Supp. 21-5813(b), and amendments thereto, when such person being sentenced has a prior conviction for any nonperson felony shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(x) The sentence for a violation of K.S.A. 2016 Supp. 21-5807(a)(1), and amendments thereto, shall be presumptive imprisonment if the offense under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such sentence shall not be considered a departure and shall not be subject to appeal.

(y) (1) Except as provided in subsection (y)(3), if the trier of fact makes a finding beyond a reasonable doubt that an offender committed a nondrug felony offense, or any attempt or conspiracy, as defined in K.S.A. 2016 Supp. 21-5301 and 21-5302, and amendments thereto, to commit a nondrug felony offense, against a law enforcement officer, as defined in K.S.A. 2016 Supp. 21-5111(p)(1) and (3), and amendments thereto, while such officer was engaged in the performance of such officer's duty, or in

whole or in any part because of such officer's status as a law enforcement officer, the sentence for such offense shall be:

(A) If such offense is classified in severity level 2 through 10, one severity level above the appropriate level for such offense; and

(B) (i) if such offense is classified in severity level 1, except as otherwise provided in subsection (y)(1)(B)(ii), imprisonment for life, and such offender shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, such offender shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(ii) The provisions of subsection (y)(1)(B)(i) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the offender, because of the offender's criminal history classification, is subject to presumptive imprisonment and the sentencing range exceeds 300 months. In such case, the offender is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(2) The sentence imposed pursuant to subsection (y)(1) shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to an offense described in subsection (y)(1) if the factual aspect concerning a law enforcement officer is a statutory element of such offense.";

On page 11, following line 19, by inserting:

"Sec. 9. K.S.A. 22-3504 is hereby amended to read as follows: 22-3504. (1) The court may correct an illegal sentence at any time. The defendant shall receive full credit for time spent in custody under the sentence prior to correction. Unless the motion and the files and records of the case conclusively show that the defendant is entitled to no relief, the defendant shall have a right to a hearing, after reasonable notice to be fixed by the court, to be personally present and to have the assistance of counsel in any proceeding for the correction of an illegal sentence.

(2) Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

(3) "Illegal sentence" means a sentence: Imposed by a court without jurisdiction; that does not conform to the applicable statutory provision, either in character or punishment; or that is ambiguous with respect to the time and manner in which it is to be served at the time it is pronounced. A sentence is not an "illegal sentence" because of a change in the law that occurs after the sentence is pronounced.

Sec. 10. K.S.A. 2016 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through 21-4638 and 21-4642, prior to their repeal; K.S.A. 2016 Supp. 21-6617, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2016 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) An inmate sentenced to imprisonment for life without the possibility of parole pursuant to K.S.A. 2016 Supp. 21-6617, and amendments thereto, shall not be

eligible for parole.

(2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of: (A) Capital murder committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; (B) murder in the first degree based upon a finding of premeditated murder committed on or after July 1, 1994, but prior to July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; and (C) murder in the first degree as described in K.S.A. 2016 Supp. 21-5402(a)(2), and amendments thereto, committed on or after July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(3) Except as provided by subsections (b)(1), (b)(2) and (b)(5), K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2016 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

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

(6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

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

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608, prior to its repeal, or K.S.A. 2016 Supp. 21-6606, and amendments thereto, less good time credits for those crimes which are not class A felonies; and

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

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or

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

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

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

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

(D) Persons sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, committed on or after July 1, 1993, but prior to July 1, 2006, a sexually motivated crime in which the offender has been ordered to register pursuant to K.S.A. 22-3717(d)(1)(D) (vii), and amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2016 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2016 Supp. 21-5512, and amendments thereto, shall serve the period of postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C), plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2016 Supp. 21-6821, and amendments thereto, on postrelease supervision.

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

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, prior to its repeal, or K.S.A. 2016 Supp. 21-6820, and amendments thereto.

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

- (a) Written briefs or oral arguments submitted by either the defendant or the state;
- (b) any evidence received during the proceeding;
- (c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to K.S.A. 21-4714(e), prior to its repeal, or K.S.A. 2016 Supp. 21-6813(e), and amendments thereto; and
- (d) any other evidence the court finds trustworthy and reliable.

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

treatment be carried out.

(v) In carrying out the provisions of subsection (d)(1)(D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2016 Supp. 21-6817, and amendments thereto.

(vi) Upon petition and payment of any restitution ordered pursuant to K.S.A. 2016 Supp. 21-6604, and amendments thereto, the prisoner review board may provide for early discharge from the postrelease supervision period imposed pursuant to subsection (d)(1)(D)(i) upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the board.

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

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2016 Supp. 21-5508, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

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

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

(G) (i) Except as provided in subsection (u), persons ~~convicted of~~ sentenced to imprisonment for a sexually violent crime committed on or after July 1, 2006, when the offender was 18 years of age or older, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(ii) Persons sentenced to imprisonment for a sexually violent crime committed on or after the effective date of this act, when the offender was under 18 years of age, and who are released from prison, shall be released to a mandatory period of postrelease supervision for 60 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2016 Supp. 21-6821, and amendments thereto.

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

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

(4) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation, assignment to a community correctional services program,

suspension of sentence or nonprison sanction is revoked pursuant to K.S.A. 22-3716(c), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to K.S.A. 22-3716(c)(1)(C) or (c)(1)(D), and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

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

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto;

(D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) and (a)(4), and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;

(K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(L) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto; or

(M) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

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

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

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-

4724, prior to its repeal, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the prisoner review board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the prisoner review board.

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

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

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

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

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

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

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

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

(2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to searches of the person and the person's effects, vehicle, residence and property by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment.

(3) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity. Any law enforcement officer who conducts such a search shall submit a written report to the appropriate parole officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

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

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

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses

resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

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

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

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

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

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

(7) shall order that the parolee or person on postrelease supervision agree in writing to be subject to searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity.

