

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2426

By Committee on Appropriations

5-10

1 AN ACT reconciling amendments to certain statutes; amending K.S.A.
2 2016 Supp. ~~12-4117, 12-4516, 22-4903, 65-4202~~, as amended by
3 section 22 of 2017 House Bill No. 2055 and 65-6111 and repealing the
4 existing sections; also repealing K.S.A. 2016 Supp. 12-4112a, 12-
5 4117b, 12-4516e, 22-4903a, 65-4202, as amended by section 3 of 2017
6 House Bill No. 2025 and 65-6111a **8-135, as amended by section 1 of**
7 **2017 Senate Bill No. 36, 12-4117, 12-4120, as amended by section 7**
8 **of 2017 Senate Bill No. 89, 12-4516, 21-6614, as amended by section**
9 **15 of 2017 House Substitute for Senate Bill No. 40, 22-2410, as**
10 **amended by section 8 of 2017 Senate Bill No. 112, 22-3717, as**
11 **amended by section 10 of 2017 Senate Bill No. 112, 22-4903, 38-**
12 **2312, as amended by section 23 of 2017 House Substitute for Senate**
13 **Bill No. 40, 65-4202, as amended by section 22 of 2017 Senate**
14 **Substitute for House Bill No. 2055, 65-6111 and 74-7305, as**
15 **amended by section 14 of 2017 House Substitute for Senate Bill No.**
16 **101, and repealing the existing sections; also repealing K.S.A. 2016**
17 **Supp. 8-135, as amended by section 1 of 2017 Senate Bill No. 89,**
18 **12-4112a, 12-4117b, 12-4120, as amended by section 5 of 2017**
19 **House Substitute for Senate Bill No. 40, 12-4516e, 21-6614, as**
20 **amended by section 5 of 2017 House Bill No. 2041, 21-6614, as**
21 **amended by section 3 of 2017 House Bill No. 2085, 22-2410, as**
22 **amended by section 6 of 2017 House Bill No. 2041, 22-3717, as**
23 **amended by section 20 of 2017 House Substitute for Senate Bill No.**
24 **40, 22-4903a, 38-2312, as amended by section 15 of 2017 House Bill**
25 **No. 2041, 65-4202, as amended by section 3 of 2017 House Bill No.**
26 **2025, 65-6111a and 74-7305, as amended by section 24 of 2017**
27 **House Substitute for Senate Bill No. 40.**
28

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

30 Section 1. K.S.A. 2016 Supp. 12-4117 is hereby amended to read as
31 follows: 12-4117. (a) In each case filed in municipal court other than a
32 nonmoving traffic violation, where there is a finding of guilty or a plea of
33 guilty, a plea of no contest, forfeiture of bond or a diversion, a sum in an
34 amount of \$22.50 shall be assessed and such assessment shall be credited
35 as follows:

36 One dollar to the local law enforcement training reimbursement fund

1 established pursuant to K.S.A. 74-5620, and amendments thereto, \$11.50
2 to the law enforcement training center fund established pursuant to K.S.A.
3 74-5619, and amendments thereto, \$5 to the Kansas commission on peace
4 officers' standards and training fund established by K.S.A. 74-5619, and
5 amendments thereto, \$2 to the juvenile *alternatives to detention-facilities*
6 fund established pursuant to K.S.A. 79-4803, and amendments thereto, to
7 be expended for operational costs of facilities for the detention of
8 juveniles, \$.50 to the protection from abuse fund established pursuant to
9 K.S.A. 74-7325, and amendments thereto, \$.50 to the crime victims
10 assistance fund established pursuant to K.S.A. 74-7334, and amendments
11 thereto, \$1 to the trauma fund established pursuant to K.S.A. 2016 Supp.
12 75-5670, and amendments thereto, and \$1 to the department of corrections
13 forensic psychologist fund established pursuant to K.S.A. 2016 Supp. 75-
14 52,151, and amendments thereto.

15 (b) The judge or clerk of the municipal court shall remit the
16 appropriate assessments received pursuant to this section to the state
17 treasurer in accordance with the provisions of K.S.A. 75-4215, and
18 amendments thereto. Upon receipt of each such remittance, the state
19 treasurer shall deposit the entire amount in the state treasury to the credit
20 of the local law enforcement training reimbursement fund, the law
21 enforcement training center fund, the Kansas commission on peace
22 officers' standards and training fund, the juvenile *alternatives to detention*
23 *facilities* fund, the crime victims assistance fund, the trauma fund and the
24 department of corrections forensic psychologist fund as provided in this
25 section.

26 (c) For the purpose of determining the amount to be assessed
27 according to this section, if more than one complaint is filed in the
28 municipal court against one individual arising out of the same incident, all
29 such complaints shall be considered as one case.

30 Sec. 2. K.S.A. 2016 Supp. 12-4516 is hereby amended to read as
31 follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d), (e)
32 and (f), any person who has been convicted of a violation of a city
33 ordinance of this state may petition the convicting court for the
34 expungement of such conviction and related arrest records if three or more
35 years have elapsed since the person:

36 (A) Satisfied the sentence imposed; or

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

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

1 (b) Any person convicted of a violation of any ordinance that is
2 prohibited by either K.S.A. 2016 Supp. 12-16,134(a) or (b), and
3 amendments thereto, and which was adopted prior to July 1, 2014, or who
4 entered into a diversion agreement in lieu of further criminal proceedings
5 for such violation, may petition the convicting court for the expungement
6 of such conviction or diversion agreement and related arrest records.

7 (c) Any person convicted of the violation of a city ordinance which
8 would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a
9 violation of K.S.A. 2016 Supp. 21-6419, and amendments thereto, or who
10 entered into a diversion agreement in lieu of further criminal proceedings
11 for such violation, may petition the convicting court for the expungement
12 of such conviction or diversion agreement and related arrest records if:

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

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

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

27 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
28 repeal, or K.S.A. 2016 Supp. 21-5406, and amendments thereto;

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

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

34 (4) a violation of the provisions of K.S.A. 8-142 *Fifth*, and
35 amendments thereto, relating to fraudulent applications;

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

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

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

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

1 (e) (1) No person may petition for expungement until five or more
2 years have elapsed since the person satisfied the sentence imposed or the
3 terms of a diversion agreement or was discharged from probation, parole,
4 conditional release or a suspended sentence, if such person was convicted
5 of a first violation of a city ordinance which would also constitute a first
6 violation of K.S.A. 8-1567 or K.S.A. 2016 Supp. 8-1025, and amendments
7 thereto.

8 (2) No person may petition for expungement until 10 or more years
9 have elapsed since the person satisfied the sentence imposed or was
10 discharged from probation, parole, conditional release or a suspended
11 sentence, if such person was convicted of a second or subsequent violation
12 of a city ordinance which would also constitute a second or subsequent
13 violation of K.S.A. 8-1567 or K.S.A. 2016 Supp. 8-1025, and amendments
14 thereto.

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

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

22 (A) Defendant's full name;

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

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

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

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

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

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

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

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

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

43 (2) the circumstances and behavior of the petitioner warrant the

1 expungement; and

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

3 (i) When the court has ordered an arrest record, conviction or
4 diversion expunged, the order of expungement shall state the information
5 required to be contained in the petition. The clerk of the court shall send a
6 certified copy of the order of expungement to the Kansas bureau of
7 investigation which shall notify the federal bureau of investigation, the
8 secretary of corrections and any other criminal justice agency which may
9 have a record of the arrest, conviction or diversion. If the case was
10 appealed from municipal court, the clerk of the district court shall send a
11 certified copy of the order of expungement to the municipal court. The
12 municipal court shall order the case expunged once the certified copy of
13 the order of expungement is received. After the order of expungement is
14 entered, the petitioner shall be treated as not having been arrested,
15 convicted or diverted of the crime, except that:

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

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

21 (A) In any application for licensure as a private detective, private
22 detective agency, certification as a firearms trainer pursuant to K.S.A.
23 2016 Supp. 75-7b21, and amendments thereto, or employment as a
24 detective with a private detective agency, as defined by K.S.A. 75-7b01,
25 and amendments thereto; as security personnel with a private patrol
26 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
27 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
28 the Kansas department for aging and disability services;

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

31 (C) to aid in determining the petitioner's qualifications for
32 employment with the Kansas lottery or for work in sensitive areas within
33 the Kansas lottery as deemed appropriate by the executive director of the
34 Kansas lottery;

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

41 (E) to aid in determining the petitioner's qualifications for the
42 following under the Kansas expanded lottery act: (i) Lottery gaming
43 facility manager or prospective manager, racetrack gaming facility

1 manager or prospective manager, licensee or certificate holder; or (ii) an
2 officer, director, employee, owner, agent or contractor thereof;

3 (F) upon application for a commercial driver's license under K.S.A.
4 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

15 (K) for applications received on and after July 1, 2006, to aid in
16 determining the petitioner's qualifications for a license to carry a concealed
17 weapon pursuant to the personal and family protection act, K.S.A. 2016
18 Supp. 75-7c01 et seq., and amendments thereto; *or*

19 *(L) for applications received on and after July 1, 2016, to aid in*
20 *determining the petitioner's qualifications for a license to act as a bail*
21 *enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-*
22 *7e09 and K.S.A. 2016 Supp. 50-6,141, and amendments thereto;*

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

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

29 (j) Whenever a person is convicted of an ordinance violation, pleads
30 guilty and pays a fine for such a violation, is placed on parole or probation
31 or is granted a suspended sentence for such a violation, the person shall be
32 informed of the ability to expunge the arrest records or conviction.
33 Whenever a person enters into a diversion agreement, the person shall be
34 informed of the ability to expunge the diversion.

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

40 (l) Whenever the record of any arrest, conviction or diversion has
41 been expunged under the provisions of this section or under the provisions
42 of any other existing or former statute, the custodian of the records of
43 arrest, conviction, diversion and incarceration relating to that crime shall

1 not disclose the existence of such records, except when requested by:

2 (1) The person whose record was expunged;

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

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

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

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

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

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

26 (8) the Kansas lottery, and the request is accompanied by a statement
27 that the request is being made to aid in determining qualifications for
28 employment with the Kansas lottery or for work in sensitive areas within
29 the Kansas lottery as deemed appropriate by the executive director of the
30 Kansas lottery;

31 (9) the governor or the Kansas racing and gaming commission, or a
32 designee of the commission, and the request is accompanied by a
33 statement that the request is being made to aid in determining
34 qualifications for executive director of the commission, for employment
35 with the commission, for work in sensitive areas in parimutuel racing as
36 deemed appropriate by the executive director of the commission or for
37 licensure, renewal of licensure or continued licensure by the commission;

38 (10) the Kansas racing and gaming commission, or a designee of the
39 commission, and the request is accompanied by a statement that the
40 request is being made to aid in determining qualifications of the following
41 under the Kansas expanded lottery act:

42 (A) Lottery gaming facility managers and prospective managers,
43 racetrack gaming facility managers and prospective managers, licensees

1 and certificate holders; and

2 (B) their officers, directors, employees, owners, agents and
3 contractors;

4 (11) the state gaming agency, and the request is accompanied by a
5 statement that the request is being made to aid in determining
6 qualifications:

7 (A) To be an employee of the state gaming agency; or

8 (B) to be an employee of a tribal gaming commission or to hold a
9 license issued pursuant to a tribal-state gaming compact;

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

16 (13) the attorney general, and the request is accompanied by a
17 statement that the request is being made to aid in determining
18 qualifications for a license to:

19 (A) Carry a concealed weapon pursuant to the personal and family
20 protection act; or

21 (B) *act as a bail enforcement agent pursuant to K.S.A. 2016 Supp.*
22 *75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, and*
23 *amendments thereto;*

24 (14) the Kansas sentencing commission;

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

29 (16) a law enforcement agency and the request is accompanied by a
30 statement that the request is being made to aid in determining eligibility
31 for employment as a law enforcement officer as defined by K.S.A. 22-
32 2202, and amendments thereto.

