

HOUSE BILL No. 2349

By Representatives Schreiber, Amyx, Ballard, Blew, Carmichael, Concannon, Curtis, Donohoe, Eplee, Featherston, Haskins, Haswood, Highberger, Hoye, V. Miller, Neighbor, Ohaebosim, Osman, Poskin, Probst, Robinson, S. Ruiz, Sawyer, Sawyer Clayton, Schlingensiepen, A. Smith, Stogsdill, Sutton, Vaughn, Wasinger, Winn, Woodard, Xu and Younger

2-8

1 AN ACT concerning crimes, punishment and criminal procedure;
2 abolishing the death penalty; creating the crime of aggravated murder;
3 requiring a sentence of imprisonment for life without the possibility of
4 parole therefor; clarifying laws related to sentences of imprisonment for
5 life without the possibility of parole; amending K.S.A. 38-2255, 38-
6 2271, 38-2303, 38-2312, 38-2365, 39-970, 39-2009, 65-5117, 72-2165
7 and 75-52,148 and K.S.A. 2022 Supp. 21-5301, 21-5402, 21-5419, 21-
8 6328, 21-6614, 21-6618, 21-6620, 21-6622, 21-6628, 21-6629, 21-
9 6806, 22-2512, 22-3717, 22-4902, 22-4906 and 23-3222 and repealing
10 the existing sections; also repealing K.S.A. 2022 Supp. 21-5401, 21-
11 6614i, 21-6617 and 21-6619.

12

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

14 New Section 1. (a) No person shall be sentenced to death for a crime
15 committed on or after July 1, 2023.

16 (b) Any person who is sentenced to death for a crime committed prior
17 to July 1, 2023, may be put to death pursuant to the provisions of article 40
18 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

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

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

22 (1) Intentional and premeditated killing of any person in the
23 commission of kidnapping, as defined in K.S.A. 2022 Supp. 21-5408, and
24 amendments thereto, or aggravating kidnapping, as defined in K.S.A. 2022
25 Supp. 21-5408(b), and amendments thereto, when the kidnapping or
26 aggravated kidnapping was committed with the intent to hold such person
27 for ransom;

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

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

1 employee of a state correctional institution, community correctional
2 institution or jail;

3 (4) intentional and premeditated killing of the victim of one of the
4 following crimes in the commission of, or subsequent to, such crime:
5 Rape, as defined in K.S.A. 2022 Supp. 21-5503, and amendments thereto,
6 criminal sodomy, as defined in K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4),
7 and amendments thereto, or aggravated criminal sodomy, as defined in
8 K.S.A. 2022 Supp. 21-5504(b), and amendments thereto, or any attempt
9 thereof, as defined in K.S.A. 2022 Supp. 21-5301, and amendments
10 thereto;

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

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

16 (7) intentional and premeditated killing of a child under the age of 14
17 in the commission of kidnapping, as defined in K.S.A. 2022 Supp. 21-
18 5408(a), and amendments thereto, or aggravated kidnapping, as defined in
19 K.S.A. 2022 Supp. 21-5408(b), and amendments thereto, when the
20 kidnapping or aggravated kidnapping was committed with intent to
21 commit a sex offense upon or with the child or with intent that the child
22 commit or submit to a sex offense.

23 (b) For purposes of this section, "sex offense" means rape, as defined
24 in K.S.A. 2022 Supp. 21-5503, and amendments thereto, aggravated
25 indecent liberties with a child, as defined in K.S.A. 2022 Supp. 21-
26 5506(b), and amendments thereto, aggravated criminal sodomy, as defined
27 in K.S.A. 2022 Supp. 21-5504(b), and amendments thereto, selling sexual
28 relations, as defined in K.S.A. 2022 Supp. 21-6419, and amendments
29 thereto, promoting the sale of sexual relations, as defined in K.S.A. 2022
30 Supp. 21-6420, and amendments thereto, or sexual exploitation of a child,
31 as defined in K.S.A. 2022 Supp. 21-5510, and amendments thereto.

32 (c) Notwithstanding K.S.A. 2022 Supp. 21-5109(b)(1) or (b)(2), and
33 amendments thereto, when the same conduct of a defendant may establish
34 the commission of aggravated murder and the commission of another
35 crime under the laws of this state, the defendant may be prosecuted and
36 sentenced for each of such crimes.

37 (d) Aggravated murder or attempt to commit aggravated murder is an
38 off-grid person felony.

39 (e) The provisions of K.S.A. 2022 Supp. 21-5301(c), and
40 amendments thereto, shall not apply to a violation of attempting to commit
41 the crime of aggravated murder pursuant to this section.

42 (f) This section shall be a part of and supplemental to the Kansas
43 criminal code.