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

(o) Whenever the prisoner review board grants the parole of an inmate, the board, within 14 days of the date of the decision to grant parole, shall give written notice of the

decision to the county or district attorney of the county where the inmate was sentenced.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the prisoner review board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the prisoner review board orders a person to be electronically monitored pursuant to this section, or the court orders a person to be electronically

monitored pursuant to K.S.A. 2016 Supp. 21-6604(r), and amendments thereto, the board shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

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

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

(B) As used in this subsection, all other terms have the meanings provided by K.S.A. 2016 Supp. 21-5510, and amendments thereto.

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

Also on page 11, in line 20, before "K.S.A" by inserting "K.S.A. 22-3504 and"; also in line 20, by striking "is" and inserting "and 22-3717 are"; in line 23, after "5709" by inserting ", 21-6412, 21-6414, 21-6804";

And by renumbering sections accordingly;

On page 1, in the title, in line 5, after the second semicolon by inserting "cruelty to animals; unlawful conduct of dog fighting; sentencing for crimes committed against a law enforcement officer;"; also in line 5, after the fourth semicolon by inserting "post-trial motions, correction of sentence; postrelease supervision; persons convicted of a sexually violent crime;"; in line 6, after "amending" by inserting "K.S.A. 22-3504 and"; also in line 6, by striking "and" and inserting ", 21-6412, 21-6414, 21-6804, "; in line 7, after "2410" by inserting "and 22-3717";

And your committee on conference recommends the adoption of this report.

BLAINE FINCH

FRED PATTON

JOHN CARMICHAEL

*Conferees on part of House*

RICHARD WILBORN

JULIE LYNN

DAVID HALEY

*Conferees on part of Senate*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **SB 112**.

On roll call, the vote was: Yeas 38; Nays 0; Present and Passing 2; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes,

Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Present and Passing: Haley, Hilderbrand.

The Conference Committee Report was adopted.

#### EXPLANATION OF VOTE

Mr. Vice President: I'm chagrined to vote "Pass" on the CCR on **SB 112**; which I reluctantly, and in smallest of lettering, did sign as Ranking Minority of Senate Judiciary. This "bill" bundles TEN distinct measures which we now, no matter how we feel about any individual one of these measures, can only vote FOR or AGAINST. We established rules to limit topics to FOUR in a single "bundled" bill. What a charade this has become. How very violating and disingenuous of our intended rules **SB 112** is. Beyond major procedural infractions, I oppose creating a virtual "hate crime" sentencing enhancement for crimes committed against law enforcement officers ("LEO's") due to their status, employed and optional no less, motivated by being a LEO's. Attacking a police officer solely for LEO dislike is reprehensible and heightened sentencing is appropriate. Yes, "blue lives matter." But Madame President, in our State, garnering international attention on tragic occasions recently, how can we implement a first mandatory sentence enhancement for hate crimes against LEO but ignore the same punishment for crimes motivated against other populations of Kansas? GLBT lives matter. Jewish, Muslim and Christian lives matter. And, besides the "shedable" blue skins of LEO's, White and Black and Brown and Yellow and Red skinned lives matter, TOO. —DAVID HALEY

#### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2053** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. 2053, as follows:

On page 1, by striking all in lines 6 through 36;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 19; following line 19, by inserting:

"New Section 1. The provisions of sections 1 through 14, and amendments thereto, shall be known and may be cited as the crisis intervention act.

New Sec. 2. When used in the crisis intervention act:

(a) "Behavioral health professional" includes a physician, physician assistant, psychologist, qualified mental health professional or licensed addiction counselor.

(b) "Head of a crisis intervention center" means the administrative director of a crisis intervention center or a behavioral health professional designated by such person.

(c) "Law enforcement officer" shall have the meaning ascribed to it in K.S.A. 22-2202, and amendments thereto.

(d) "Licensed addiction counselor" shall have the meaning ascribed to it in K.S.A.

59-29b46(d), (e) or (f), and amendments thereto.

(e) "Crisis intervention center" means any entity licensed by the Kansas department for aging and disability services that is open 24 hours a day, 365 days a year, equipped to serve voluntary and involuntary individuals in crisis due to mental illness, substance abuse or a co-occurring condition, and that uses certified peer specialists.

(f) "Crisis intervention center service area" means the counties to which the crisis intervention center has agreed to provide service.

(g) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within such hospital or agency.

(h) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

(i) "Qualified mental health professional" shall have the meaning ascribed to it in K.S.A. 59-2946(j), and amendments thereto.

(j) "Treatment" means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner; and the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

(k) "Domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a person to whom such person is legally married.

(l) "Physician assistant" means a person licensed to practice medicine and surgery as a physician assistant by the state board of healing arts.

New Sec. 3. (a) The fact that a person has been detained for emergency observation and treatment under this act shall not be construed to mean that such person shall have lost any civil right such person would otherwise have as a resident or citizen, any property right or legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable policies which the head of a crisis intervention center may, for good cause shown, find necessary to make for the orderly operations of that facility. No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus. No judicial action taken as part of the procedure provided in section 8(c), and amendments thereto, shall constitute a finding by the court.

(b) There shall be no implication or presumption that a patient within the terms of this act is, for that reason alone, a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3097, and amendments thereto.

New Sec. 4. Nothing in this act shall be construed to prohibit a person with capacity to do so from making an application for admission as a voluntary patient to a crisis intervention center. Any person desiring to do so shall be afforded an opportunity to consult with such person's attorney prior to making any such application. If the head of the crisis intervention center accepts the application and admits the person as a voluntary patient, then the head of the crisis intervention center shall notify, in writing, the person's legal guardian, if known.

New Sec. 5. Any law enforcement officer who takes a person into custody pursuant to K.S.A. 59-2953 or 59-29b53, and amendments thereto, may transport such person to a crisis intervention center if the officer is in a crisis intervention center service area. The crisis intervention center shall not refuse to accept any person for evaluation if such person is brought to the crisis intervention center by a law enforcement officer and such officer's jurisdiction is in the crisis intervention center's service area. If a law enforcement officer is not in a crisis intervention center service area or chooses not to transport the person to a crisis intervention center, then the officer shall follow the procedures set forth in the care and treatment act for persons with an alcohol or substance abuse problem, K.S.A. 59-29b45 et seq., and amendments thereto.

New Sec. 6. (a) A crisis intervention center may admit and detain any person 18 years of age or older who is presented for emergency observation and treatment upon the written application of a law enforcement officer.