33 Sec. 3. K.S.A. 2016 Supp. 22-4903 is hereby amended to read as
34 follows: 22-4903. (a) Violation of the Kansas offender registration act is
35 the failure by an offender, as defined in K.S.A. 22-4902, and amendments
36 thereto, to comply with any and all provisions of such act, including any
37 and all duties set forth in K.S.A. 22-4905 through 22-4907, and
38 amendments thereto. Any violation of the Kansas offender registration act
39 which continues for more than 30 consecutive days shall, upon the 31st
40 consecutive day, constitute a new and separate offense, and shall continue
41 to constitute a new and separate offense every 30 days thereafter for as
42 long as the violation continues.

43 (b) Aggravated violation of the Kansas offender registration act is

1 violation of the Kansas offender registration act which continues for more
2 than 180 consecutive days. Any aggravated violation of the Kansas
3 offender registration act which continues for more than 180 consecutive
4 days shall, upon the 181st consecutive day, constitute a new and separate
5 offense, and shall continue to constitute a new and separate violation of the
6 Kansas offender registration act every 30 days thereafter, or a new and
7 separate aggravated violation of the Kansas offender registration act every
8 180 days thereafter, for as long as the violation continues.

9 (c) (1) Except as provided in subsection (c)(3), violation of the
10 Kansas offender registration act is:

11 (A) Upon a first conviction, a severity level 6 felony;

12 (B) upon a second conviction, a severity level 5 felony; and

13 (C) upon a third or subsequent conviction, a severity level 3 felony.

14 Such violation shall be designated as a person or nonperson crime in
15 accordance with the designation assigned to the underlying crime for
16 which the offender is required to be registered under the Kansas offender
17 registration act. If the offender is required to be registered under both a
18 person and nonperson underlying crime, the violation shall be designated
19 as a person crime.

20 (2) Except as provided in subsection (c)(3), aggravated violation of
21 the Kansas offender registration act is a severity level 3 felony.

22 Such violation shall be designated as a person or nonperson crime in
23 accordance with the designation assigned to the underlying crime for
24 which the offender is required to be registered under the Kansas offender
25 registration act. If the offender is required to be registered under both a
26 person and nonperson underlying crime, the violation shall be designated
27 as a person crime.

28 (3) Violation of the Kansas offender registration act or aggravated
29 violation of the Kansas offender registration act consisting only of failing
30 to remit payment to the sheriff's office as required in K.S.A. 22-4905(~~k~~)(l),
31 and amendments thereto, is:

32 (A) Except as provided in subsection (c)(3)(B), a class A
33 misdemeanor if, within 15 days of registration, full payment is not
34 remitted to the sheriff's office;

35 (B) a severity level 9 felony if, within 15 days of the most recent
36 registration, two or more full payments have not been remitted to the
37 sheriff's office.

38 Such violation shall be designated as a person or nonperson crime in
39 accordance with the designation assigned to the underlying crime for
40 which the offender is required to be registered under the Kansas offender
41 registration act. If the offender is required to be registered under both a
42 person and nonperson underlying crime, the violation shall be designated
43 as a person crime.

1 (d) Prosecution of violations of this section may be held:

2 (1) In any county in which the offender resides;

3 (2) in any county in which the offender is required to be registered
4 under the Kansas offender registration act;

5 (3) in any county in which the offender is located during which time
6 the offender is not in compliance with the Kansas offender registration act;
7 or

8 (4) in the county in which any conviction or adjudication occurred for
9 which the offender is required to be registered under the Kansas offender
10 registration act.

11 Sec. 4. K.S.A. 2016 Supp. 65-4202, as amended by section 22 of
12 2017 **Senate Substitute for** House Bill No. 2055, is hereby amended to
13 read as follows: 65-4202. As used in this act: (a) "Board" means the board
14 of nursing.

15 (b) The "practice of mental health technology" means the
16 performance, under the direction of a physician licensed to practice
17 medicine and surgery or registered professional nurse, of services in caring
18 for and treatment of the mentally ill, emotionally disturbed, or people with
19 intellectual disability for compensation or personal profit, ~~which services~~
20 *that*:

21 (1) ~~Involve responsible nursing participation and provision of input~~
22 *into the development of person-centered treatment plans* and therapeutic
23 procedures for ~~patients with mental illness or intellectual disability~~
24 *individuals or groups of individuals specified in subsection (b)* requiring
25 interpersonal and technical skills in the observations and recognition of
26 symptoms and reactions of such ~~patients~~ *individuals*, the accurate
27 recording of such symptoms and reactions and the carrying out of
28 treatments and medications as prescribed by a licensed physician or a mid-
29 level practitioner as defined in K.S.A. 65-1626, and amendments thereto;

30 (2) require an application of techniques and procedures that involve
31 understanding of cause and effect and the safeguarding of life and health
32 of the ~~patient~~ *individual* and others; and

33 (3) require the performance of duties that are necessary to facilitate
34 *habitation and* rehabilitation of the ~~patient~~ *individual* or are necessary in
35 the physical, therapeutic and psychiatric care of the ~~patient~~ *individual* and
36 require close work with persons licensed to practice medicine and surgery,
37 psychiatrists, psychologists, rehabilitation therapists, social workers,
38 registered nurses, and other professional personnel.

39 (c) A "licensed mental health technician" means a person who
40 lawfully practices mental health technology as defined in this act.

41 (d) An "approved course in mental health technology" means a
42 program of training and study including a basic curriculum ~~which that~~
43 shall be prescribed and approved by the board in accordance with the

1 standards prescribed herein, the successful completion of which shall be
2 required before licensure as a mental health technician, except as
3 hereinafter provided.

4 Sec. 5. K.S.A. 2016 Supp. 65-6111 is hereby amended to read as
5 follows: 65-6111. (a) The emergency medical services board shall:

6 (1) Adopt any rules and regulations necessary to carry out the
7 provisions of this act;

8 (2) review and approve the allocation and expenditure of moneys
9 appropriated for emergency medical services;

10 (3) conduct hearings for all regulatory matters concerning ambulance
11 services, attendants, instructor-coordinators, training officers and ~~providers~~
12 ~~of training sponsoring organizations~~;

13 (4) submit a budget to the legislature for the operation of the board;

14 (5) develop a state plan for the delivery of emergency medical
15 services;

16 (6) enter into contracts as may be necessary to carry out the duties
17 and functions of the board under this act;

18 (7) review and approve all requests for state and federal funding
19 involving emergency medical services projects in the state or delegate such
20 duties to the executive director;

21 (8) approve all training programs for attendants, instructor-
22 coordinators and training officers and prescribe certification application
23 fees by rules and regulations;

24 (9) approve methods of examination for certification of attendants,
25 training officers and instructor-coordinators and prescribe examination
26 fees by rules and regulations;

27 (10) appoint a medical advisory council of not less than six members,
28 including one board member who shall be a physician and not less than
29 five other physicians who are active and knowledgeable in the field of
30 emergency medical services who are not members of the board to advise
31 and assist the board in medical standards and practices as determined by
32 the board. The medical advisory council shall elect a chairperson from
33 among its membership and shall meet upon the call of the chairperson; and

34 (11) ~~approve providers of training sponsoring organizations~~ by
35 prescribing standards and requirements by rules and regulations and
36 withdraw or modify such approval in accordance with the Kansas
37 administrative-~~procedures~~ *procedure* act and the rules and regulations of
38 the board.

39 (b) The emergency medical services board may grant a temporary
40 variance from an identified rule or regulation when a literal application or
41 enforcement of the rule or regulation would result in serious hardship and
42 the relief granted would not result in any unreasonable risk to the public
43 interest, safety or welfare.

1 (c) (1) In addition to or in lieu of any other administrative, civil or
2 criminal remedy provided by law, the board, in accordance with the
3 Kansas administrative procedure act, upon the finding of a violation of a
4 provision of this act or the provisions of article 61 of chapter 65 of the
5 Kansas Statutes Annotated, and amendments thereto, or rules and
6 regulations adopted pursuant to such provisions:

7 (A) May impose a fine on any person granted a certificate by the
8 board in an amount not to exceed \$500 for each violation; or

9 (B) may impose a fine on an ambulance service which holds a permit
10 to operate in this state or on a sponsoring organization in an amount not to
11 exceed \$2,500 for each violation.

12 (2) All fines assessed and collected under this section shall be
13 remitted to the state treasurer in accordance with the provisions of K.S.A.
14 75-4215, and amendments thereto. Upon receipt of each such remittance,
15 the state treasurer shall deposit the entire amount in the state treasury to
16 the credit of the state general fund.

17 (d) (1) In connection with any investigation by the board, the board or
18 its duly authorized agents or employees shall at all reasonable times have
19 access to, for the purpose of examination and the right to copy any
20 document, report, record or other physical evidence of any person being
21 investigated, or any document, report, record or other evidence maintained
22 by and in possession of any clinic, laboratory, pharmacy, medical care
23 facility or other public or private agency, if such document, report, record
24 or evidence relates to professional competence, unprofessional conduct or
25 the mental or physical ability of the person to perform activities the person
26 is authorized to perform.

27 (2) For the purpose of all investigations and proceedings conducted
28 by the board:

29 (A) The board may issue subpoenas compelling the attendance and
30 testimony of witnesses or the production for examination or copying of
31 documents or any other physical evidence if such evidence relates to
32 professional competence, unprofessional conduct or the mental or physical
33 ability of a person being investigated to perform activities the person is
34 authorized to perform. Within five days after the service of the subpoena
35 on any person requiring the production of any evidence in the person's
36 possession or under the person's control, such person may petition the
37 board to revoke, limit or modify the subpoena. The board shall revoke,
38 limit or modify such subpoena if in its opinion the evidence required does
39 not relate to practices which may be grounds for disciplinary action, is not
40 relevant to the charge which is the subject matter of the proceeding or
41 investigation, or does not describe with sufficient particularity the physical
42 evidence which is required to be produced. Any member of the board, or
43 any agent designated by the board, may administer oaths or affirmations,

1 examine witnesses and receive such evidence.

2 (B) Any person appearing before the board shall have the right to be
3 represented by counsel.

