

SENATE BILL No. 227

By Committee on Federal and State Affairs

3-14

1 AN ACT concerning human trafficking; relating to victims of human
2 trafficking, aggravated human trafficking or commercial sexual
3 exploitation of a child; Kansas criminal code; compulsion defense;
4 expungement; Kansas offender registration act; exemption from
5 registration; termination of registration; revised Kansas juvenile justice
6 code; expungement of records or files; amending K.S.A. 2018 Supp.
7 21-5206, 21-6614, 22-4902, 22-4908 and 38-2312 and repealing the
8 existing sections.
9

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

11 Section 1. K.S.A. 2018 Supp. 21-5206 is hereby amended to read as
12 follows: 21-5206. (a) (1) A person is not guilty of a crime other than
13 murder or voluntary manslaughter by reason of conduct ~~which~~ that such
14 person performs under the compulsion or threat of the imminent infliction
15 of death or great bodily harm, if such person reasonably believes that death
16 or great bodily harm will be inflicted upon such person or upon such
17 person's spouse, parent, child, brother or sister if such person does not
18 perform such conduct.

19 (2) *A person is not guilty of a crime other than murder or voluntary*
20 *manslaughter by reason of conduct that such person is forced, coerced or*
21 *deceived into performing as a direct result of such person's status as a*
22 *victim of human trafficking, aggravated human trafficking or commercial*
23 *sexual exploitation of a child.*

24 (A) *The person shall be required to prove such person's status as a*
25 *victim at the time of such conduct by a preponderance of the evidence. An*
26 *official determination or documentation shall not be required to assert the*
27 *defense, but an official determination or documentation from a federal,*
28 *state, local or tribal government agency that indicates the defendant was a*
29 *victim at the time of such conduct shall create a rebuttable presumption*
30 *that such conduct was a direct result of being a victim.*

31 (B) *As used in this subsection, "coerced" includes, but is not limited*
32 *to, the following: Causing or threatening to cause injury to any person;*
33 *physically restraining or threatening to physically restrain another*
34 *person; abusing or threatening to abuse the law or legal process;*
35 *threatening to withhold food, lodging or clothing; threatening to or*
36 *destroying, concealing, removing, confiscating or possessing any actual or*

1 *purported government identification document of another person; or any*
2 *other scheme, plan or pattern intended to cause a person to believe that*
3 *failure to perform an act would result in bodily harm or physical restraint*
4 *against any person.*

5 (C) *At the request of the person asserting the defense on the basis*
6 *provided in this paragraph, the court may, at any time, issue a protective*
7 *order concerning the protection of the confidentiality of such person.*

8 (b) The defense provided by this section is not available to a person
9 who *is 18 years of age or older and* intentionally or recklessly places such
10 person's self in a situation in which such person will be subjected to
11 compulsion or threat.

12 Sec. 2. K.S.A. 2018 Supp. 21-6614 is hereby amended to read as
13 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d),
14 (e) and (f), any person convicted in this state of a traffic infraction,
15 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
16 for crimes committed on or after July 1, 1993, any nongrid felony or
17 felony ranked in severity levels 6 through 10 of the nondrug grid, or for
18 crimes committed on or after July 1, 1993, but prior to July 1, 2012, any
19 felony ranked in severity level 4 of the drug grid, or for crimes committed
20 on or after July 1, 2012, any felony ranked in severity level 5 of the drug
21 grid may petition the convicting court for the expungement of such
22 conviction or related arrest records if three or more years have elapsed
23 since the person: (A) Satisfied the sentence imposed; or (B) was
24 discharged from probation, a community correctional services program,
25 parole, postrelease supervision, conditional release or a suspended
26 sentence.

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

32 (b) (1) *This subsection shall apply to a person:*

33 (A) *Convicted of any offense if the person alleges that the conviction*
34 *concerned acts committed by the person as a result of being a victim of*
35 *human trafficking, aggravated human trafficking or commercial sexual*
36 *exploitation of a child, including, but not limited to:*

37 (i) *Prostitution, as defined in K.S.A. 21-3512, prior to its repeal, or*
38 *selling sexual relations, as defined in K.S.A. 2018 Supp. 21-6419, and*
39 *amendments thereto;*

40 (ii) *promoting prostitution, as defined in K.S.A. 21-3513, prior to its*
41 *repeal, or promoting the sale of sexual relations, as defined in K.S.A. 2018*
42 *Supp. 21-6420, and amendments thereto;*