(b) An emergency observation and treatment application shall be made on a form set forth by the secretary for aging and disability services or a locally developed form approved by the secretary. The original application shall be kept in the regular course of business with the law enforcement agency, and a copy shall be provided to the crisis intervention center and to the patient. The application shall state:

- (1) The name and address of the person sought to be admitted, if known;
- (2) the name and address of the person's spouse, domestic partner or nearest relative, if known;
- (3) the applicant's belief that the person may be a mentally ill person subject to involuntary commitment as defined in K.S.A. 59-2946, and amendments thereto, a person with an alcohol or substance abuse problem subject to involuntary commitment as defined in K.S.A. 59-29b46, and amendments thereto, or a person with co-occurring conditions, and because of such mental illness, alcohol or substance abuse problem or co-occurring conditions, is likely to cause harm to self or others if not immediately detained;
- (4) the factual circumstances in support of that belief and the factual circumstances under which the person was taken into custody, including any known pending criminal charges; and
- (5) whether the person has a wellness recovery action plan or psychiatric advance directive, if known.

New Sec. 7. (a) A crisis intervention center may evaluate, admit and detain any person 18 years of age or older who is presented for emergency observation and treatment upon the written application of any adult.

(b) An emergency observation and treatment application shall be made on a form set forth by the secretary for aging and disability services or a locally developed form approved by the secretary. The original application shall be kept by the applicant, and a copy shall be provided to the crisis intervention center and to the patient. The application shall state:

- (1) The name and address of the person sought to be admitted, if known;
- (2) the name and address of the person's spouse, domestic partner or nearest relative, if known;
- (3) the applicant's belief that the person may be a mentally ill person subject to involuntary commitment as defined in K.S.A. 59-2956, and amendments thereto, a person with an alcohol or substance abuse problem subject to involuntary commitment

as defined in K.S.A. 59-29b46, and amendments thereto, or a person with co-occurring conditions, and because of such mental illness, alcohol or substance abuse problem or co-occurring conditions, is likely to cause harm to self or others if not immediately detained;

(4) the factual circumstances in support of that belief and the factual circumstances under which the person was presented to the crisis intervention center;

(5) any known pending criminal charges;

(6) any known prior psychiatric, medical or substance use history; and

(7) whether the person has a wellness recovery action plan or psychiatric advance directive, if known.

New Sec. 8. (a) The head of the crisis intervention center shall evaluate a person admitted pursuant to this act within four hours of admission to determine whether the person is likely to be a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, a person with an alcohol and substance abuse problem subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-29b46, and amendments thereto, or a person with co-occurring conditions, and because of such mental illness, alcohol or substance abuse problem or co-occurring conditions, is likely to cause harm to self or others if allowed to remain at liberty. The head of the crisis intervention center shall inquire whether the person has a wellness recovery action plan or psychiatric advance directive.

(b) A behavioral health professional shall evaluate a person admitted pursuant to this act not later than 23 hours after admission and again not later than 48 hours after admission to determine if the person continues to meet the criteria described in subsection (a). The 23-hour evaluation must be performed by a different behavioral health professional from the one who conducted the initial evaluation under subsection (a).

(c) Not later than 48 hours after admission, if the head of the crisis intervention center determines that the person continues to meet the criteria described in subsection (a), then the head of the crisis intervention center shall file an affidavit to that effect for review by the district court in the county where the crisis intervention center is located. The affidavit shall include or be accompanied by the written application for emergency observation and treatment, information about the person's original admission to the crisis intervention center, the care and treatment provided to the person, and the factual circumstances in support of the evaluating professional's opinion that the person meets the criteria described in subsection (a). After reviewing the affidavit and any accompanying documentation, the court shall order the release of the person or order that the person may continue to be detained and treated at the crisis intervention center, subject to subsections (d) and (e).

(d) The head of the crisis intervention center shall discharge a person admitted pursuant to this act at any time the person no longer meets the criteria described in subsection (a) and, except as provided in subsection (e), not later than 72 hours after admission. Upon discharge, the crisis intervention center shall make reasonable accommodations for the person's transportation.

(e) Not later than 72 hours after admission, if the head of the crisis intervention center determines that a person admitted pursuant to this act continues to meet the criteria described in subsection (a), then the head of the crisis intervention center shall immediately file the petition provided for in K.S.A. 59-2957, and amendments thereto,

or K.S.A. 59-29b57, and amendments thereto, and shall find appropriate placement for the individual, including, but not limited to, community hospitals equipped to take involuntary commitments or the designated state hospital. If the 72-hour period ends after 5 p.m., then the petition must be filed by the close of business of the first day thereafter that the district court is open for the transaction of business.

New Sec. 9. (a) Whenever any person is involuntarily admitted to or detained at a crisis intervention center pursuant to this act, the head of the crisis intervention center shall:

(1) Immediately advise the person in custody that such person is entitled to immediately contact the person's legal counsel, legal guardian, personal physician or psychologist, minister of religion, including a Christian Science practitioner, or immediate family as defined in subsection (b) or any combination thereof. If the person desires to make such contact, the head of the crisis intervention center shall make available to the person reasonable means for making such immediate communication;

(2) provide notice of the person's involuntary admission including a copy of the documentation authorizing the involuntary admission to that person's attorney or legal guardian, immediately upon learning of the existence and whereabouts of such attorney or legal guardian, unless that attorney or legal guardian was the person who signed the application resulting in the patient's admission. If authorized by the patient pursuant to K.S.A. 65-5601 through 65-5605, and amendments thereto, the head of the crisis intervention center also shall provide notice to the patient's immediate family, as defined in subsection (b), immediately upon learning of the existence and whereabouts of such family, unless the family member to be notified was the person who signed the application resulting in the patient's admission; and

(3) immediately advise the person in custody of such person's rights provided for in section 14, and amendments thereto.

(b) "Immediate family" means the spouse, domestic partner, adult children or children, parent or parents, and sibling or siblings, or any combination thereof.