4 (C) The district court, upon application by the board or by the person
5 subpoenaed, shall have jurisdiction to issue an order:

6 (i) Requiring such person to appear before the board or the board's
7 duly authorized agent to produce evidence relating to the matter under
8 investigation; or

9 (ii) revoking, limiting or modifying the subpoena if in the court's
10 opinion the evidence demanded does not relate to practices which may be
11 grounds for disciplinary action, is not relevant to the charge which is the
12 subject matter of the hearing or investigation or does not describe with
13 sufficient particularity the evidence which is required to be produced.

14 (3) Disclosure or use of any such information received by the board
15 or of any record containing such information, for any purpose other than
16 that provided by this subsection is a class A misdemeanor and shall
17 constitute grounds for removal from office, termination of employment or
18 denial, revocation or suspension of any certificate or permit issued under
19 article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments
20 thereto. Nothing in this subsection shall be construed to make unlawful the
21 disclosure of any such information by the board in a hearing held pursuant
22 to this act.

23 (4) Patient records, including clinical records, medical reports,
24 laboratory statements and reports, files, films, other reports or oral
25 statements relating to diagnostic findings or treatment of patients,
26 information from which a patient or a patient's family might be identified,
27 peer review or risk management records or information received and
28 records kept by the board as a result of the investigation procedure
29 outlined in this subsection shall be confidential and shall not be disclosed.

30 (5) Nothing in this subsection or any other provision of law making
31 communications between a physician and the physician's patient a
32 privileged communication shall apply to investigations or proceedings
33 conducted pursuant to this subsection. The board and its employees, agents
34 and representatives shall keep in confidence the names of any patients
35 whose records are reviewed during the course of investigations and
36 proceedings pursuant to this subsection.

37 (e) The emergency medical services board shall prepare an annual
38 report on or before January 15 of each year on the number, amount and
39 reasons for the fines imposed by the board and the number of and reasons
40 for subpoenas issued by the board during the previous calendar year. The
41 report shall be provided to the senate committee on federal and state affairs
42 and the house committee on federal and state affairs.

43 ~~Sec. 6. K.S.A. 2016 Supp. 12-4112a, 12-4117, 12-4117b, 12-4516,~~

1 ~~12-4516e, 2-4903, 22-4903a, 65-4202, as amended by section 3 of 2017~~
2 ~~House Bill No. 2025, 65-4202, as amended by section 22 of 2017 House~~
3 ~~Bill No. 2055, 65-6111 and 65-6111a are hereby repealed.~~

4 **Sec. 6. K.S.A. 2016 Supp. 8-135, as amended by section 1 of 2017**
5 **Senate Bill No. 36, is hereby amended to read as follows: 8-135. (a)**
6 **Upon the transfer of ownership of any vehicle registered under this**
7 **act, the registration of the vehicle and the right to use any license plate**
8 **thereon shall expire and thereafter there shall be no transfer of any**
9 **registration, and the license plate shall be removed by the owner**
10 **thereof. Except as provided in K.S.A. 8-172, and amendments thereto,**
11 **and 8-1,147, and amendments thereto, it shall be unlawful for any**
12 **person, other than the person to whom the license plate was originally**
13 **issued, to have possession thereof. When the ownership of a registered**
14 **vehicle is transferred, the original owner of the license plate may**
15 **register another vehicle under the same number, upon application and**
16 **payment of a fee of \$1.50, if such other vehicle does not require a**
17 **higher license fee. If a higher license fee is required, then the transfer**
18 **may be made upon the payment of the transfer fee of \$1.50 and the**
19 **difference between the fee originally paid and that due for the new**
20 **vehicle.**

21 **(b) Subject to the provisions of K.S.A. 8-198(a), and amendments**
22 **thereto, upon the transfer or sale of any vehicle by any person or**
23 **dealer, or upon any transfer in accordance with K.S.A. 59-3511, and**
24 **amendments thereto, the new owner thereof, within 60 days, inclusive**
25 **of weekends and holidays, from date of such transfer shall make**
26 **application to the division for registration or reregistration of the**
27 **vehicle, but no person shall operate the vehicle on any highway in this**
28 **state during the sixty-day period without having applied for and**
29 **obtained temporary registration from the county treasurer or from a**
30 **dealer. After the expiration of the sixty-day period, it shall be unlawful**
31 **for the owner or any other person to operate such vehicle upon the**
32 **highways of this state unless the vehicle has been registered as**
33 **provided in this act. For failure to make application for registration as**
34 **provided in this section, a penalty of \$2 shall be added to other fees.**
35 **When a person has a current motorcycle or passenger vehicle**
36 **registration and license plate, including any registration decal affixed**
37 **thereto, for a vehicle and has sold or otherwise disposed of the vehicle**
38 **and has acquired another motorcycle or passenger vehicle and intends**
39 **to transfer the registration and the license plate to the motorcycle or**
40 **passenger vehicle acquired, but has not yet had the registration**
41 **transferred in the office of the county treasurer, such person may**
42 **operate the motorcycle or passenger vehicle acquired for a period of**
43 **not to exceed 60 days by displaying the license plate on the rear of the**

1 vehicle acquired. If the acquired vehicle is a new vehicle such person
2 also must carry the assigned certificate of title or manufacturer's
3 statement of origin when operating the acquired vehicle, except that a
4 dealer may operate such vehicle by displaying such dealer's dealer
5 license plate.

6 (c) Certificate of title: No vehicle required to be registered shall
7 be registered or any license plate or registration decal issued therefor,
8 unless the applicant for registration shall present satisfactory evidence
9 of ownership and apply for an original certificate of title for such
10 vehicle. The following paragraphs of this subsection shall apply to the
11 issuance of a certificate of title for a nonhighway vehicle, salvage
12 vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and
13 amendments thereto, except to the extent such paragraphs are made
14 inapplicable by or are inconsistent with K.S.A. 8-198, and
15 amendments thereto, and to any electronic certificate of title, except to
16 the extent such paragraphs are made inapplicable by or are
17 inconsistent with K.S.A. 2016 Supp. 8-135d, and amendments thereto,
18 or with rules and regulations adopted pursuant to K.S.A. 2016 Supp.
19 8-135d, and amendments thereto.

20 The provisions of paragraphs (1) through (14) shall apply to any
21 certificate of title issued prior to January 1, 2003, which indicates that
22 there is a lien or encumbrance on such vehicle.

23 (1) An application for certificate of title shall be made by the
24 owner or the owner's agent upon a form furnished by the division and
25 shall state all liens or encumbrances thereon, and such other
26 information as the division may require. Notwithstanding any other
27 provision of this section, no certificate of title shall be issued for a
28 vehicle having any unreleased lien or encumbrance thereon, unless the
29 transfer of such vehicle has been consented to in writing by the holder
30 of the lien or encumbrance. Such consent shall be in a form approved
31 by the division. In the case of members of the armed forces of the
32 United States while the United States is engaged at war with any
33 foreign nation and for a period of six months next following the
34 cessation of hostilities, such application may be signed by the owner's
35 spouse, parents, brother or sister. The county treasurer shall use
36 reasonable diligence in ascertaining whether the facts stated in such
37 application are true, and if satisfied that the applicant is the lawful
38 owner of such vehicle, or otherwise entitled to have the same
39 registered in such applicant's name, shall so notify the division, who
40 shall issue an appropriate certificate of title. The certificate of title
41 shall be in a form approved by the division, and shall contain a
42 statement of any liens or encumbrances which the application shows,
43 and such other information as the division determines.

1 (2) The certificate of title shall contain upon the reverse side a
2 form for assignment of title to be executed by the owner. This
3 assignment shall contain a statement of all liens or encumbrances on
4 the vehicle at the time of assignment. The certificate of title shall also
5 contain on the reverse side blank spaces so that an abstract of mileage
6 as to each owner will be available. The seller at the time of each sale
7 shall insert and certify the mileage and the purchase price on the form
8 filed for application or reassignment of title, and the division shall
9 insert such mileage on the certificate of title when issued to purchaser
10 or assignee. The signature of the purchaser or assignee is required on
11 the form filed for application or reassignment of title, acknowledging
12 the odometer and purchase price certification made by the seller,
13 except that vehicles which are 10 model years or older and trucks with
14 a gross vehicle weight of more than 16,000 pounds shall be exempt
15 from the mileage acknowledgment requirement of the purchaser or
16 assignee. Such title shall indicate whether the vehicle for which it is
17 issued has been titled previously as a nonhighway vehicle or salvage
18 vehicle. In addition, the reverse side shall contain two forms for
19 reassignment by a dealer, stating the liens or encumbrances thereon.
20 The first form of reassignment shall be used only when a dealer sells
21 the vehicle to another dealer. The second form of reassignment shall
22 be used by a dealer when selling the vehicle to another dealer or the
23 ultimate owner of the vehicle. The reassignment by a dealer shall be
24 used only where the dealer resells the vehicle, and during the time that
25 the vehicle remains in the dealer's possession for resale, the certificate
26 of title shall be dormant. When the ownership of any vehicle passes by
27 operation of law, or repossession upon default of a lease, security
28 agreement, or executory sales contract, the person owning such
29 vehicle, upon furnishing satisfactory proof to the county treasurer of
30 such ownership, may procure a certificate of title to the vehicle. When
31 a vehicle is registered in another state and is repossessed in another
32 state, the owner of such vehicle shall not be entitled to obtain a valid
33 Kansas title or registration, except that when a vehicle is registered in
34 another state, but is financed originally by a financial institution
35 chartered in the state of Kansas or when a financial institution
36 chartered in Kansas purchases a pool of motor vehicle loans from the
37 resolution trust corporation or a federal regulatory agency, and the
38 vehicle is repossessed in another state, such Kansas financial
39 institution shall be entitled to obtain a valid Kansas title or
40 registration. In addition to any other fee required for the issuance of a
41 certificate of title, any applicant obtaining a certificate of title for a
42 repossessed vehicle shall pay a fee of \$3.

43 (3) Dealers shall execute, upon delivery to the purchaser of every

1 new vehicle, a manufacturer's statement of origin stating the liens and
2 encumbrances thereon. Such statement of origin shall be delivered to
3 the purchaser at the time of delivery of the vehicle or at a time agreed
4 upon by the parties, not to exceed 30 days, inclusive of weekends and
5 holidays. The agreement of the parties shall be executed on a form
6 approved by the division. In the event delivery of title cannot be made
7 personally, the seller may deliver the manufacturer's statement of
8 origin by restricted mail to the address of purchaser shown on the
9 purchase agreement. The manufacturer's statement of origin may
10 include an attachment containing assignment of such statement of
11 origin on forms approved by the division. Upon the presentation to the
12 division of a manufacturer's statement of origin, by a manufacturer or
13 dealer for a new vehicle, sold in this state, a certificate of title shall be
14 issued if there is also an application for registration, except that no
15 application for registration shall be required for a travel trailer used
16 for living quarters and not operated on the highways.

17 (4) The fee for each original certificate of title shall be \$10 in
18 addition to the fee for registration of such vehicle, trailer or
19 semitrailer. The certificate of title shall be good for the life of the
20 vehicle, trailer or semitrailer while owned or held by the original
21 holder of the certificate of title.