43 (iii) *patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its*

1 *repeal, or buying sexual relations, as defined in K.S.A. 2018 Supp. 21-*
 2 *6421, and amendments thereto;*

3 *(iv) human trafficking or aggravated human trafficking, as defined in*
 4 *K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 2018 Supp. 21-*
 5 *5426, and amendments thereto; or*

6 *(v) commercial sexual exploitation of a child, as defined in K.S.A.*
 7 *2018 Supp. 21-6422, and amendments thereto;*

8 *(B) convicted of an attempt, conspiracy or criminal solicitation to*
 9 *commit any of the offenses described in this paragraph as the underlying*
 10 *offense; or*

11 *(C) who entered into a diversion agreement in lieu of further criminal*
 12 *proceedings for any offense described in this paragraph.*

13 ~~(2) Any person convicted of prostitution, as defined in K.S.A. 21-~~
 14 ~~3512, prior to its repeal, convicted of a violation of K.S.A. 2018 Supp. 21-~~
 15 ~~6419, and amendments thereto, or who entered into a diversion agreement~~
 16 ~~in lieu of further criminal proceedings for such violation, A person~~
 17 ~~described in subsection (b)(1) may petition the convicting court for the~~
 18 ~~expungement of such the conviction or diversion agreement described in~~
 19 ~~subsection (b)(1) and related arrest records if:~~

20 ~~(1) one or more years have elapsed since at any time after the person~~
 21 ~~satisfied the sentence imposed or the terms of a diversion agreement or~~
 22 ~~was discharged from probation, a community correctional services~~
 23 ~~program, parole, postrelease supervision, conditional release or a~~
 24 ~~suspended sentence; and~~

25 ~~(2) if such person can prove by a preponderance of the evidence that~~
 26 ~~they were acting under coercion caused by the act of another at the time of~~
 27 ~~the offense for which the person was convicted or diverted.~~

28 ~~For purposes of this subsection, "coercion" means: Threats of harm or~~
 29 ~~physical restraint against any person; a scheme, plan or pattern intended to~~
 30 ~~cause a person to believe that failure to perform an act would result in~~
 31 ~~bodily harm or physical restraint against any person; or the abuse or~~
 32 ~~threatened abuse of the legal process.~~

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

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

2 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
3 repeal, or K.S.A. 2018 Supp. 21-5406, and amendments thereto, or as
4 prohibited by any law of another state which is in substantial conformity
5 with that statute;

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

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

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

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

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

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

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

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

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

39 (3) Except as provided further, the provisions of this subsection shall
40 apply to all violations committed on or after July 1, 2006. The provisions
41 of subsection (d)(2) shall not apply to violations committed on or after
42 July 1, 2014, but prior to July 1, 2015.

43 (e) *Except as provided in subsection (b)*, there shall be no

- 1 expungement of convictions for the following offenses or of convictions
2 for an attempt to commit any of the following offenses:
- 3 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
4 2018 Supp. 21-5503, and amendments thereto;
 - 5 (2) indecent liberties with a child or aggravated indecent liberties
6 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
7 or K.S.A. 2018 Supp. 21-5506, and amendments thereto;
 - 8 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
9 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and
10 amendments thereto;
 - 11 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
12 to its repeal, or K.S.A. 2018 Supp. 21-5504, and amendments thereto;
 - 13 (5) indecent solicitation of a child or aggravated indecent solicitation
14 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
15 or K.S.A. 2018 Supp. 21-5508, and amendments thereto;
 - 16 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
17 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;
 - 18 (7) internet trading in child pornography or aggravated internet
19 trading in child pornography, as defined in K.S.A. 2018 Supp. 21-5514,
20 and amendments thereto;
 - 21 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
22 repeal, or K.S.A. 2018 Supp. 21-5604, and amendments thereto;
 - 23 (9) endangering a child or aggravated endangering a child, as defined
24 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2018 Supp.
25 21-5601, and amendments thereto;
 - 26 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
27 or K.S.A. 2018 Supp. 21-5602, and amendments thereto;
 - 28 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
29 or K.S.A. 2018 Supp. 21-5401, and amendments thereto;
 - 30 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to
31 its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments thereto;
 - 32 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior
33 to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments thereto;
 - 34 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
35 its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;
 - 36 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
37 its repeal, or K.S.A. 2018 Supp. 21-5405, and amendments thereto;
 - 38 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
39 or K.S.A. 2018 Supp. 21-5505, and amendments thereto, when the victim
40 was less than 18 years of age at the time the crime was committed;
 - 41 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
42 its repeal, or K.S.A. 2018 Supp. 21-5505, and amendments thereto;
 - 43 (18) a violation of K.S.A. 8-2,144, and amendments thereto,

1 including any diversion for such violation; or

2 (19) any conviction for any offense in effect at any time prior to July
3 1, 2011, that is comparable to any offense as provided in this subsection.