New Sec. 10. (a) Medications and other treatments shall be prescribed, ordered and administered only in conformity with accepted clinical practice. Medication shall be administered only upon the written order of a physician or upon a verbal order noted in the patient's medical records and subsequently signed by the physician. The attending physician shall review regularly the drug regimen of each patient under the physician's care and shall monitor any symptoms or harmful side effects. Prescriptions for psychotropic medications shall be written with a termination date not exceeding 30 days thereafter, but may be renewed.

(b) During the course of treatment, the responsible physician or psychologist or such person's designee shall reasonably consult with the patient or the patient's legal guardian and give consideration to the views the patient or legal guardian expresses concerning treatment and any alternatives, including views expressed in any wellness recovery action plan or psychiatric advance directive. No medication or other treatment may be administered to any voluntary patient without the patient's consent or the consent of such patient's legal guardian.

(c) Consent for medical or surgical treatments not intended primarily to treat a patient's mental disorder shall be obtained in accordance with applicable law.

(d) Whenever a patient receiving treatment pursuant to this act objects to taking any medication prescribed for psychiatric treatment, and after full explanation of the

benefits and risks of such medication such objection continues, the medication may be administered over the patient's objection. Such objection shall be recorded in the patient's medical record.

(e) In no case shall experimental medication be administered without the patient's consent, which consent shall be obtained in accordance with section 12(a)(6), and amendments thereto.

New Sec. 11. (a) Restraints or seclusion shall not be applied to a patient unless it is determined by the head of the crisis intervention center or a physician or psychologist to be necessary to prevent immediate substantial bodily injury to the patient or others and that other alternative methods to prevent such injury are not sufficient to accomplish this purpose. Restraints or seclusion shall never be used as a punishment or for the convenience of staff. The extent of the restraints or seclusion applied to the patient shall be the least restrictive measure necessary to prevent such injury to the patient or others, and the use of restraint or seclusion in a crisis intervention center shall not exceed three hours without medical reevaluation, except that such medical reevaluation shall not be required, unless necessary, between the hours of 12:00 midnight and 8:00 a.m. When restraints or seclusion are applied, there shall be monitoring of the patient's condition at a frequency determined by the treating physician or psychologist, which shall be no less than once per each 15 minutes. The head of the crisis intervention center or a physician or psychologist shall sign a statement explaining the treatment necessity for the use of any restraint or seclusion and shall make such statement a part of the permanent treatment record of the patient.

(b) The provisions of subsection (a) shall not prevent, for a period not exceeding two hours without review and approval thereof by the head of the crisis intervention center or a physician or psychologist:

(1) The use of such restraints as necessary for a patient who is likely to cause physical injury to self or others without the use of such restraints;

(2) the use of restraints when needed primarily for examination or treatment or to ensure the healing process; or

(3) the use of seclusion as part of a treatment methodology that calls for time out when the patient is refusing to participate in treatment or has become disruptive of a treatment process.

(c) As used in this section:

(1) "Restraints" means the application of any device, other than human force alone, to any part of the body of the patient for the purpose of preventing the patient from causing injury to self or others; and

(2) "seclusion" means the placement of a patient, alone, in a room, where the patient's freedom to leave is restricted and where the patient is not under continuous observation.

New Sec. 12. (a) Every patient being treated in any crisis intervention center, in addition to all other rights preserved by the provisions of the crisis intervention act, shall have the following rights:

(1) To wear the patient's own clothes, keep and use the patient's own personal possessions, including toilet articles, and keep and be allowed to spend the patient's own money;

(2) to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, including both to make and receive confidential

telephone calls and by letter, both to mail and receive unopened correspondence, except that if the head of the crisis intervention center denies a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;

(3) conjugal visits, if facilities are available for such visits;

(4) to receive visitors in reasonable numbers and at reasonable times each day;

(5) to refuse involuntary labor other than the housekeeping of the patient's own bedroom and bathroom, provided that nothing herein shall be construed to prohibit a patient from performing labor as part of a therapeutic program to which the patient has given their written consent and for which the patient receives reasonable compensation;

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient;

(7) to have explained the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatment ordered;

(8) to communicate by letter with the secretary for aging and disability services, the head of the crisis intervention center and any court, attorney, physician, psychologist, qualified mental health professional, licensed addiction counselor or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;

(9) to contact and consult privately with the patient's physician, psychologist, qualified mental health professional, licensed addiction counselor, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time;

(10) to be visited by the patient's physician, psychologist, qualified mental health professional, licensed addiction counselor, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time;

(11) to be informed orally and in writing of such patient's rights under this section upon admission to a crisis intervention center; and

(12) to be treated humanely, consistent with generally accepted ethics and practices.

(b) The head of the crisis intervention center may, for good cause only, restrict a patient's rights under this section, except that the rights enumerated in subsection (a)(5) through (12), and the right to mail any correspondence that does not violate postal regulations, shall not be restricted by the head of the crisis intervention center under any circumstances. Each crisis intervention center shall adopt policies governing the conduct of all patients being treated in such crisis intervention center, which regulations shall be consistent with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient, and to the patient's attorney. In addition, notice of any restriction of a patient's rights shall be communicated to the patient in a timely manner.

(c) Any person willfully depriving any patient of the rights protected by this section, except for the restriction of such rights in accordance with the provisions of subsection (b) or in accordance with a properly obtained court order, shall be guilty of a class C misdemeanor.

New Sec. 13. Any district court records and any treatment records or medical

records of any person who has been admitted to a crisis intervention center pursuant to this act that are in the possession of any district court or crisis intervention center treatment facility shall be privileged and shall be not disclosed except as provided under K.S.A. 59-2979, and amendments thereto.

New Sec. 14. Any person or law enforcement agency, governing body, crisis intervention center, community mental health center or personnel acting in good faith and without negligence shall be free from all liability, civil or criminal, that might arise out of acting or declining to act pursuant to the crisis intervention act. Any person who, for a corrupt consideration or advantage, or through malice, shall make or join in making or advise the making of any false petition, report or order provided for in the crisis intervention act, shall be guilty of a class A misdemeanor.