22 (5) Except for a vehicle registered by a federally recognized
23 Indian tribe, as provided in paragraph (16), upon sale and delivery to
24 the purchaser of every vehicle subject to a purchase money security
25 interest as provided in article 9 of chapter 84 of the Kansas Statutes
26 Annotated, and amendments thereto, the dealer or secured party may
27 complete a notice of security interest and when so completed, the
28 purchaser shall execute the notice, in a form prescribed by the
29 division, describing the vehicle and showing the name and address of
30 the secured party and of the debtor and other information the division
31 requires. On and after July 1, 2007, only one lien shall be taken or
32 accepted for vehicles with a gross vehicle weight rating of 26,000
33 pounds or less. As used in this section "gross vehicle weight rating"
34 shall have the meaning ascribed thereto in 49 C.F.R. § 390.5, as in
35 effect on July 1, 2017, or any later version as established in rules and
36 regulations adopted by the state corporation commission. The dealer
37 or secured party, within 30 days of the sale and delivery, may mail or
38 deliver the notice of security interest, together with a fee of \$2.50, to
39 the division. The notice of security interest shall be retained by the
40 division until it receives an application for a certificate of title to the
41 vehicle and a certificate of title is issued. The certificate of title shall
42 indicate any security interest in the vehicle. Upon issuance of the
43 certificate of title, the division shall mail or deliver confirmation of the

1 receipt of the notice of security interest, the date the certificate of title
2 is issued and the security interest indicated, to the secured party at the
3 address shown on the notice of security interest. The proper
4 completion and timely mailing or delivery of a notice of security
5 interest by a dealer or secured party shall perfect a security interest in
6 the vehicle, as referenced in K.S.A. 2016 Supp. 84-9-311, and
7 amendments thereto, on the date of such mailing or delivery. The
8 county treasurers shall mail a copy of the title application to the
9 lienholder. For any vehicle subject to a lien, the county treasurer,
10 *division or contractor* shall collect from the applicant a \$1.50 service fee
11 for processing and mailing a copy of the title application to the
12 lienholder.

13 (6) It shall be unlawful for any person to operate in this state a
14 vehicle required to be registered under this act, or to transfer the title
15 to any such vehicle to any person or dealer, unless a certificate of title
16 has been issued as herein provided. In the event of a sale or transfer of
17 ownership of a vehicle for which a certificate of title has been issued,
18 which certificate of title is in the possession of the transferor at the
19 time of delivery of the vehicle, the holder of such certificate of title
20 shall endorse on the same an assignment thereof, with warranty of
21 title in a form prescribed by the division and printed thereon and the
22 transferor shall deliver the same to the buyer at the time of delivery to
23 the buyer of the vehicle or at a time agreed upon by the parties, not to
24 exceed 60 days, inclusive of weekends and holidays, after the time of
25 delivery. The agreement of the parties shall be executed on a form
26 provided by the division. The requirements of this paragraph
27 concerning delivery of an assigned title are satisfied if the transferor
28 mails to the transferee by restricted mail the assigned certificate of
29 title within the 60 days, and if the transferor is a dealer, as defined by
30 K.S.A. 8-2401, and amendments thereto, such transferor shall be
31 deemed to have possession of the certificate of title if the transferor
32 has made application therefor to the division. The buyer shall then
33 present such assigned certificate of title to the division at the time of
34 making application for registration of such vehicle. A new certificate
35 of title shall be issued to the buyer, upon payment of the fee of \$10. If
36 such vehicle is sold to a resident of another state or country, the dealer
37 or person making the sale shall notify the division of the sale and the
38 division shall make notation thereof in the records of the division.
39 When a person acquires a security interest that such person seeks to
40 perfect on a vehicle subsequent to the issuance of the original title on
41 such vehicle, such person shall require the holder of the certificate of
42 title to surrender the same and sign an application for a mortgage title
43 in form prescribed by the division. Upon such surrender such person

1 shall immediately deliver the certificate of title, application, and a fee
2 of \$10 to the division. Delivery of the surrendered title, application
3 and tender of the required fee shall perfect a security interest in the
4 vehicle as referenced in K.S.A. 2016 Supp. 84-9-311, and amendments
5 thereto. On and after July 1, 2007, only one lien may be taken or
6 accepted for security for an obligation to be secured by a lien to be
7 shown on a certificate of title for vehicles with a gross vehicle weight
8 rating, as defined in 49 C.F.R. § 390.5, as in effect on July 1, 2017, or
9 any later version as established in rules and regulations adopted by
10 the state corporation commission, of 26,000 pounds or less. A
11 refinancing shall not be subject to the limitations of this act. A
12 refinancing is deemed to occur when the original obligation is satisfied
13 and replaced by a new obligation. Lien obligations created before July
14 1, 2007, which are of a continuing nature shall not be subject to the
15 limitations of this act until the obligation is satisfied. A lien in violation
16 of this provision is void. Upon receipt of the surrendered title,
17 application and fee, the division shall issue a new certificate of title
18 showing the liens or encumbrances so created, but only one lien or
19 encumbrance may be shown upon a title for vehicles with a gross
20 vehicle rating of 26,000 pounds or less, and not more than two liens or
21 encumbrances may be shown upon a title for vehicles in excess of
22 26,000 pounds gross vehicle weight rating. When a prior lienholder's
23 name is removed from the title, there must be satisfactory evidence
24 presented to the division that the lien or encumbrance has been paid.
25 When the indebtedness to a lienholder, whose name is shown upon a
26 title, is paid in full, such lienholder shall comply with the provisions of
27 K.S.A. 2016 Supp. 8-1,157, and amendments thereto.

28 (7) It shall be unlawful for any person to buy or sell in this state
29 any vehicle required to be registered, unless, at the time of delivery
30 thereof or at a time agreed upon by the parties, not to exceed 60 days,
31 inclusive of weekends and holidays, after the time of delivery, there
32 shall pass between the parties a certificate of title with an assignment
33 thereof. The sale of a vehicle required to be registered under the laws
34 of this state, without assignment of the certificate of title, is fraudulent
35 and void, unless the parties shall agree that the certificate of title with
36 assignment thereof shall pass between them at a time other than the
37 time of delivery, but within 60 days thereof. The requirements of this
38 paragraph concerning delivery of an assigned title shall be satisfied if:
39 (A) The seller mails to the purchaser by restricted mail the assigned
40 certificate of title within 60 days; or (B) if the transferor is a dealer, as
41 defined by K.S.A. 8-2401, and amendments thereto, such seller shall
42 be deemed to have possession of the certificate of title if such seller has
43 made application therefor to the division; or (C) if the transferor is a

1 dealer and has assigned a title pursuant to subsection (c)(9).

2 (8) In cases of sales under the order of a court of a vehicle
3 required to be registered under this act, the officer conducting such
4 sale shall issue to the purchaser a certificate naming the purchaser
5 and reciting the facts of the sale, which certificate shall be prima facie
6 evidence of the ownership of such purchaser for the purpose of
7 obtaining a certificate of title to such motor vehicle and for registering
8 the same. Any such purchaser shall be allowed 60 days, inclusive of
9 weekends and holidays, from the date of sale to make application to
10 the division for a certificate of title and for the registering of such
11 motor vehicle.

12 (9) Any dealer who has acquired a vehicle, the title for which was
13 issued under the laws of and in a state other than the state of Kansas,
14 shall not be required to obtain a Kansas certificate of title therefor
15 during the time such vehicle remains in such dealer's possession and
16 at such dealer's place of business for the purpose of sale. The
17 purchaser or transferee shall present the assigned title to the division
18 of vehicles when making application for a certificate of title as
19 provided in subsection (c)(1).

20 (10) Motor vehicles may be held and titled in transfer-on-death
21 form.

22 (11) Notwithstanding the provisions of this act with respect to
23 time requirements for delivery of a certificate of title, or
24 manufacturer's statement of origin, as applicable, any person who
25 chooses to reaffirm the sale in writing on a form approved by the
26 division which advises them of their rights pursuant to subsection (c)
27 (7) and who has received and accepted assignment of the certificate of
28 title or manufacturer's statement of origin for the vehicle in issue may
29 not thereafter void or set aside the transaction with respect to the
30 vehicle for the reason that a certificate of title or manufacturer's
31 statement of origin was not timely delivered, and in such instances the
32 sale of a vehicle shall not be deemed to be fraudulent and void for that
33 reason alone.

34 (12) The owner of any vehicle assigning a certificate of title in
35 accordance with the provisions of this section may file with the
36 division a form indicating that such owner has assigned such
37 certificate of title. Such forms shall be furnished by the division and
38 shall contain such information as the division may require. Any owner
39 filing a form as provided in this paragraph shall pay a fee of \$10. The
40 filing of such form shall be prima facie evidence that such certificate
41 of title was assigned and shall create a rebuttable presumption. If the
42 assignee of a certificate of title fails to make application for
43 registration, an owner assigning such title and filing the form in

1 accordance with the provisions of this paragraph shall not be held
2 liable for damages resulting from the operation of such vehicle.

3 (13) Application for a certificate of title on a boat trailer with a
4 gross weight over 2,000 pounds shall be made by the owner or the
5 owner's agent upon a form to be furnished by the division and shall
6 contain such information as the division shall determine necessary.
7 The division may waive any information requested on the form if it is
8 not available. The application together with a bill of sale for the boat
9 trailer shall be accepted as prima facie evidence that the applicant is
10 the owner of the boat trailer, provided that a Kansas title for such
11 trailer has not previously been issued. If the application and bill of
12 sale are used to obtain a certificate of title for a boat trailer under this
13 paragraph, the certificate of title shall not be issued until an inspection
14 in accordance with K.S.A. 8-116a(a), and amendments thereto, has
15 been completed.

16 (14) In addition to the two forms for reassignment under
17 subsection (c)(2), a dealer may attach one additional reassignment
18 form to a certificate of title. The director of vehicles shall prescribe
19 and furnish such reassignment forms. The reassignment form shall be
20 used by a dealer when selling the vehicle to another dealer or the
21 ultimate owner of the vehicle only when the two reassignment forms
22 under subsection (c)(2) have already been used. The fee for a
23 reassignment form shall be \$6.50. A dealer may purchase
24 reassignment forms in multiples of five upon making proper
25 application and the payment of required fees.

26 (15) A first stage manufacturer, as defined in K.S.A. 8-2401, and
27 amendments thereto, who manufactures a motor vehicle in this state,
28 and who sells such motor vehicles to dealers located in a foreign
29 country, may execute a manufacturers statement of origin to the
30 division of vehicles for the purpose of obtaining an export certificate
31 of title. The motor vehicle issued an export certificate of title shall not
32 be required to be registered in this state. An export certificate of title
33 shall not be used to register such vehicle in the United States.

34 (16) A security interest in a vehicle registered by a federally
35 recognized Indian tribe shall be deemed valid under Kansas law if
36 validly perfected under the applicable tribal law and the lien is noted
37 on the face of the tribal certificate of title.

38 (17) On and after January 1, 2010, a certificate of title issued for
39 a rebuilt salvage vehicle for the initial time, shall indicate on such title,
40 the reduced classification of such vehicle as provided under K.S.A. 79-
41 5104, and amendments thereto.