4 (f) Notwithstanding any other law to the contrary, for any offender
5 who is required to register as provided in the Kansas offender registration
6 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
7 expungement of any conviction or any part of the offender's criminal
8 record while the offender is required to register as provided in the Kansas
9 offender registration act *except as provided in subsection (h)(2)*.

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

14 (A) Defendant's full name;

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

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

18 (D) crime for which the defendant was arrested, convicted or
19 diverted;

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

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

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

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

37 (h) (1) At the hearing on the petition *for expungement pursuant to*
38 *subsection (a), (c) or (d)*, the court shall order the petitioner's arrest record,
39 conviction or diversion expunged if the court finds that:

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

43 (⊖) (B) the circumstances and behavior of the petitioner warrant the

1 expungement; and

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

3 (2) (A) *At the hearing on the petition for expungement pursuant to*
4 *subsection (b), the court shall order the petitioner's arrest record,*
5 *conviction or diversion expunged if:*

6 (i) *The court finds that the petitioner is a victim of human trafficking,*
7 *aggravated human trafficking or commercial sexual exploitation of a*
8 *child; and*

9 (ii) *the petitioner can prove by a preponderance of the evidence that*
10 *they were acting under coercion caused by the act of another at the time of*
11 *the offense.*

12 (B) (i) *A finding by the court that the petitioner was a victim of*
13 *human trafficking, aggravated human trafficking or commercial sexual*
14 *exploitation of a child at the time of the offense shall be prima facie*
15 *evidence of coercion.*

16 (ii) *As used in this subsection, "coercion" means: Causing or*
17 *threatening to cause injury to any person; physically restraining or*
18 *threatening to physically restrain another person; abusing or threatening*
19 *to abuse the law or legal process; threatening to withhold food, lodging or*
20 *clothing; threatening to or destroying, concealing, removing, confiscating*
21 *or possessing any actual or purported government identification document*
22 *of another person; or any other scheme, plan or pattern intended to cause*
23 *a person to believe that failure to perform an act would result in bodily*
24 *harm or physical restraint against any person.*

25 (C) *Official documentation of a petitioner's status as a victim of*
26 *human trafficking, aggravated human trafficking or commercial sexual*
27 *exploitation of a child at the time of the offense shall create a rebuttable*
28 *presumption that the petitioner was a victim of human trafficking,*
29 *aggravated human trafficking or commercial sexual exploitation of a child*
30 *at the time of the offense. Official documentation shall not be required to*
31 *obtain relief under this subsection. As used in this subsection, "official*
32 *documentation" means:*

33 (i) *A copy of an official record, certification or eligibility letter from a*
34 *federal, state, tribal or local proceeding, including an approval notice or*
35 *an enforcement certification generated from a federal immigration*
36 *proceeding, that shows that the petitioner was a victim of human*
37 *trafficking, aggravated human trafficking or commercial sexual*
38 *exploitation of a child; or*

39 (ii) *an affidavit or sworn testimony from a member of the clergy, a*
40 *medical professional, a trained professional staff member of a victim*
41 *services organization, or other professional from whom the petitioner has*
42 *sought legal counsel or other assistance in addressing the trauma and*
43 *other challenges associated with being a victim of human trafficking,*

1 *aggravated human trafficking or commercial sexual exploitation of a*
2 *child.*

3 *(D) In considering whether the petitioner is a victim of human*
4 *trafficking, aggravated human trafficking or commercial sexual*
5 *exploitation of a child, the court may consider any other evidence the*
6 *court determines is of sufficient credibility and probative value, including*
7 *an affidavit or sworn testimony. Such evidence may include, but is not*
8 *limited to:*

9 *(i) Branding or other tattoos on the petitioner that identified the*
10 *juvenile as having a trafficker;*