Sec. 15. K.S.A. 2016 Supp. 39-2001 is hereby amended to read as follows: 39-2001. The purpose of this act is the development, establishment and enforcement of standards:

(a) For the care, treatment, health, safety, welfare and comfort of individuals residing in or receiving treatment or services provided by residential care facilities, residential and day support facilities, private and public psychiatric hospitals, psychiatric residential treatment facilities, community mental health centers, crisis intervention centers and providers of other disability services licensed by the secretary for aging and disability services; and

(b) for the construction, maintenance or operation, or any combination thereof, of facilities, hospitals, centers and providers of services that will promote safe and adequate accommodation, care and treatment of such individuals.

Sec. 16. K.S.A. 2016 Supp. 39-2002 is hereby amended to read as follows: 39-2002. As used in this act, the following terms shall have the meanings ascribed to them in this section:

(a) "Center" means a community mental health center or crisis intervention center.

(b) "Community mental health center" means a center organized pursuant to article 40 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, or a mental health clinic organized pursuant to article 2 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(c) "Crisis intervention center" means an entity that is open 24 hours a day, 365 days a year, equipped to serve voluntary and involuntary individuals in crisis due to mental illness, substance abuse or co-occurring conditions, and that uses certified specialists.

(d) "Department" means the department for aging and disability services.

~~(d)~~(e) "Facility" means any place other than a center or hospital that meets the requirements as set forth by regulations created and adopted by the secretary, where individuals reside and receive treatment or services provided by a person or entity licensed under this act.

~~(e)~~(f) "Hospital" means a psychiatric hospital.

~~(f)~~(g) "Individual" means a person who is the recipient of behavioral health, intellectual disabilities, developmental disabilities or other disability services as set forth in this act.

~~(g)~~(h) "Licensee" means one or more persons or entities licensed by the secretary under this act.

~~(h)~~(i) "Licensing agency" means the secretary for aging and disability services.

~~(j)~~(i) "Other disabilities" means any condition for which individuals receive home and community based waiver services.

~~(k)~~(k) "Provider" means a person, partnership or corporation employing or contracting with appropriately credentialed persons that provide behavioral health, excluding substance use disorder services for purposes of this act, intellectual disability, developmental disability or other disability services in accordance with the requirements as set forth by rules and regulations created and adopted by the secretary.

~~(l)~~(l) "Psychiatric hospital" means an institution, excluding state institutions as defined in K.S.A. 76-12a01, and amendments thereto, that is primarily engaged in providing services, by and under the supervision of qualified professionals, for the diagnosis and treatment of mentally ill individuals, and the institution meets the licensing requirements as set forth by rules and regulations created and adopted by the secretary.

~~(m)~~(m) "Psychiatric residential treatment facility" means any non-hospital facility with a provider agreement with the licensing agency to provide the inpatient services for individuals under the age of 21 who will receive highly structured, intensive treatment for which the licensee meets the requirements as set forth by regulations created and adopted by the secretary.

~~(n)~~(n) "Residential care facility" means any place or facility, or a contiguous portion of a place or facility, providing services for two or more individuals not related within the third degree of relationship to the administrator, provider or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and supervised nursing care to compensate for activities of daily living limitations, and which place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of an individual's independence, including crisis residential care facilities.

~~(o)~~(o) "Secretary" means the secretary for aging and disability services.

~~(p)~~(p) "Services" means the following types of behavioral health, intellectual disability, developmental disability and other disability services, including, but not limited to: Residential supports, day supports, care coordination, case management, workshops, sheltered domiciles, education, therapeutic services, assessments and evaluations, diagnostic care, medicinal support and rehabilitative services.

Sec. 17. K.S.A. 2016 Supp. 39-2003 is hereby amended to read as follows: 39-2003. (a) In addition to the authority, powers and duties otherwise provided by law, the secretary shall have the following authority, powers and duties to:

(1) Enforce the laws relating to the hospitalization of mentally ill individuals of this state in a psychiatric hospital and the diagnosis, care, training or treatment of individuals receiving services through community mental health centers, crisis intervention centers, psychiatric residential treatment facilities for individuals with mental illness, residential care facilities or other facilities and services for individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities.

(2) Inspect, license, certify or accredit centers, facilities, hospitals and providers for individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities pursuant to federal legislation, and to deny, suspend or revoke a license granted for causes shown.

(3) Set standards for centers, facilities, hospitals and providers for individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities pursuant to federal legislation.

(4) Set standards for, inspect and license all providers and facilities for individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities receiving assistance through the Kansas department for aging and disability services which receive or have received after June 30, 1967, any state or federal funds, or facilities where individuals with mental illness, intellectual disabilities or developmental disabilities reside who require supervision or require limited assistance with the taking of medication. The secretary may adopt rules and regulations that allow the facility to assist an individual with the taking of medication when the medication is in a labeled container dispensed by a pharmacist.

(5) Enter into contracts necessary or incidental to the performance of the secretary's duties and the execution of the secretary's powers.

(6) Solicit and accept for use any gift of money or property, real or personal, made by will or otherwise, and any grant of money, services or property from the federal government, the state or any political subdivision thereof or any private source and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant.

(7) Administer or supervise the administration of the provisions relating to individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities pursuant to federal legislation and regulations.

(8) Coordinate activities and cooperate with treatment providers or other facilities for those with mental illness, intellectual disabilities, developmental disabilities or other disabilities pursuant to federal legislation and regulations in this and other states for the treatment of such individuals and for the common advancement of these programs and facilities.

(9) Keep records, gather relevant statistics, and make and disseminate analyses of the same.

(10) Do other acts and things necessary to execute the authority expressly granted to the secretary.

(b) Notwithstanding the existence or pursuit of any other remedy, the secretary for aging and disability services, as the licensing agency, in the manner provided by the Kansas judicial review act, may maintain an action in the name of the state of Kansas for an injunction against any person or facility to restrain or prevent the operation of a residential care facility, crisis residential care facility, private or public psychiatric hospital, psychiatric residential treatment facility, provider of services, community mental health center, crisis intervention center or any other facility providing services to individuals without a license.

(c) Reports and information shall be furnished to the secretary by the superintendents, executive or other administrative officers of all psychiatric hospitals, community mental health centers, crisis intervention centers or facilities serving individuals with intellectual disabilities or developmental disabilities and facilities serving other disabilities receiving assistance through the Kansas department for aging and disability services.