42 Sec. 7. K.S.A. 2016 Supp. 12-4120, as amended by section 7 of
43 2017 Senate Bill No. 89, is hereby amended to read as follows: 12-

1 4120. (a) On and after July 1, 2012, the amount of \$250 from each fine
2 imposed for a violation of a city ordinance prohibiting the acts
3 prohibited by K.S.A. 8-1567 or 8-2,144 or K.S.A. 2016 Supp. 8-1025,
4 and amendments thereto, shall be remitted by the judge or clerk of the
5 municipal court to the state treasurer in accordance with the
6 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
7 of each such remittance, the state treasurer shall credit the entire
8 amount to the community corrections supervision fund established by
9 K.S.A. 2016 Supp. 75-52,113, and amendments thereto.

10 (b) ~~On and after July 1, 2013, the amount of \$2,500 from~~*One-half of*
11 *each fine imposed for a violation of a city ordinance prohibiting the*
12 *acts prohibited by K.S.A. 2016 Supp. 21-6421, and amendments*
13 *thereto, shall be remitted by the judge or clerk of the municipal court*
14 *to the state treasurer in accordance with the provisions of K.S.A. 75-*
15 *4215, and amendments thereto, and the remainder shall be remitted as*
16 *otherwise permitted by law. Upon receipt of each such remittance, the*
17 *state treasurer shall credit the entire amount to the human trafficking*
18 *victim assistance fund established by K.S.A. 2016 Supp. 75-758, and*
19 *amendments thereto.*

20 (c) On and after July 1, 2017, the amount of \$20 from each fine
21 imposed for a violation of a city ordinance requiring the use of safety
22 belts for those individuals required by K.S.A. 8-2503(a)(1), and
23 amendments thereto, shall be remitted by the judge or clerk of the
24 municipal court to the state treasurer in accordance with the
25 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
26 of each such remittance, the state treasurer shall credit the entire
27 amount to the seat belt safety fund established by section 4 of 2017
28 *Senate Bill No. 89, and amendments thereto.*

29 Sec. 8. K.S.A. 2016 Supp. 21-6614, as amended by section 15 of
30 2017 House Substitute for Senate Bill No. 40, is hereby amended to
31 read as follows: 21-6614. (a) (1) Except as provided in subsections (b),
32 (c), (d), (e) and (f), any person convicted in this state of a traffic
33 infraction, cigarette or tobacco infraction, misdemeanor or a class D
34 or E felony, or for crimes committed on or after July 1, 1993, any
35 nongrid felony or felony ranked in severity levels 6 through 10 of the
36 nondrug grid, or for crimes committed on or after July 1, 1993, but
37 prior to July 1, 2012, any felony ranked in severity level 4 of the drug
38 grid, or for crimes committed on or after July 1, 2012, any felony
39 ranked in severity level 5 of the drug grid may petition the convicting
40 court for the expungement of such conviction or related arrest records
41 if three or more years have elapsed since the person: (A) Satisfied the
42 sentence imposed; or (B) was discharged from probation, a
43 community correctional services program, parole, postrelease

1 supervision, conditional release or a suspended sentence.

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

7 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
8 3512, prior to its repeal, convicted of a violation of K.S.A. 2016 Supp.
9 21-6419, and amendments thereto, or who entered into a diversion
10 agreement in lieu of further criminal proceedings for such violation,
11 may petition the convicting court for the expungement of such
12 conviction or diversion agreement and related arrest records if:

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

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

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

38 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
39 repeal, or K.S.A. 2016 Supp. 21-5406, and amendments thereto, or as
40 prohibited by any law of another state which is in substantial
41 conformity with that statute;

42 (2) driving while the privilege to operate a motor vehicle on the
43 public highways of this state has been canceled, suspended or revoked,

1 as prohibited by K.S.A. 8-262, and amendments thereto, or as
2 prohibited by any law of another state which is in substantial
3 conformity with that statute;

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

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

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

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

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

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

20 (d) (1) No person may petition for expungement until five or more
21 years have elapsed since the person satisfied the sentence imposed or
22 the terms of a diversion agreement or was discharged from probation,
23 a community correctional services program, parole, postrelease
24 supervision, conditional release or a suspended sentence, if such
25 person was convicted of a first violation of K.S.A. 8-1567 or K.S.A.
26 2016 Supp. 8-1025, and amendments thereto, including any diversion
27 for such violation.

28 (2) No person may petition for expungement until 10 or more
29 years have elapsed since the person satisfied the sentence imposed or
30 was discharged from probation, a community correctional services
31 program, parole, postrelease supervision, conditional release or a
32 suspended sentence, if such person was convicted of a second or
33 subsequent violation of K.S.A. 8-1567 or K.S.A. 2016 Supp. 8-1025,
34 and amendments thereto.

35 (3) *Except as provided further, the provisions of this subsection shall*
36 *apply to all violations committed on or after July 1, 2006. The provisions*
37 *of subsection (d)(2) shall not apply to violations committed on or after*
38 *July 1, 2014, but prior to July 1, 2015.*

39 (e) There shall be no expungement of convictions for the
40 following offenses or of convictions for an attempt to commit any of
41 the following offenses:

42 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or
43 K.S.A. 2016 Supp. 21-5503, and amendments thereto;

- 1 **(2) indecent liberties with a child or aggravated indecent liberties**
2 **with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their**
3 **repeal, or K.S.A. 2016 Supp. 21-5506, and amendments thereto;**
- 4 **(3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),**
5 **prior to its repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) or (a)(4), and**
6 **amendments thereto;**
- 7 **(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506,**
8 **prior to its repeal, or K.S.A. 2016 Supp. 21-5504, and amendments**
9 **thereto;**
- 10 **(5) indecent solicitation of a child or aggravated indecent**
11 **solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to**
12 **their repeal, or K.S.A. 2016 Supp. 21-5508, and amendments thereto;**
- 13 **(6) sexual exploitation of a child, as defined in K.S.A. 21-3516,**
14 **prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments**
15 **thereto;**
- 16 **(7) internet trading in child pornography or aggravated internet**
17 **trading in child pornography, as defined in section 3, and amendments**
18 **thereto;**
- 19 **(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its**
20 **repeal, or K.S.A. 2016 Supp. 21-5604, and amendments thereto;**
- 21 **(9) endangering a child or aggravated endangering a child, as**
22 **defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A.**
23 **2016 Supp. 21-5601, and amendments thereto;**
- 24 **(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its**
25 **repeal, or K.S.A. 2016 Supp. 21-5602, and amendments thereto;**
- 26 **(11) capital murder, as defined in K.S.A. 21-3439, prior to its**
27 **repeal, or K.S.A. 2016 Supp. 21-5401, and amendments thereto;**
- 28 **(12) murder in the first degree, as defined in K.S.A. 21-3401,**
29 **prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments**
30 **thereto;**
- 31 **(13) murder in the second degree, as defined in K.S.A. 21-3402,**
32 **prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments**
33 **thereto;**
- 34 **(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior**
35 **to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;**
- 36 **(15) involuntary manslaughter, as defined in K.S.A. 21-3404,**
37 **prior to its repeal, or K.S.A. 2016 Supp. 21-5405, and amendments**
38 **thereto;**
- 39 **(16) sexual battery, as defined in K.S.A. 21-3517, prior to its**
40 **repeal, or K.S.A. 2016 Supp. 21-5505, and amendments thereto, when**
41 **the victim was less than 18 years of age at the time the crime was**
42 **committed;**
- 43 **(17) aggravated sexual battery, as defined in K.S.A. 21-3518,**

1 prior to its repeal, or K.S.A. 2016 Supp. 21-5505, and amendments
2 thereto;

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

5 (19) any conviction for any offense in effect at any time prior to
6 July 1, 2011, that is comparable to any offense as provided in this
7 subsection.

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

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

18 (A) Defendant's full name;

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

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

22 (D) crime for which the defendant was arrested, convicted or
23 diverted;

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

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

27 (2) Except as otherwise provided by law, a petition for
28 expungement shall be accompanied by a docket fee in the amount of
29 \$176. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the
30 supreme court may impose a charge, not to exceed \$19 per case, to
31 fund the costs of non-judicial personnel. The charge established in this
32 section shall be the only fee collected or moneys in the nature of a fee
33 collected for the case. Such charge shall only be established by an act
34 of the legislature and no other authority is established by law or
35 otherwise to collect a fee.

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

42 (h) At the hearing on the petition, the court shall order the
43 petitioner's arrest record, conviction or diversion expunged if the

1 court finds that:

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

5 (2) the circumstances and behavior of the petitioner warrant the
6 expungement; and

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

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

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

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

28 (A) In any application for licensure as a private detective, private
29 detective agency, certification as a firearms trainer pursuant to K.S.A.
30 2016 Supp. 75-7b21, and amendments thereto, or employment as a
31 detective with a private detective agency, as defined by K.S.A. 75-
32 7b01, and amendments thereto; as security personnel with a private
33 patrol operator, as defined by K.S.A. 75-7b01, and amendments
34 thereto; or with an institution, as defined in K.S.A. 76-12a01, and
35 amendments thereto, of the Kansas department for aging and
36 disability services;

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

39 (C) to aid in determining the petitioner's qualifications for
40 employment with the Kansas lottery or for work in sensitive areas
41 within the Kansas lottery as deemed appropriate by the executive
42 director of the Kansas lottery;

43 (D) to aid in determining the petitioner's qualifications for

1 executive director of the Kansas racing and gaming commission, for
2 employment with the commission or for work in sensitive areas in
3 parimutuel racing as deemed appropriate by the executive director of
4 the commission, or to aid in determining qualifications for licensure or
5 renewal of licensure by the commission;

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

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

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

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

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

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

24 (K) for applications received on and after July 1, 2006, to aid in
25 determining the petitioner's qualifications for a license to carry a
26 concealed weapon pursuant to the personal and family protection act,
27 K.S.A. 2016 Supp. 75-7c01 et seq., and amendments thereto; or

28 (L) for applications received on and after July 1, 2016, to aid in
29 determining the petitioner's qualifications for a license to act as a bail
30 enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-
31 7e09 and K.S.A. 2016 Supp. 50-6,141, and amendments thereto;

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

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

37 (5) upon commitment to the custody of the secretary of
38 corrections, any previously expunged record in the possession of the
39 secretary of corrections may be reinstated and the expungement
40 disregarded, and the record continued for the purpose of the new
41 commitment.

42 (j) Whenever a person is convicted of a crime, pleads guilty and
43 pays a fine for a crime, is placed on parole, postrelease supervision or

1 probation, is assigned to a community correctional services program,
2 is granted a suspended sentence or is released on conditional release,
3 the person shall be informed of the ability to expunge the arrest
4 records or conviction. Whenever a person enters into a diversion
5 agreement, the person shall be informed of the ability to expunge the
6 diversion.

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

13 (2) Notwithstanding the provisions of subsection (k)(1), and
14 except as provided in K.S.A. 2016 Supp. 21-6304(a)(3)(A), and
15 amendments thereto, the expungement of a prior felony conviction
16 does not relieve the individual of complying with any state or federal
17 law relating to the use, shipment, transportation, receipt or possession
18 of firearms by persons previously convicted of a felony.