11 *(ii) testimony, police interview notes, police reports or affidavits from*
12 *those with firsthand knowledge of the petitioner's involvement in the*
13 *trafficking or exploitation, such as solicitors of commercial sex, family*
14 *members, hotel workers and other individuals trafficked or exploited by*
15 *the same individual or group of individuals who trafficked or exploited the*
16 *petitioner;*

17 *(iii) financial records showing profits from the trafficking or*
18 *exploitation, such as records of hotel stays, employment at indoor venues*
19 *such as massage parlors, bottle clubs or strip clubs, or employment at an*
20 *escort service;*

21 *(iv) internet listings, print advertisements or business cards used to*
22 *promote the petitioner for trafficking or exploitation; or*

23 *(v) email, text or voicemail records between the petitioner, the*
24 *trafficker or solicitors of sex that reveal aspects of the trafficking or*
25 *exploitation, such as behavior patterns, meeting times, payments or*
26 *examples of the trafficker exerting coercion over the petitioner.*

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

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

43 *(2) the petitioner shall disclose that the arrest, conviction or diversion*

1 occurred if asked about previous arrests, convictions or diversions:

2 (A) In any application for licensure as a private detective, private
3 detective agency, certification as a firearms trainer pursuant to K.S.A.
4 2018 Supp. 75-7b21, and amendments thereto, or employment as a
5 detective with a private detective agency, as defined by K.S.A. 75-7b01,
6 and amendments thereto; as security personnel with a private patrol
7 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
8 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
9 the Kansas department for aging and disability services;

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

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

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

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

27 (F) upon application for a commercial driver's license under K.S.A.
28 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

39 (K) for applications received on and after July 1, 2006, to aid in
40 determining the petitioner's qualifications for a license to carry a concealed
41 weapon pursuant to the personal and family protection act, K.S.A. 2018
42 Supp. 75-7c01 et seq., and amendments thereto; or

43 (L) for applications received on and after July 1, 2017, to aid in

1 determining the petitioner's qualifications for a license to act as a bail
2 enforcement agent pursuant to K.S.A. 2018 Supp. 75-7e01 through 75-
3 7e09 and K.S.A. 2018 Supp. 50-6,141, and amendments thereto;

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

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

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

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

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

25 (2) Notwithstanding the provisions of subsection (k)(1), and except as
26 provided in K.S.A. 2018 Supp. 21-6304(a)(3)(A), and amendments
27 thereto, the expungement of a prior felony conviction does not relieve the
28 individual of complying with any state or federal law relating to the use,
29 shipment, transportation, receipt or possession of firearms by persons
30 previously convicted of a felony.

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

36 (1) The person whose record was expunged;

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

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

43 (4) the secretary for aging and disability services, or a designee of the

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

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

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

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

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

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

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

35 (11) the Kansas sentencing commission;

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

41 (13) the Kansas securities commissioner or a designee of the
42 commissioner, and the request is accompanied by a statement that the
43 request is being made in conjunction with an application for registration as

1 a broker-dealer, agent, investment adviser or investment adviser
2 representative by such agency and the application was submitted by the
3 person whose record has been expunged;

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

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

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

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

17 (B) act as a bail enforcement agent pursuant to K.S.A. 2018 Supp.
18 75-7e01 through 75-7e09 and K.S.A. 2018 Supp. 50-6,141, and
19 amendments thereto; or

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

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

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

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

29 Sec. 3. K.S.A. 2018 Supp. 22-4902 is hereby amended to read as
30 follows: 22-4902. As used in the Kansas offender registration act, unless
31 the context otherwise requires:

32 (a) "Offender" means:

33 (1) A sex offender;

34 (2) a violent offender;

35 (3) a drug offender;

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

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

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

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

43 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for

1 an act which if committed by an adult would constitute the commission of
2 a sexually violent crime, unless the court, on the record, finds that the act
3 involved non-forcible sexual conduct, the victim was at least 14 years of
4 age and the offender was not more than four years older than the victim;

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

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

8 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
9 K.S.A. 2018 Supp. 21-5511, and amendments thereto;

10 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
11 repeal, or K.S.A. 2018 Supp. 21-5504(a)(1) or (a)(2), and amendments
12 thereto;

13 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
14 repeal, or K.S.A. 2018 Supp. 21-6420, prior to its amendment by section
15 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

16 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
17 repeal, or K.S.A. 2018 Supp. 21-6421, prior to its amendment by section
18 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

19 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
20 to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments thereto;

21 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
22 to its repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto;

23 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
24 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
25 K.S.A. 2018 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
26 of an offense defined in this subsection; or

27 (7) has been convicted of an offense that is comparable to any crime
28 defined in this subsection, or any out-of-state conviction for an offense that
29 under the laws of this state would be an offense defined in this subsection.