Sec. 18. K.S.A. 59-2953 is hereby amended to read as follows: 59-2953. (a) Any law enforcement officer who has a reasonable belief formed upon investigation that a

person is a mentally ill person and because of such person's mental illness is likely to cause harm to self or others if allowed to remain at liberty may take the person into custody without a warrant. If the officer is in a crisis intervention center service area, as defined in section 2, and amendments thereto, the officer may transport the person to such crisis intervention center. If the officer is not in a crisis intervention service area, as defined in section 2, and amendments thereto, or does not choose to transport the person to such crisis intervention center, then the officer shall transport the person to a treatment facility where the person shall be examined by a physician or psychologist on duty at the treatment facility, except that no person shall be transported to a state psychiatric hospital for examination, unless a written statement from a qualified mental health professional authorizing such an evaluation at a state psychiatric hospital has been obtained. If no physician or psychologist is on duty at the time the person is transported to the treatment facility, the person shall be examined within a reasonable time not to exceed 17 hours. If a written statement is made by the physician or psychologist at the treatment facility that after preliminary examination the physician or psychologist believes the person likely to be a mentally ill person subject to involuntary commitment for care and treatment and because of the person's mental illness is likely to cause harm to self or others if allowed to remain at liberty, and if the treatment facility is willing to admit the person, the law enforcement officer shall present to the treatment facility the application provided for in ~~subsection (b)~~ of K.S.A. 59-2954(b), and amendments thereto. If the physician or psychologist on duty at the treatment facility does not believe the person likely to be a mentally ill person subject to involuntary commitment for care and treatment the law enforcement officer shall return the person to the place where the person was taken into custody and release the person at that place or at another place in the same community as requested by the person or if the law enforcement officer believes that it is not in the best interests of the person or the person's family or the general public for the person to be returned to the place the person was taken into custody, then the person shall be released at another place the law enforcement officer believes to be appropriate under the circumstances. The person may request to be released immediately after the examination, in which case the law enforcement officer shall immediately release the person, unless the law enforcement officer believes it is in the best interests of the person or the person's family or the general public that the person be taken elsewhere for release.

(b) If the physician or psychologist on duty at the treatment facility states that, in the physician's or psychologist's opinion, the person is likely to be a mentally ill person subject to involuntary commitment for care and treatment but the treatment facility is unwilling to admit the person, the treatment facility shall nevertheless provide a suitable place at which the person may be detained by the law enforcement officer. If a law enforcement officer detains a person pursuant to this subsection, the law enforcement officer shall file the petition provided for in ~~subsection (a)~~ of K.S.A. 59-2957(a), and amendments thereto, by the close of business of the first day that the district court is open for the transaction of business or shall release the person. No person shall be detained by a law enforcement officer pursuant to this subsection in a nonmedical facility used for the detention of persons charged with or convicted of a crime.

Sec. 19. K.S.A. 2016 Supp. 59-2978 is hereby amended to read as follows: 59-2978. (a) Every patient being treated in any treatment facility, in addition to all other rights preserved by the provisions of this act, shall have the following rights:

(1) To wear the patient's own clothes, keep and use the patient's own personal possessions including toilet articles and keep and be allowed to spend the patient's own money;

(2) to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, including both to make and receive confidential telephone calls, and by letter, both to mail and receive unopened correspondence, except that if the head of the treatment facility should deny a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;

(3) to conjugal visits if facilities are available for such visits;

(4) to receive visitors in reasonable numbers and at reasonable times each day;

(5) to refuse involuntary labor other than the housekeeping of the patient's own bedroom and bathroom, provided that nothing herein shall be construed so as to prohibit a patient from performing labor as a part of a therapeutic program to which the patient has given their written consent and for which the patient receives reasonable compensation;

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained authority to consent to such from the court which has venue over the guardianship following a hearing held for that purpose;

(7) to have explained, the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatments ordered;

(8) to communicate by letter with the secretary for aging and disability services, the head of the treatment facility and any court, attorney, physician, psychologist, qualified mental health professional or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;

(9) to contact or consult privately with the patient's physician or psychologist, qualified mental health professional minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(10) to be visited by the patient's physician, psychologist, qualified mental health professional, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(11) to be informed orally and in writing of their rights under this section upon admission to a treatment facility; and

(12) to be treated humanely consistent with generally accepted ethics and practices.

(b) The head of the treatment facility may, for good cause only, restrict a patient's rights under this section, except that the rights enumerated in subsections (a)(5) through (a)(12), and the right to mail any correspondence which does not violate postal regulations, shall not be restricted by the head of the treatment facility under any circumstances. Each treatment facility shall adopt regulations governing the conduct of all patients being treated in such treatment facility, which regulations shall be consistent

with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient or to the parent, or legal guardian if such patient is a minor or has a legal guardian, and to the patient's attorney. In addition, notice of any restriction of a patient's rights shall be communicated to the patient in a timely fashion.

(c) Any person willfully depriving any patient of the rights protected by this section, except for the restriction of such rights in accordance with the provisions of subsection (b) or in accordance with a properly obtained court order, shall be guilty of a class C misdemeanor.

(d) The provisions of this section do not apply to persons civilly committed to a treatment facility as a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

Sec. 20. K.S.A. 59-2980 is hereby amended to read as follows: 59-2980. Any person or law enforcement agency, governing body, community mental health center or personnel acting in good faith and without negligence shall be free from all liability, civil or criminal, ~~which that~~ might arise out of acting or declining to act pursuant to this act. Any person who for a corrupt consideration or advantage, or through malice, shall make or join in making or advise the making of any false petition, report or order provided for in this act shall be guilty of a class A misdemeanor.