19 (l) Whenever the record of any arrest, conviction or diversion has
20 been expunged under the provisions of this section or under the
21 provisions of any other existing or former statute, the custodian of the
22 records of arrest, conviction, diversion and incarceration relating to
23 that crime shall not disclose the existence of such records, except when
24 requested by:

25 (1) The person whose record was expunged;

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

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

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

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

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

43 (7) the supreme court, the clerk or disciplinary administrator

1 thereof, the state board for admission of attorneys or the state board
2 for discipline of attorneys, and the request is accompanied by a
3 statement that the request is being made in conjunction with an
4 application for admission, or for an order of reinstatement, to the
5 practice of law in this state by the person whose record has been
6 expunged;

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

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

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

28 (11) the Kansas sentencing commission;

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

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

40 (14) the Kansas commission on peace officers' standards and
41 training and the request is accompanied by a statement that the
42 request is being made to aid in determining certification eligibility as a
43 law enforcement officer pursuant to K.S.A. 74-5601 et seq., and

1 amendments thereto;

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

6 (16) the attorney general and the request is accompanied by a
7 statement that the request is being made to aid in determining
8 qualifications for a license to:

9 (A) Carry a concealed weapon pursuant to the personal and
10 family protection act; or

11 (B) act as a bail enforcement agent pursuant to K.S.A. 2016 Supp.
12 75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, and
13 amendments thereto; or

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

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

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

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

24 Sec. 9. K.S.A. 2016 Supp. 22-2410, as amended by section 8 of
25 2017 Senate Bill No. 112, is hereby amended to read as follows: 22-
26 2410. (a) (1) Any person who has been arrested in this state may
27 petition the district court for the expungement of such arrest record.

28 (2) (A) If a person has been arrested in this state as a result of
29 mistaken identity or as a result of another person using the identifying
30 information of the named person, and the charge against the named
31 person is dismissed or not prosecuted, the prosecuting attorney or
32 other judicial officer who ordered the dismissal or declined to
33 prosecute shall provide notice to the court of such action and petition
34 the district court for the expungement of such arrest record, and the
35 court shall order the arrest record and subsequent court proceedings,
36 if any, expunged and purged from all applicable state and federal
37 systems pursuant to subsection (d).

38 (B) For purposes of this section, the term "mistaken identity"
39 means the erroneous arrest of a person for a crime as a result of
40 misidentification by a witness or law enforcement, confusion on the
41 part of a witness or law enforcement as to the identity of the person
42 who committed the crime, misinformation provided to law
43 enforcement as to the identity of the person who committed the crime

1 or some other mistake on the part of a witness or law enforcement as
2 to the identity of the person who committed the crime. "Mistaken
3 identity" shall not include any situation in which an arrestee
4 intentionally provides false information to law enforcement officials in
5 an attempt to conceal such person's identity.

6 (b) (1) When a petition for expungement is filed pursuant to
7 subsection (a)(1), the court shall set a date for hearing on such petition
8 and shall cause notice of such hearing to be given to the prosecuting
9 attorney and the arresting law enforcement agency. Any person who
10 may have relevant information about the petitioner may testify at the
11 hearing. The court may inquire into the background of the petitioner.

12 (2) When a petition for expungement is filed pursuant to
13 subsection (a)(1) or (a)(2), the official court file shall be separated
14 from the other records of the court, and shall be disclosed only to a
15 judge of the court and members of the staff of the court designated by
16 a judge of the district court, the prosecuting attorney, the arresting
17 law enforcement agency, or any other person when authorized by a
18 court order, subject to any conditions imposed by the order.

19 (3) (A) Except as otherwise provided by law, a petition for
20 expungement pursuant to subsection (a)(1) shall be accompanied by a
21 docket fee in the amount of \$176. Except as provided further, the
22 docket fee established in this section shall be the only fee collected or
23 moneys in the nature of a fee collected for the docket fee. Such fee
24 shall only be established by an act of the legislature and no other
25 authority is established by law or otherwise to collect a fee. On and
26 after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme
27 court may impose an additional charge, not to exceed \$19 per docket
28 fee, to fund the costs of non-judicial personnel.

29 (B) No surcharge or fee shall be imposed to any person filing a
30 petition pursuant to subsection (a)(1), who was arrested as a result of
31 being a victim of identity theft under K.S.A. 21-4018, prior to its
32 repeal, or K.S.A. 2016 Supp. 21-6107(a), and amendments thereto, or
33 who has had criminal charges dismissed because a court has found
34 that there was no probable cause for the arrest, the petitioner was
35 found not guilty in court proceedings or the charges have been
36 dismissed.

37 (4) The petition filed pursuant to subsection (a)(1) or (a)(2) shall
38 state:

- 39 (A) The petitioner's full name;
40 (B) the full name of the petitioner at the time of arrest, if different
41 than the petitioner's current name;
42 (C) the petitioner's sex, race and date of birth;
43 (D) the crime for which the petitioner was arrested;

1 (E) the date of the petitioner's arrest; and

2 (F) the identity of the arresting law enforcement agency.

3 (c) At the hearing on a petition for expungement pursuant to
4 subsection (a)(1), the court shall order the arrest record and
5 subsequent court proceedings, if any, expunged upon finding: (1) The
6 arrest occurred because of mistaken identity;

7 (2) a court has found that there was no probable cause for the
8 arrest;

9 (3) the petitioner was found not guilty in court proceedings; or

10 (4) the expungement would be in the best interests of justice and:
11 (A) Charges have been dismissed; or (B) no charges have been or are
12 likely to be filed.

13 (d) (1) When the court has ordered expungement of an arrest
14 record and subsequent court proceedings, if any, on a petition for
15 expungement pursuant to subsection (a)(1), the order shall state the
16 information required to be stated in the petition and shall state the
17 grounds for expungement under subsection (c). The clerk of the court
18 shall send a certified copy of the order to the Kansas bureau of
19 investigation which shall notify the federal bureau of investigation, the
20 secretary of corrections and any other criminal justice agency which
21 may have a record of the arrest. If the case was appealed from
22 municipal court, the clerk of the district court shall send a certified
23 copy of the order of expungement to the municipal court. The
24 municipal court shall order the case expunged once the certified copy
25 of the order of expungement is received. If an order of expungement is
26 entered, the petitioner pursuant to subsection (a)(1) shall be treated as
27 not having been arrested.

28 (2) When the court has ordered expungement of arrest records on
29 a petition for expungement pursuant to subsection (a)(2), the order
30 shall state the information required to be stated in the petition and
31 shall state the grounds for expungement under subsection (a)(2). The
32 order shall also direct the Kansas bureau of investigation to purge the
33 arrest information from the criminal justice information system
34 central repository and all applicable state and federal databases. The
35 clerk of the court shall send a certified copy of the order to the Kansas
36 bureau of investigation, which shall carry out the order and shall
37 notify the federal bureau of investigation, the secretary of corrections
38 and any other criminal justice agency that may have a record of the
39 arrest. If an order of expungement is entered, the person eligible for
40 mandatory expungement pursuant to subsection (a)(2) shall be treated
41 as not having been arrested.

42 (e) If the ground for expungement is as provided in subsection (c)
43 (4), the court shall determine whether, in the interests of public

1 welfare, the records should be available for any of the following
2 purposes:

3 (1) In any application for employment as a detective with a
4 private detective agency, as defined in K.S.A. 75-7b01, and
5 amendments thereto; as security personnel with a private patrol
6 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or
7 with an institution, as defined in K.S.A. 76-12a01, and amendments
8 thereto, of the Kansas department for aging and disability services;

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

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

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

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

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

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

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

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

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

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

41 (g) Subject to any disclosures required under subsection (e), in
42 any application for employment, license or other civil right or
43 privilege, or any appearance as a witness, a person whose arrest

1 records have been expunged as provided in this section may state that
2 such person has never been arrested.

3 (h) Whenever a person's arrest records have been expunged as
4 provided in this section, the custodian of the records of arrest,
5 incarceration due to arrest or court proceedings related to the arrest,
6 shall not disclose the arrest or any information related to the arrest,
7 except as directed by the order of expungement or when requested by
8 the person whose arrest record was expunged.

9 (i) The docket fee collected at the time the petition for
10 expungement is filed pursuant to subsection (a)(1) shall be disbursed
11 in accordance with K.S.A. 20-362, and amendments thereto.

12 Sec. 10. K.S.A. 2016 Supp. 22-3717, as amended by section 10 of
13 2017 Senate Bill No. 112, is hereby amended to read as follows: 22-
14 3717. (a) Except as otherwise provided by this section; K.S.A. 1993
15 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through 21-
16 4638 and 21-4642, prior to their repeal; K.S.A. 2016 Supp. 21-6617,
17 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments
18 thereto; and K.S.A. 8-1567, and amendments thereto; an inmate,
19 including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its
20 repeal, or K.S.A. 2016 Supp. 21-6707, and amendments thereto, shall
21 be eligible for parole after serving the entire minimum sentence
22 imposed by the court, less good time credits.

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

26 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior
27 to their repeal, and K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and
28 21-6625, and amendments thereto, an inmate sentenced to
29 imprisonment for the crime of: (A) Capital murder committed on or
30 after July 1, 1994, shall be eligible for parole after serving 25 years of
31 confinement, without deduction of any good time credits; (B) murder
32 in the first degree based upon a finding of premeditated murder
33 committed on or after July 1, 1994, but prior to July 1, 2014, shall be
34 eligible for parole after serving 25 years of confinement, without
35 deduction of any good time credits; and (C) murder in the first degree
36 as described in K.S.A. 2016 Supp. 21-5402(a)(2), and amendments
37 thereto, committed on or after July 1, 2014, shall be eligible for parole
38 after serving 25 years of confinement, without deduction of any good
39 time credits.

40 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
41 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
42 21-4638, prior to their repeal, and K.S.A. 2016 Supp. 21-6620, 21-
43 6623, 21-6624 and 21-6625, and amendments thereto, an inmate

1 sentenced to imprisonment for an off-grid offense committed on or
2 after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole
3 after serving 15 years of confinement, without deduction of any good
4 time credits and an inmate sentenced to imprisonment for an off-grid
5 offense committed on or after July 1, 1999, shall be eligible for parole
6 after serving 20 years of confinement without deduction of any good
7 time credits.

8 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
9 repeal, an inmate sentenced for a class A felony committed before July
10 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618,
11 prior to its repeal, or K.S.A. 2016 Supp. 21-6707, and amendments
12 thereto, shall be eligible for parole after serving 15 years of
13 confinement, without deduction of any good time credits.

14 (5) An inmate sentenced to imprisonment for a violation of K.S.A.
15 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but
16 prior to July 1, 1999, shall be eligible for parole after serving 10 years
17 of confinement without deduction of any good time credits.

18 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
19 4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and
20 amendments thereto, committed on or after July 1, 2006, shall be
21 eligible for parole after serving the mandatory term of imprisonment
22 without deduction of any good time credits.

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

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

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

33 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A.
34 21-4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and
35 amendments thereto, for crimes committed on or after July 1, 2006,
36 the inmate shall be eligible for parole after serving the mandatory
37 term of imprisonment.