30 (c) "Sexually violent crime" means:

31 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
32 2018 Supp. 21-5503, and amendments thereto;

33 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
34 to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;

35 (3) aggravated indecent liberties with a child, as defined in K.S.A.
36 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and
37 amendments thereto;

38 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
39 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and
40 amendments thereto;

41 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
42 to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;

43 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,

- 1 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments
2 thereto;
- 3 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
4 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and
5 amendments thereto;
- 6 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
7 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;
- 8 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
9 its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;
- 10 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
11 repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;
- 12 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
13 repeal, and K.S.A. 2018 Supp. 21-5509, and amendments thereto;
- 14 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
15 its repeal, or K.S.A. 2018 Supp. 21-5512, and amendments thereto;
- 16 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
17 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments
18 thereto, if committed in whole or in part for the purpose of the sexual
19 gratification of the defendant or another;
- 20 (14) commercial sexual exploitation of a child, as defined in K.S.A.
21 2018 Supp. 21-6422, and amendments thereto;
- 22 (15) promoting the sale of sexual relations, as defined in K.S.A. 2018
23 Supp. 21-6420, and amendments thereto;
- 24 (16) any conviction or adjudication for an offense that is comparable
25 to a sexually violent crime as defined in this subsection, or any out-of-state
26 conviction or adjudication for an offense that under the laws of this state
27 would be a sexually violent crime as defined in this subsection;
- 28 (17) an attempt, conspiracy or criminal solicitation, as defined in
29 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018
30 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
31 violent crime, as defined in this subsection; or
- 32 (18) any act which has been determined beyond a reasonable doubt to
33 have been sexually motivated, unless the court, on the record, finds that
34 the act involved non-forcible sexual conduct, the victim was at least 14
35 years of age and the offender was not more than four years older than the
36 victim. As used in this paragraph, "sexually motivated" means that one of
37 the purposes for which the defendant committed the crime was for the
38 purpose of the defendant's sexual gratification.
- 39 (d) "Sexually violent predator" means any person who, on or after
40 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
41 59-29a01 et seq., and amendments thereto.
- 42 (e) "Violent offender" includes any person who:
- 43 (1) On or after July 1, 1997, is convicted of any of the following

1 crimes:

2 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
3 or K.S.A. 2018 Supp. 21-5401, and amendments thereto;

4 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
5 its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments thereto;

6 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
7 to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments thereto;

8 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
9 repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;

10 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
11 its repeal, or K.S.A. 2018 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
12 amendments thereto. The provisions of this paragraph shall not apply to
13 violations of K.S.A. 2018 Supp. 21-5405(a)(3), and amendments thereto,
14 which occurred on or after July 1, 2011, through July 1, 2013;

15 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
16 K.S.A. 2018 Supp. 21-5408(a), and amendments thereto;

17 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
18 repeal, or K.S.A. 2018 Supp. 21-5408(b), and amendments thereto;

19 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its
20 repeal, or K.S.A. 2018 Supp. 21-5411, and amendments thereto, except by
21 a parent, and only when the victim is less than 18 years of age; or

22 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
23 to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, if
24 not committed in whole or in part for the purpose of the sexual
25 gratification of the defendant or another;

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

29 (3) has been convicted of an offense that is comparable to any crime
30 defined in this subsection, any out-of-state conviction for an offense that
31 under the laws of this state would be an offense defined in this subsection;
32 or

33 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
34 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
35 K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and amendments
36 thereto, of an offense defined in this subsection.