Sec. 21. K.S.A. 59-29b53 is hereby amended to read as follows: 59-29b53. (a) Any law enforcement officer who has a reasonable belief formed upon investigation that a person may be a person with an alcohol or substance abuse problem subject to involuntary commitment and is likely to cause harm to self or others if allowed to remain at liberty may take the person into custody without a warrant. If the officer is in a crisis intervention center service area, as defined in section 2, and amendments thereto, the officer may transport the person to such crisis intervention center. If the officer is not in a crisis intervention center service area, as defined in section 2, and amendments thereto, or does not choose to transport the person to such crisis intervention center, then the officer shall transport the person to a treatment facility or other facility for care or treatment where the person shall be examined by a physician or psychologist on duty at the facility. If no physician or psychologist is on duty at the time the person is transported to the facility, the person shall be examined within a reasonable time not to exceed 17 hours. If a written statement is made by the physician or psychologist at the facility that after preliminary examination the physician or psychologist believes the person likely to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment and is likely to cause harm to self or others if allowed to remain at liberty, and if the facility is a treatment facility and is willing to admit the person, the law enforcement officer shall present to that treatment facility the application provided for in ~~subsection (b) of~~ K.S.A. 59-29b54(b), and amendments thereto. If the physician or psychologist on duty at the facility does not believe the person likely to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment, the law enforcement officer shall return the person to the place where the person was taken into custody and release the person at that place or at another place in the same community as requested by the person or if the law enforcement officer believes that it is not in the best interests of the person or the person's family or the general public for the person to

be returned to the place the person was taken into custody, then the person shall be released at another place the law enforcement officer believes to be appropriate under the circumstances. The person may request to be released immediately after the examination, in which case the law enforcement officer shall immediately release the person, unless the law enforcement officer believes it is in the best interests of the person or the person's family or the general public that the person be taken elsewhere for release.

(b) If the physician or psychologist on duty at the facility states that, in the physician's or psychologist's opinion, the person is likely to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment but the facility is unwilling or is an inappropriate place to which to admit the person, the facility shall nevertheless provide a suitable place at which the person may be detained by the law enforcement officer. If a law enforcement officer detains a person pursuant to this subsection, the law enforcement officer shall file the petition provided for in ~~subsection (a)~~ of K.S.A. 59-29b57(a), and amendments thereto, by the close of business of the first day that the district court is open for the transaction of business or shall release the person. No person shall be detained by a law enforcement officer pursuant to this subsection in a nonmedical facility used for the detention of persons charged with or convicted of a crime unless no other suitable facility at which such person may be detained is willing to accept the person.

Sec. 22. K.S.A. 2016 Supp. 59-29b78 is hereby amended to read as follows: 59-29b78. (a) Every patient being treated in any treatment facility, in addition to all other rights preserved by the provisions of this act, shall have the following rights:

(1) To wear the patient's own clothes, keep and use the patient's own personal possessions including toilet articles and keep and be allowed to spend the patient's own money;

(2) to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, including both to make and receive confidential telephone calls, and by letter, both to mail and receive unopened correspondence, except that if the head of the treatment facility should deny a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;

(3) to conjugal visits if facilities are available for such visits;

(4) to receive visitors in reasonable numbers and at reasonable times each day;

(5) to refuse involuntary labor other than the housekeeping of the patient's own bedroom and bathroom, provided that nothing herein shall be construed so as to prohibit a patient from performing labor as a part of a therapeutic program to which the patient has given their written consent and for which the patient receives reasonable compensation;

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained authority to consent to such from the court which has venue over the guardianship following a hearing held for that purpose;

(7) to have explained, the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other

treatments ordered;

(8) to communicate by letter with the secretary for aging and disability services, the head of the treatment facility and any court, attorney, physician, psychologist, licensed addiction counselor or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;

(9) to contact or consult privately with the patient's physician or psychologist, licensed addiction counselor, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(10) to be visited by the patient's physician, psychologist, licensed addiction counselor, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(11) to be informed orally and in writing of their rights under this section upon admission to a treatment facility; and

(12) to be treated humanely consistent with generally accepted ethics and practices.

(b) The head of the treatment facility may, for good cause only, restrict a patient's rights under this section, except that the rights enumerated in subsections (a)(5) through (a)(12), and the right to mail any correspondence which does not violate postal regulations, shall not be restricted by the head of the treatment facility under any circumstances. Each treatment facility shall adopt regulations governing the conduct of all patients being treated in such treatment facility, which regulations shall be consistent with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient or to the parent, or legal guardian if such patient is a minor or has a legal guardian, and to the patient's attorney. In addition, notice of any restriction of a patient's rights shall be communicated to the patient in a timely fashion.

(c) Any person willfully depriving any patient of the rights protected by this section, except for the restriction of such rights in accordance with the provisions of subsection (b) or in accordance with a properly obtained court order, shall be guilty of a class C misdemeanor.

Sec. 23. K.S.A. 59-29b80 is hereby amended to read as follows: 59-29b80. Any person or law enforcement agency, governing body, community mental health center or personnel acting in good faith and without negligence shall be free from all liability, civil or criminal, ~~which that~~ might arise out of acting or declining to act pursuant to this act. Any person who for a corrupt consideration or advantage, or through malice, shall make or join in making or advise the making of any false petition, report or order provided for in this act shall be guilty of a class A misdemeanor.

Sec. 24. K.S.A. 59-2953, 59-2980, 59-29b53, and 59-29b80 and K.S.A. 2016 Supp. 39-2001, 39-2002, 39-2003, 59-2978 and 59-29b78 are hereby repealed.;

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "ACT"; by striking line 2; in line 3, by striking all before the period and inserting "concerning the care and treatment of certain persons; enacting the crisis intervention act; amending K.S.A. 59-2953, 59-2980, 59-29b53 and 59-29b80 and K.S.A. 2016 Supp. 39-2001, 39-2002, 39-2003, 59-

2978 and 59-29b78 and repealing the existing sections";

And your committee on conference recommends the adoption of this report.