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

43 (A) Except as provided in subparagraphs (D) and (E), persons

1 sentenced for nondrug severity levels 1 through 4 crimes, drug
2 severity levels 1 and 2 crimes committed on or after July 1, 1993, but
3 prior to July 1, 2012, and drug severity levels 1, 2 and 3 crimes
4 committed on or after July 1, 2012, must serve 36 months on
5 postrelease supervision.

6 (B) Except as provided in subparagraphs (D) and (E), persons
7 sentenced for nondrug severity levels 5 and 6 crimes, drug severity
8 level 3 crimes committed on or after July 1, 1993, but prior to July 1,
9 2012, and drug severity level 4 crimes committed on or after July 1,
10 2012, must serve 24 months on postrelease supervision.

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

16 (D) Persons sentenced to a term of imprisonment that includes a
17 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
18 amendments thereto, committed on or after July 1, 1993, but prior to
19 July 1, 2006, a sexually motivated crime in which the offender has
20 been ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and
21 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to
22 its repeal, or K.S.A. 2016 Supp. 21-5509, and amendments thereto, or
23 unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A.
24 2016 Supp. 21-5512, and amendments thereto, shall serve the period of
25 postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B)
26 or (d)(1)(C), plus the amount of good time and program credit earned
27 and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A.
28 2016 Supp. 21-6821, and amendments thereto, on postrelease
29 supervision.

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

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

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

43 (a) Written briefs or oral arguments submitted by either the

1 defendant or the state;

2 (b) any evidence received during the proceeding;

3 (c) the presentence report, the victim's impact statement and any
4 psychological evaluation as ordered by the court pursuant to K.S.A.
5 21-4714(e), prior to its repeal, or K.S.A. 2016 Supp. 21-6813(e), and
6 amendments thereto; and

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

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

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

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

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

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

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

41 (F) In cases where sentences for crimes from more than one
42 severity level have been imposed, the offender shall serve the longest
43 period of postrelease supervision as provided by this section available

1 for any crime upon which sentence was imposed irrespective of the
2 severity level of the crime. Supervision periods will not aggregate.

3 (G) (i) Except as provided in subsection (u), persons sentenced to
4 imprisonment for a sexually violent crime committed on or after July
5 1, 2006, when the offender was 18 years of age or older, and who are
6 released from prison, shall be released to a mandatory period of
7 postrelease supervision for the duration of the person's natural life.

8 (ii) Persons sentenced to imprisonment for a sexually violent
9 crime committed on or after the effective date of this act, when the
10 offender was under 18 years of age, and who are released from prison,
11 shall be released to a mandatory period of postrelease supervision for
12 60 months, plus the amount of good time and program credit earned
13 and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A.
14 2016 Supp. 21-6821, and amendments thereto.

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

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

23 (4) Offenders whose crime of conviction was committed on or
24 after July 1, 2013, and whose probation, assignment to a community
25 correctional services program, suspension of sentence or nonprison
26 sanction is revoked pursuant to K.S.A. 22-3716(c), and amendments
27 thereto, or whose underlying prison term expires while serving a
28 sanction pursuant to K.S.A. 22-3716(c)(1)(C) or (c)(1)(D), and
29 amendments thereto, shall serve a period of postrelease supervision
30 upon the completion of the underlying prison term.

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

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

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

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

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

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

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

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

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

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

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

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

16 (L) *internet trading in child pornography, as defined in section 3(a)*
17 *of 2017 House Substitute for Senate Bill No. 40, and amendments thereto;*

18 (M) *aggravated internet trading in child pornography, as defined in*
19 *section 3(b) of 2017 House Substitute for Senate Bill No. 40, and*
20 *amendments thereto;*

21 (N) commercial sexual exploitation of a child, as defined in K.S.A.
22 2016 Supp. 21-6422, and amendments thereto; or

23 ~~(M)~~(O) an attempt, conspiracy or criminal solicitation, as defined
24 in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A.
25 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
26 sexually violent crime as defined in this section.

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

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

37 (f) If a person is sentenced to prison for a crime committed on or
38 after July 1, 1993, while on probation, parole, conditional release or in
39 a community corrections program, for a crime committed prior to
40 July 1, 1993, and the person is not eligible for retroactive application
41 of the sentencing guidelines and amendments thereto pursuant to
42 K.S.A. 21-4724, prior to its repeal, the new sentence shall not be
43 aggregated with the old sentence, but shall begin when the person is

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

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

32 (h) The prisoner review board shall hold a parole hearing at least
33 the month prior to the month an inmate will be eligible for parole
34 under subsections (a), (b) and (c). At least one month preceding the
35 parole hearing, the county or district attorney of the county where the
36 inmate was convicted shall give written notice of the time and place of
37 the public comment sessions for the inmate to any victim of the
38 inmate's crime who is alive and whose address is known to the county
39 or district attorney or, if the victim is deceased, to the victim's family if
40 the family's address is known to the county or district attorney. Except
41 as otherwise provided, failure to notify pursuant to this section shall
42 not be a reason to postpone a parole hearing. In the case of any inmate
43 convicted of an off-grid felony or a class A felony, the secretary of

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

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

1 the secretary.

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

1 for its findings.

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

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

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

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

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

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

1 supervision, the board:

2 (1) Unless it finds compelling circumstances which would render
3 a plan of payment unworkable, shall order as a condition of parole or
4 postrelease supervision that the parolee or the person on postrelease
5 supervision pay any transportation expenses resulting from returning
6 the parolee or the person on postrelease supervision to this state to
7 answer criminal charges or a warrant for a violation of a condition of
8 probation, assignment to a community correctional services program,
9 parole, conditional release or postrelease supervision;

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

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

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

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

39 (6) shall order that the parolee or person on postrelease
40 supervision agree in writing to be subject to searches of the person
41 and the person's effects, vehicle, residence and property by a parole
42 officer or a department of corrections enforcement, apprehension and
43 investigation officer, at any time of the day or night, with or without a

1 search warrant and with or without cause. Nothing in this subsection
2 shall be construed to authorize such officers to conduct arbitrary or
3 capricious searches or searches for the sole purpose of harassment;
4 and

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

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

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

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

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

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

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

41 (t) For offenders sentenced prior to July 1, 2014, who are eligible
42 for modification of their postrelease supervision obligation, the
43 department of corrections shall modify the period of postrelease

- 1 supervision as provided for by this section:
- 2 (1) On or before September 1, 2013, for offenders convicted of:
- 3 (A) Severity levels 9 and 10 crimes on the sentencing guidelines
- 4 grid for nondrug crimes;
- 5 (B) severity level 4 crimes on the sentencing guidelines grid for
- 6 drug crimes committed prior to July 1, 2012; and
- 7 (C) severity level 5 crimes on the sentencing guidelines grid for
- 8 drug crimes committed on and after July 1, 2012;
- 9 (2) on or before November 1, 2013, for offenders convicted of:
- 10 (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines
- 11 grid for nondrug crimes;
- 12 (B) level 3 crimes on the sentencing guidelines grid for drug
- 13 crimes committed prior to July 1, 2012; and
- 14 (C) level 4 crimes on the sentencing guidelines grid for drug
- 15 crimes committed on or after July 1, 2012; and
- 16 (3) on or before January 1, 2014, for offenders convicted of:
- 17 (A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing
- 18 guidelines grid for nondrug crimes;
- 19 (B) severity levels 1 and 2 crimes on the sentencing guidelines
- 20 grid for drug crimes committed at any time; and
- 21 (C) severity level 3 crimes on the sentencing guidelines grid for
- 22 drug crimes committed on or after July 1, 2012.
- 23 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
- 24 4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and
- 25 amendments thereto, for crimes committed on or after July 1, 2006,
- 26 shall be placed on parole for life and shall not be discharged from
- 27 supervision by the prisoner review board. When the board orders the
- 28 parole of an inmate pursuant to this subsection, the board shall order
- 29 as a condition of parole that the inmate be electronically monitored for
- 30 the duration of the inmate's natural life.
- 31 (v) Whenever the prisoner review board orders a person to be
- 32 electronically monitored pursuant to this section, or the court orders a
- 33 person to be electronically monitored pursuant to K.S.A. 2016 Supp.
- 34 21-6604(r), and amendments thereto, the board shall order the person
- 35 to reimburse the state for all or part of the cost of such monitoring. In
- 36 determining the amount and method of payment of such sum, the
- 37 board shall take account of the financial resources of the person and
- 38 the nature of the burden that the payment of such sum will impose.
- 39 (w) (1) On and after July 1, 2012, for any inmate who is a sex
- 40 offender, as defined in K.S.A. 22-4902, and amendments thereto,
- 41 whenever the prisoner review board orders the parole of such inmate
- 42 or establishes conditions for such inmate placed on postrelease
- 43 supervision, such inmate shall agree in writing to not possess

1 **pornographic materials.**

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

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

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

13 Sec. 11. K.S.A. 2016 Supp. 38-2312, as amended by section 23 of
14 2017 House Substitute for Senate Bill No. 40, is hereby amended to
15 read as follows: 38-2312. (a) Except as provided in subsections (b) and
16 (c), any records or files specified in this code concerning a juvenile
17 may be expunged upon application to a judge of the court of the
18 county in which the records or files are maintained. The application
19 for expungement may be made by the juvenile, if 18 years of age or
20 older or, if the juvenile is less than 18 years of age, by the juvenile's
21 parent or next friend.

22 (b) There shall be no expungement of records or files concerning
23 acts committed by a juvenile which, if committed by an adult, would
24 constitute a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A.
25 2016 Supp. 21-5402, and amendments thereto, murder in the first
26 degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2016 Supp. 21-
27 5403, and amendments thereto, murder in the second degree; K.S.A.
28 21-3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and
29 amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior
30 to its repeal, or K.S.A. 2016 Supp. 21-5405, and amendments thereto,
31 involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or
32 K.S.A. 2016 Supp. 21-5401, and amendments thereto, capital murder;
33 K.S.A. 21-3442, prior to its repeal, or K.S.A. 2016 Supp. 21-5405(a)(3),
34 and amendments thereto, involuntary manslaughter while driving
35 under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its
36 repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto, rape;
37 K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a),
38 and amendments thereto, indecent liberties with a child; K.S.A. 21-
39 3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and
40 amendments thereto, aggravated indecent liberties with a child;
41 K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b),
42 and amendments thereto, aggravated criminal sodomy; K.S.A. 21-
43 3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and

1 amendments thereto, indecent solicitation of a child; K.S.A. 21-3511,
2 prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments
3 thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516,
4 prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments
5 thereto, sexual exploitation of a child; section 3(a) of 2017 House
6 Substitute for Senate Bill No. 40, and amendments thereto, internet
7 trading in child pornography; section 3(b) of 2017 House Substitute for
8 Senate Bill No. 40, and amendments thereto, aggravated internet
9 trading in child pornography; K.S.A. 21-3603, prior to its repeal, or
10 K.S.A. 2016 Supp. 21-5604(b), and amendments thereto, aggravated
11 incest; K.S.A. 21-3608, prior to its repeal, or K.S.A. 2016 Supp. 21-
12 5601(a), and amendments thereto, endangering a child; K.S.A. 21-
13 3609, prior to its repeal, or K.S.A. 2016 Supp. 21-5602, and
14 amendments thereto, abuse of a child; or which would constitute an
15 attempt to commit a violation of any of the offenses specified in this
16 subsection.