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

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

39 (A) Unlawful manufacture or attempting such of any controlled
40 substance or controlled substance analog, as defined in K.S.A. 65-4159,
41 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
42 K.S.A. 2018 Supp. 21-5703, and amendments thereto;

43 (B) possession of ephedrine, pseudoephedrine, red phosphorus,

1 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
2 ammonia or phenylpropanolamine, or their salts, isomers or salts of
3 isomers with intent to use the product to manufacture a controlled
4 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
5 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2018 Supp. 21-5709(a),
6 and amendments thereto;

7 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
8 36a05(a)(1), prior to its transfer, or K.S.A. 2018 Supp. 21-5705(a)(1), and
9 amendments thereto. The provisions of this paragraph shall not apply to
10 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)
11 which occurred on or after July 1, 2009, through April 15, 2010;

12 (2) has been convicted of an offense that is comparable to any crime
13 defined in this subsection, any out-of-state conviction for an offense that
14 under the laws of this state would be an offense defined in this subsection;
15 or

16 (3) is or has been convicted of an attempt, conspiracy or criminal
17 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
18 their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and
19 amendments thereto, of an offense defined in this subsection.

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

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

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

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

1 consecutive days.

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

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

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

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

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

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

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

26 (r) "Out-of-state" means: the District of Columbia; any federal,
27 military or tribal jurisdiction, including those within this state; any foreign
28 jurisdiction; or any state or territory within the United States, other than
29 this state.

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

32 (t) (1) Notwithstanding any other provision of this section, "offender"
33 shall not include any person who is:

34 (A) Convicted of unlawful transmission of a visual depiction of a
35 child, as defined in K.S.A. 2018 Supp. 21-5611(a), and amendments
36 thereto, aggravated unlawful transmission of a visual depiction of a child,
37 as defined in K.S.A. 2018 Supp. 21-5611(b), and amendments thereto, or
38 unlawful possession of a visual depiction of a child, as defined in K.S.A.
39 2018 Supp. 21-5610, and amendments thereto; or

40 (B) adjudicated as a juvenile offender for an act which if committed
41 by an adult would constitute the commission of a crime defined in
42 subsection (t)(1)(A).

43 (2) Notwithstanding any other provision of law, a court shall not

1 order any person to register under the Kansas offender registration act for
2 the offenses described in subsection (t)(1).

3 *(u) Notwithstanding any other provision of this section, a court shall*
4 *not order any person to register under the Kansas offender registration act*
5 *if such person is convicted of any crime or adjudicated as a juvenile*
6 *offender for any offense and the court, on the record, finds that:*

7 *(1) The person was less than 18 years of age at the time of the act;*

8 *(2) the person was a victim of human trafficking, as defined in K.S.A.*
9 *21-3446, prior to its repeal, or K.S.A. 2018 Supp. 21-5426(a), and*
10 *amendments thereto, aggravated human trafficking, as defined in K.S.A.*
11 *21-3447, prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and*
12 *amendments thereto, or commercial sexual exploitation of a child, as*
13 *defined in K.S.A. 2018 Supp. 21-6422, and amendments thereto, at the*
14 *time of the act; and*

15 *(3) the trafficker or trafficking ring used force, fraud or coercion, as*
16 *defined in K.S.A. 2018 Supp. 21-6614 or 38-2312, and amendments*
17 *thereto, to influence the person to commit the act.*

18 Sec. 4. K.S.A. 2018 Supp. 22-4908 is hereby amended to read as
19 follows: 22-4908. *(a) Except as provided in subsection (b), no person*
20 *required to register as an offender pursuant to the Kansas offender*
21 *registration act shall be granted an order relieving the offender of further*
22 *registration under this act. This section shall include any person with any*
23 *out-of-state conviction or adjudication for an offense that would require*
24 *registration under the laws of this state.*

25 *(b) A person required to register as an offender pursuant to the*
26 *Kansas offender registration act shall be granted an order relieving the*
27 *offender of further registration under this act if a court orders the offense*
28 *requiring registration expunged based on a finding pursuant to K.S.A.*
29 *2018 Supp. 21-6614(h)(2) or 38-2312(e)(2), and amendments thereto, that*
30 *the person committed the offense as a result of being a victim of human*
31 *trafficking, aggravated human trafficking or commercial sexual*
32 *exploitation of a child.*

33 Sec. 5. K.S.A. 2018 Supp. 38-2312 is hereby amended to read as
34 follows: 38-2312. *(a) (1) Except as provided in subsections (b) and (c),*
35 *any records or files specified in this code concerning a juvenile may be*
36 *expunged upon application to a judge of the court of the county in which*
37 *the records or files are maintained.*

38 *(2) Any records or files specified in this code concerning a juvenile*
39 *may be expunged upon application to a judge of the court of the county in*
40 *which the records or files are maintained if such application alleges that*
41 *the juvenile: (A) Is a victim of human trafficking, aggravated human*
42 *trafficking or commercial sexual exploitation of a child; and (B) was*
43 *acting under coercion caused by the act of another at the time of the*

1 *offense for which the juvenile was adjudicated.*

2 (3) The application for expungement may be made by the juvenile, if
3 18 years of age or older or, if the juvenile is less than 18 years of age, by
4 the juvenile's parent or next friend.