RICHARD WILBORN

JULIE LYNN

DAVID HALEY

*Conferees on part of Senate*

BLAINE FINCH

FRED PATTON

JOHN CARMICHAEL

*Conferees on part of House*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **S Sub HB 2053**.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 1; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Present and Passing: Hilderbrand.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2301** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, in line 8, by striking "(a)"; in line 9, by striking the period; in line 10, by striking all before "shall" and inserting "and"; also in line 10, by striking "not"; in line 11, by striking all after the period; by striking all in lines 12 and 13;

On page 6, following line 13, by inserting:

"Sec. 4. K.S.A. 2016 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all public bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include ~~a statement of: (1) The justification for closing the meeting; (2) (1) A statement describing the subjects to be discussed during the closed or executive meeting; (2) the justification listed in subsection (b) for closing the meeting;~~ and (3) the time and place at which the open meeting shall resume. ~~Such The complete motion, including the required statement,~~ shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the public body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) ~~No subjects shall be discussed at any closed or executive meeting, except~~

Justifications for recess to a closed or executive meeting may only include the following, the need:

- (1) To discuss personnel matters of nonelected personnel;
- (2) for consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship;
- (3) ~~matters relating to discuss~~ employer-employee negotiations whether or not in consultation with the representative or representatives of the public body or agency;
- (4) ~~confidential to discuss~~ data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) to discuss matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) ~~preliminary discussions relating to~~ for the preliminary discussion of the acquisition of real property;
- (7) to discuss matters relating to parimutuel racing permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804, and amendments thereto;
- (8) to discuss matters relating to the care of children permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2016 Supp. 38-2212(d)(1), ~~and amendments thereto~~, or K.S.A. 38-2213(e), and amendments thereto;
- (9) to discuss matters relating to the investigation of child deaths permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 22a-243(j), and amendments thereto;
- (10) ~~matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 44-596(e), and amendments thereto;~~
- (11) ~~to discuss~~ matters relating to patients and providers permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 39-7,119(g), and amendments thereto;
- (12) ~~(11)~~ to discuss matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;
- (13) ~~(12)~~ to discuss matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the public body or agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;
- (14) ~~(13)~~ to discuss matters relating to maternity centers and child care facilities permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 65-525(~~f~~) (d), and amendments thereto;
- (15) ~~(14)~~ to discuss matters relating to the office of inspector general permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2016 Supp. 75-7427, and

amendments thereto; and

~~(16) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2016 Supp. 46-3801, and amendments thereto~~

(15) for the governor's domestic violence fatality review board to conduct case reviews.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

~~(d)-(1)~~ Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)~~(13)~~ (12), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

~~(2) (A) Except as otherwise provided by law, any confidential documents, records or reports relating to the prisoner review board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.~~

~~(B) Notwithstanding any other provision of law to the contrary, any summary statement provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action."~~

Also on page 6, in line 15, by striking "and" and inserting a comma; also in line 15, after "75-7d08" by inserting "and 75-4319";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "public records" and inserting "open government"; also in line 1, after "to" by inserting "public records;"; in line 2, after the semicolon by inserting "Kansas open meetings act; closed or executive meetings;"; in line 3, by striking the second "and" and inserting a comma; also in line 3, after "75-7d08" by inserting "and 75-4319";

And your committee on conference recommends the adoption of this report.

RICHARD WILBORN

JULIE LYNN

DAVID HALEY

*Conferees on part of Senate*

BLAINE FINCH

FRED PATTON

JOHN CARMICHAEL

*Conferees on part of House*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **HB 2301**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

The Conference Committee Report was adopted.

On motion of Senator Denning, the Senate recessed until 4:30 p.m..

---

The senate met pursuant to recess with President Wagle in the chair.

#### REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **Substitute for HB 2230** be amended, on page 1, in line 6, before "Section" by inserting: "New"; following line 30, by inserting:

"Sec. 2. K.S.A. 2016 Supp. 79-213 is hereby amended to read as follows: 79-213.  
(a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the state board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the state board of tax appeals. With regard to a request for exemption from property tax pursuant to the provisions of K.S.A. 79-201g and 82a-409, and amendments thereto, not filed with the board of tax appeals by the county appraiser on or before the effective date of this act, if the county appraiser recommends the exemption request be granted, the exemption shall be provided in the amount recommended by the county appraiser and the county appraiser shall not file the request for exemption and recommendations of the county appraiser with the state board of tax appeals. The county clerk or county assessor shall annually make such adjustment in the taxes levied against the real property as the owner may be entitled to receive under the provisions of K.S.A. 79-201g, and amendments thereto, as recommended by the county appraiser, beginning with the first period, following the date of issue of the certificate of completion on which taxes are regularly levied, and during the years which the landowner is entitled to such adjustment.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the constitution of the state of Kansas; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under

the authority of K.S.A. 12-1740 to through 12-1749, ~~inclusive~~, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) all property exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m, and amendments thereto; (7) grain exempted

from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth*, and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x, and amendments thereto, from the property tax levied pursuant to K.S.A. 2016 Supp. 72-6470, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*, and amendments thereto; (17) from and after July 1, 1998, motor vehicles exempted from taxation by K.S.A. 79-5107(e), and amendments thereto; (18) commercial and industrial machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2016 Supp. 79-223, and amendments thereto; (19) telecommunications machinery and equipment and railroad machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2016 Supp. 79-224, and amendments thereto; ~~and~~ (20) property exempted from property or ad valorem taxation by K.S.A. 2016 Supp. 79-234, and amendments thereto; (21) recreational vehicles exempted from property or ad valorem taxation by K.S.A. 79-5121(e), and amendments thereto; (22) property acquired by a land bank exempt from property or ad valorem taxation pursuant to K.S.A. 2016 Supp. 12-5909 or K.S.A. 19-26.111, and amendments thereto; and (23) property belonging exclusively to the United States and exempted from ad valorem taxation by K.S.A. 79-201a *First*, and amendments thereto, except that the provisions of this subsection (1)(23) shall not apply to any such property that the congress of the United States has expressly declared to be subject to state and local taxation.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the constitution of the state of Kansas.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.

Sec. 3. K.S.A. 2016 Supp. 79-213 is hereby repealed.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, by striking the comma and inserting a semicolon; in line 3, after "enclave" by inserting "; allowing county appraisers to exempt certain property without order from the board of tax appeals; amending K.S.A. 2016 Supp. 79-213 and repealing the existing section"; and the bill be passed as amended.

On motion of Senator Denning the Senate adjourned until 10:00 a.m., Thursday, May 4, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