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

23 (d) When a petition for expungement is filed, the court shall set a
24 date for a hearing on the petition and shall give notice thereof to the
25 county or district attorney. The petition shall state: (1) The juvenile's
26 full name; (2) the full name of the juvenile as reflected in the court
27 record, if different than (1); (3) the juvenile's sex and date of birth; (4)
28 the offense for which the juvenile was adjudicated; (5) the date of the
29 trial; and (6) the identity of the trial court. Except as otherwise
30 provided by law, a petition for expungement shall be accompanied by
31 a docket fee in the amount of \$176. On and after July 1, ~~2015~~ 2017,
32 through June 30, ~~2017~~ 2019, the supreme court may impose a charge,
33 not to exceed \$19 per case, to fund the costs of non-judicial personnel.
34 All petitions for expungement shall be docketed in the original action.
35 Any person who may have relevant information about the petitioner
36 may testify at the hearing. The court may inquire into the background
37 of the petitioner.

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

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

42 (ii) one year has elapsed since the final discharge for an
43 adjudication concerning acts committed by a juvenile which, if

1 committed by an adult, would constitute a violation of K.S.A. 2016
2 Supp. 21-6419, and amendments thereto; or

3 (iii) the juvenile is a victim of human trafficking, aggravated
4 human trafficking or commercial sexual exploitation of a child, the
5 adjudication concerned acts committed by the juvenile as a result of
6 such victimization, including, but not limited to, acts which, if
7 committed by an adult, would constitute a violation of K.S.A. 2016
8 Supp. 21-6203 or 21-6419, and amendments thereto, and the hearing
9 on expungement occurred on or after the date of final discharge. The
10 provisions of this clause shall not allow an expungement of records or
11 files concerning acts described in subsection (b);

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

17 (C) the circumstances and behavior of the petitioner warrant
18 expungement.

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

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

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

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

41 (i) Nothing in this section shall be construed to prohibit the
42 maintenance of information relating to an offense after records or files
43 concerning the offense have been expunged if the information is kept

1 in a manner that does not enable identification of the juvenile.

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

5 (k) Whenever the records or files of any adjudication have been
6 expunged under the provisions of this section, the custodian of the
7 records or files of adjudication relating to that offense shall not
8 disclose the existence of such records or files, except when requested
9 by:

10 (1) The person whose record was expunged;

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

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

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

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

24 (6) the Kansas lottery, and the request is accompanied by a
25 statement that the request is being made to aid in determining
26 qualifications for employment with the Kansas lottery or for work in
27 sensitive areas within the Kansas lottery as deemed appropriate by the
28 executive director of the Kansas lottery;

29 (7) the governor or the Kansas racing commission, or a designee
30 of the commission, and the request is accompanied by a statement that
31 the request is being made to aid in determining qualifications for
32 executive director of the commission, for employment with the
33 commission, for work in sensitive areas in parimutuel racing as
34 deemed appropriate by the executive director of the commission or for
35 licensure, renewal of licensure or continued licensure by the
36 commission;

37 (8) the Kansas sentencing commission; or

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

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

42 (B) providing information or documentation to the federal
43 bureau of investigation, in connection with the national instant

1 criminal background check system, to determine a person's
2 qualification to possess a firearm.

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

5 Sec. 12. K.S.A. 2016 Supp. 74-7305, as amended by section 14 of
6 2017 House Substitute for Senate Bill No. 101, is hereby amended to
7 read as follows: 74-7305. (a) An application for compensation shall be
8 made in the manner and form prescribed by the board.

9 (b) Compensation may not be awarded unless an application has
10 been filed with the board within two years of the reporting of the
11 incident to law enforcement officials if the victim was less than 16
12 years of age and the injury or death is the result of any of the
13 following crimes: (1) Indecent liberties with a child as defined in
14 K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a),
15 and amendments thereto; (2) aggravated indecent liberties with a
16 child as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016
17 Supp. 21-5506(b), and amendments thereto; (3) aggravated criminal
18 sodomy as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A.
19 2016 Supp. 21-5504(b), and amendments thereto; (4) enticement of a
20 child as defined in K.S.A. 21-3509, prior to its repeal; (5) indecent
21 solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal,
22 or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto; (6)
23 aggravated indecent solicitation of a child as defined in K.S.A. 21-
24 3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and
25 amendments thereto; (7) sexual exploitation of a child as defined in
26 K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and
27 amendments thereto; (8) aggravated incest as defined in K.S.A. 21-
28 3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and
29 amendments thereto; (9) human trafficking as defined in K.S.A. 21-
30 3446, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(a), and
31 amendments thereto; (10) aggravated human trafficking as defined in
32 K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b),
33 and amendments thereto; or (11) commercial sexual exploitation of a
34 child as defined in K.S.A. 2016 Supp. 21-6422, and amendments
35 thereto. Compensation for mental health counseling may be awarded
36 if a claim is filed within two years of: (1) Testimony, to a claimant who
37 is, or will be, required to testify in a sexually violent predator
38 commitment, pursuant to article 29a of chapter 59 of the Kansas
39 Statutes Annotated, and amendments thereto, of an offender who
40 victimized the claimant or the victim on whose behalf the claim is
41 made; or (2) notification, to a claimant who is notified that DNA
42 testing of a sexual assault kit or other evidence has revealed a DNA
43 profile of a suspected offender who victimized the claimant or the

1 victim on whose behalf the claim is made, or is notified of the
2 identification of a suspected offender who victimized the claimant or
3 the victim on whose behalf the claim is made, whichever occurs later.
4 For all other incidents of criminally injurious conduct, compensation
5 may not be awarded unless the claim has been filed with the board
6 within two years after the injury or death upon which the claim is
7 based. Compensation may not be awarded to a claimant who was the
8 offender or an accomplice of the offender and may not be awarded to
9 another person if the award would unjustly benefit the offender or
10 accomplice.

11 (c) Compensation otherwise payable to a claimant shall be
12 reduced or denied, to the extent, if any that the:

13 (1) Economic loss upon which the claimant's claim is based is
14 recouped from other persons, including collateral sources;

15 (2) board deems reasonable because of the contributory
16 misconduct of the claimant or of a victim through whom the claimant
17 claims; or

18 (3) board deems reasonable, because the victim was likely
19 engaging in, or attempting to engage in, unlawful activity at the time
20 of the crime upon which the claim for compensation is based. This
21 subsection shall not be construed to reduce or deny compensation to a
22 victim of domestic abuse or sexual assault.

23 (d) Compensation may be awarded only if the board finds that
24 unless the claimant is awarded compensation the claimant will suffer
25 financial stress as the result of economic loss otherwise reparable. A
26 claimant suffers financial stress only if the claimant cannot maintain
27 the claimant's customary level of health, safety and education for self
28 and dependents without undue financial hardship. In making its
29 determination of financial stress, the board shall consider all relevant
30 factors, including:

31 (1) The number of claimant's dependents;

32 (2) the usual living expenses of the claimant and the claimant's
33 family;

34 (3) the special needs of the claimant and the claimant's
35 dependents;

36 (4) the claimant's income and potential earning capacity; and

37 (5) the claimant's resources.

38 (e) Compensation may not be awarded unless the criminally
39 injurious conduct resulting in injury or death was reported to a law
40 enforcement officer within 72 hours after its occurrence or the board
41 finds there was good cause for the failure to report within that time.

42 (f) The board, upon finding that the claimant or victim has not
43 fully cooperated with appropriate law enforcement agencies, may

1 deny, withdraw or reduce an award of compensation.

2 (g) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or
3 K.S.A. 2016 Supp. 21-5604, and amendments thereto, or cases of sex
4 offenses established in article 35 of chapter 21, of the Kansas Statutes
5 Annotated, prior to their repeal, or article 55 of chapter 21 of the
6 Kansas Statutes Annotated, and amendments thereto, K.S.A. 2016
7 Supp. 21-6419 through 21-6422, and amendments thereto, or human
8 trafficking or aggravated human trafficking, as defined in K.S.A. 21-
9 3446 or 21-3447, prior to their repeal, or K.S.A. 2016 Supp. 21-5426,
10 and amendments thereto, compensation may not be awarded if the
11 economic loss is less than \$100.

12 (h) Compensation for work loss, replacement services loss,
13 dependent's economic loss and dependent's replacement service loss
14 may not exceed \$400 per week or actual loss, whichever is less.

15 (i) Compensation payable to a victim and to all other claimants
16 sustaining economic loss because of injury to or death of that victim
17 may not exceed \$25,000 in the aggregate.

18 (j) *Nothing in subsections (c)(2), (c)(3), (e) and (f) shall be construed*
19 *to reduce or deny compensation to a victim of human trafficking or*
20 *aggravated human trafficking, as defined in K.S.A. 2016 Supp. 21-5426,*
21 *and amendments thereto, or commercial sexual exploitation of a child, as*
22 *defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto, who was*
23 *18 years of age or younger at the time the crime was committed and is*
24 *otherwise qualified for compensation.*

25 **Sec. 13.** K.S.A. 2016 Supp. 8-135, as amended by section 1 of 2017
26 Senate Bill No. 36, 8-135, as amended by section 1 of 2017 Senate Bill
27 No. 89, 12-4112a, 12-4117, 12-4117b, 12-4120, as amended by section 5
28 of 2017 House Substitute for Senate Bill No. 40, 12-4120, as amended
29 by section 7 of 2017 Senate Bill No. 89, 12-4516, 12-4516e, 21-6614, as
30 amended by section 15 of 2017 House Substitute for Senate Bill No. 40,
31 21-6614, as amended by section 5 of 2017 House Bill No. 2041, 21-
32 6614, as amended by section 3 of 2017 House Bill No. 2085, 22-2410, as
33 amended by section 8 of 2017 Senate Bill No. 112, 22-2410, as amended
34 by section 6 of 2017 House Bill No. 2041, 22-3717, as amended by
35 section 20 of 2017 House Substitute for Senate Bill No. 40, 22-3717, as
36 amended by section 10 of 2017 Senate Bill No. 112, 22-4903, 22-4903a,
37 38-2312, as amended by section 23 of 2017 House Substitute for Senate
38 Bill No. 40, 38-2312, as amended by section 15 of 2017 House Bill No.
39 2041, 65-4202, as amended by section 3 of 2017 House Bill No. 2025,
40 65-4202, as amended by section 22 of 2017 Senate Substitute for House
41 Bill No. 2055, 65-6111, 65-6111a, 74-7305, as amended by section 24 of
42 2017 House Substitute for Senate Bill No. 40, and 74-7305, as amended
43 by section 14 of 2017 House Substitute for Senate Bill No. 101, are

1 **hereby repealed.**

2 ~~Sec. 7.~~ **14.** This act shall take effect and be in force from and after its
3 publication in the statute book.