5 (b) *Except as provided in subsection (e)(2),* there shall be no
6 expungement of records or files concerning acts committed by a juvenile
7 which, if committed by an adult, would constitute a violation of K.S.A. 21-
8 3401, prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments
9 thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or
10 K.S.A. 2018 Supp. 21-5403, and amendments thereto, murder in the
11 second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 2018 Supp.
12 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-
13 3404, prior to its repeal, or K.S.A. 2018 Supp. 21-5405, and amendments
14 thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or
15 K.S.A. 2018 Supp. 21-5401, and amendments thereto, capital murder;
16 K.S.A. 21-3442, prior to its repeal, or K.S.A. 2018 Supp. 21-5405(a)(3) or
17 (a)(5), and amendments thereto, involuntary manslaughter while driving
18 under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal,
19 or K.S.A. 2018 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-
20 3503, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and
21 amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior
22 to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and amendments thereto,
23 aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its
24 repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto,
25 aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or K.S.A.
26 2018 Supp. 21-5508(a), and amendments thereto, indecent solicitation of a
27 child; K.S.A. 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-
28 5508(b), and amendments thereto, aggravated indecent solicitation of a
29 child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2018 Supp. 21-5510,
30 and amendments thereto, sexual exploitation of a child; K.S.A. 2018 Supp.
31 21-5514(a), and amendments thereto, internet trading in child
32 pornography; K.S.A. 2018 Supp. 21-5514(b), and amendments thereto,
33 aggravated internet trading in child pornography; K.S.A. 21-3603, prior to
34 its repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto,
35 aggravated incest; K.S.A. 21-3608, prior to its repeal, or K.S.A. 2018
36 Supp. 21-5601(a), and amendments thereto, endangering a child; K.S.A.
37 21-3609, prior to its repeal, or K.S.A. 2018 Supp. 21-5602, and
38 amendments thereto, abuse of a child; or which would constitute an
39 attempt to commit a violation of any of the offenses specified in this
40 subsection.

41 (c) Notwithstanding any other law to the contrary, for any offender
42 who is required to register as provided in the Kansas offender registration
43 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no

1 expungement of any conviction or any part of the offender's criminal
2 record while the offender is required to register as provided in the Kansas
3 offender registration act *except as provided in subsection (e)(2)*.

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

18 (e) (1) After a hearing on a petition for expungement pursuant to
19 subsection (a)(1), the court shall order the expungement of the records and
20 files if the court finds that:

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

23 (ii) one year has elapsed since the final discharge for an adjudication
24 concerning acts committed by a juvenile which, if committed by an adult,
25 would constitute a violation of K.S.A. 2018 Supp. 21-6419, and
26 amendments thereto; *or*

27 ~~(iii) the juvenile is a victim of human trafficking, aggravated human
28 trafficking or commercial sexual exploitation of a child, the adjudication
29 concerned acts committed by the juvenile as a result of such victimization,
30 including, but not limited to, acts which, if committed by an adult, would
31 constitute a violation of K.S.A. 2018 Supp. 21-6203 or 21-6419, and
32 amendments thereto, and the hearing on expungement occurred on or after
33 the date of final discharge. The provisions of this clause shall not allow an
34 expungement of records or files concerning acts described in subsection
35 (b);~~

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

41 (C) the circumstances and behavior of the petitioner warrant
42 expungement.

43 (2) (A) After a hearing on a petition for expungement pursuant to

1 subsection (a)(2), the court shall order the expungement of the records and
2 files if the court finds that:

3 (i) The juvenile is a victim of human trafficking, aggravated human
4 trafficking or commercial sexual exploitation of a child;

5 (ii) the juvenile was acting under coercion caused by the act of
6 another at the time of the offense for which the juvenile was adjudicated,
7 including, but not limited to, acts which, if committed by an adult, would
8 constitute a violation of K.S.A. 2018 Supp. 21-6203 or 21-6419, and
9 amendments thereto; and

10 (iii) the hearing on expungement occurred at any time on or after the
11 date of adjudication.

12 (B) (i) A finding by the court that the juvenile was a victim of human
13 trafficking, aggravated human trafficking or commercial sexual
14 exploitation of a child at the time of the offense shall be prima facie
15 evidence of coercion.

16 (ii) As used in this subsection, "coercion" means: Causing or
17 threatening to cause injury to any person; physically restraining or
18 threatening to physically restrain another person; abusing or threatening
19 to abuse the law or legal process; threatening to withhold food, lodging or
20 clothing; threatening to or destroying, concealing, removing, confiscating
21 or possessing any actual or purported government identification document
22 of another person; or any other scheme, plan or pattern intended to cause
23 a person to believe that failure to perform an act would result in bodily
24 harm or physical restraint against any person.

25 (C) Official documentation of a juvenile's status as a victim of human
26 trafficking, aggravated human trafficking or commercial sexual
27 exploitation of a child at the time of the offense shall create a rebuttable
28 presumption that the juvenile was a victim of human trafficking,
29 aggravated human trafficking or commercial sexual exploitation of a child
30 at the time of the offense. Official documentation shall not be required to
31 obtain relief under this subsection. As used in this subsection, "official
32 documentation" means:

33 (i) A copy of an official record, certification or eligibility letter from a
34 federal, state, tribal or local proceeding, including an approval notice or
35 an enforcement certification generated from a federal immigration
36 proceeding, that shows that the juvenile was a victim of human trafficking,
37 aggravated human trafficking or commercial sexual exploitation of a
38 child; or

39 (ii) an affidavit or sworn testimony from a member of the clergy, a
40 medical professional, a trained professional staff member of a victim
41 services organization, or other professional from whom the juvenile has
42 sought legal counsel or other assistance in addressing the trauma and
43 other challenges associated with being a victim of human trafficking,

1 *aggravated human trafficking or commercial sexual exploitation of a*
2 *child.*

3 *(D) In considering whether the juvenile is a victim of human*
4 *trafficking, aggravated human trafficking or commercial sexual*
5 *exploitation of a child, the court may consider any other evidence the*
6 *court determines is of sufficient credibility and probative value, including*
7 *an affidavit or sworn testimony. Such evidence may include, but is not*
8 *limited to:*

9 *(i) Branding or other tattoos on the juvenile that identified the*
10 *juvenile as having a trafficker;*

11 *(ii) testimony, police interview notes, police reports or affidavits from*
12 *those with firsthand knowledge of the juvenile's involvement in the*
13 *trafficking or exploitation, such as solicitors of commercial sex, family*
14 *members, hotel workers and other individuals trafficked or exploited by*
15 *the same individual or group of individuals who trafficked or exploited the*
16 *juvenile;*

17 *(iii) financial records showing profits from the trafficking or*
18 *exploitation, such as records of hotel stays, employment at indoor venues*
19 *such as massage parlors, bottle clubs or strip clubs, or employment at an*
20 *escort service;*

21 *(iv) internet listings, print advertisements or business cards used to*
22 *promote the juvenile for trafficking or exploitation; or*

23 *(v) email, text or voicemail records between the juvenile, the*
24 *trafficker or solicitors of sex that reveal aspects of the trafficking or*
25 *exploitation, such as behavior patterns, meeting times, payments or*
26 *examples of the trafficker exerting coercion over the juvenile.*

27 *(3) The court may require that all court costs, fees and restitution*
28 *shall be paid.*

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

40 *(g) A certified copy of any order made pursuant to subsection (a) or*
41 *(d) shall be sent to the Kansas bureau of investigation, which shall notify*
42 *every juvenile or criminal justice agency which may possess records or*
43 *files ordered to be expunged. If the agency fails to comply with the order*

1 within a reasonable time after its receipt, such agency may be adjudged in
2 contempt of court and punished accordingly.

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

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

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

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

16 (1) The person whose record was expunged;

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

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

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

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

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

42 (8) the Kansas sentencing commission; or

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

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

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

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

9 Sec. 6. K.S.A. 2018 Supp. 21-5206, 21-6614, 22-4902, 22-4908 and
10 38-2312 are hereby repealed.

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