1 New Sec. 3. (a) When it is provided by law that a person shall be
2 sentenced pursuant to this section, such person shall be sentenced to
3 imprisonment for life without the possibility of parole. A defendant who is
4 sentenced to imprisonment for life without the possibility of parole shall
5 spend the remainder of the defendant's natural life incarcerated and in the
6 custody of the secretary of corrections. A defendant who is sentenced to
7 imprisonment for life without the possibility of parole shall not be eligible
8 for commutation of sentence, parole, probation, assignment to a
9 community correctional services program, conditional release, postrelease
10 supervision, functional incapacitation release pursuant to K.S.A. 22-3728,
11 and amendments thereto, or suspension, modification or reduction of
12 sentence. Upon sentencing a defendant to imprisonment for life without
13 the possibility of parole, the court shall commit the defendant to the
14 custody of the secretary of corrections and the court shall state in the
15 sentencing order of the judgment form or journal entry, whichever is
16 delivered with the defendant to the correctional institution, that the
17 defendant has been sentenced to imprisonment for life without the
18 possibility of parole.

19 (b) This section shall be a part of and supplemental to the Kansas
20 criminal code.

21 Sec. 4. K.S.A. 2022 Supp. 21-5301 is hereby amended to read as
22 follows: 21-5301. (a) An attempt is any overt act toward the perpetration
23 of a crime done by a person who intends to commit such crime but fails in
24 the perpetration thereof or is prevented or intercepted in executing such
25 crime.

26 (b) It shall not be a defense to a charge of attempt that the
27 circumstances under which the act was performed or the means employed
28 or the act itself were such that the commission of the crime was not
29 possible.

30 (c) (1) An attempt to commit an off-grid felony shall be ranked at
31 nondrug severity level 1. An attempt to commit any other nondrug felony
32 shall be ranked on the nondrug scale at two severity levels below the
33 appropriate level for the underlying or completed crime. The lowest
34 severity level for an attempt to commit a nondrug felony shall be a severity
35 level 10.

36 (2) The provisions of this subsection shall not apply to a violation of
37 attempting to commit the crime of:

38 (A) Aggravated human trafficking, as defined in K.S.A. 2022 Supp.
39 21-5426(b), and amendments thereto, if the offender is 18 years of age or
40 older and the victim is less than 14 years of age;

41 (B) terrorism, as defined in K.S.A. 2022 Supp. 21-5421, and
42 amendments thereto;

43 (C) illegal use of weapons of mass destruction, as defined in K.S.A.

1 2022 Supp. 21-5422, and amendments thereto;

2 (D) rape, as defined in K.S.A. 2022 Supp. 21-5503(a)(3), and
3 amendments thereto, if the offender is 18 years of age or older;

4 (E) aggravated indecent liberties with a child, as defined in K.S.A.
5 2022 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18
6 years of age or older;

7 (F) aggravated criminal sodomy, as defined in K.S.A. 2022 Supp. 21-
8 5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of
9 age or older;

10 (G) commercial sexual exploitation of a child, as defined in K.S.A.
11 2022 Supp. 21-6422, and amendments thereto, if the offender is 18 years
12 of age or older and the victim is less than 14 years of age;

13 (H) sexual exploitation of a child, as defined in K.S.A. 2022 Supp.
14 21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years
15 of age or older and the child is less than 14 years of age;

16 (I) aggravated internet trading in child pornography, as defined in
17 K.S.A. 2022 Supp. 21-5514(b), and amendments thereto, if the offender is
18 18 years of age or older and the child is less than 14 years of age; or

19 (J) ~~capital murder, as defined in K.S.A. 2022 Supp. 21-~~
20 ~~540+aggravated murder, as defined in section 2,~~ and amendments thereto.

21 (d) (1) An attempt to commit a felony ~~which~~ *that* prescribes a
22 sentence on the drug grid shall reduce the prison term prescribed in the
23 drug grid block for an underlying or completed crime by six months.

24 (2) The provisions of this subsection shall not apply to a violation of
25 attempting to commit a violation of K.S.A. 2022 Supp. 21-5703, and
26 amendments thereto.

27 (e) An attempt to commit a class A person misdemeanor is a class B
28 person misdemeanor. An attempt to commit a class A nonperson
29 misdemeanor is a class B nonperson misdemeanor.

30 (f) An attempt to commit a class B or C misdemeanor is a class C
31 misdemeanor.

32 Sec. 5. K.S.A. 2022 Supp. 21-5402 is hereby amended to read as
33 follows: 21-5402. (a) Murder in the first degree is the killing of a human
34 being committed:

35 (1) Intentionally, and with premeditation; or

36 (2) in the commission of, attempt to commit, or flight from any
37 inherently dangerous felony.

38 (b) Murder in the first degree is an off-grid person felony.

39 (c) As used in this section, an "inherently dangerous felony" means:

40 (1) Any of the following felonies, whether such felony is so distinct
41 from the homicide alleged to be a violation of subsection (a)(2) as not to
42 be an ingredient of the homicide alleged to be a violation of subsection (a)
43 (2):

- 1 (A) Kidnapping, as defined in K.S.A. 2022 Supp. 21-5408(a), and
2 amendments thereto;
- 3 (B) aggravated kidnapping, as defined in K.S.A. 2022 Supp. 21-
4 5408(b), and amendments thereto;
- 5 (C) robbery, as defined in K.S.A. 2022 Supp. 21-5420(a), and
6 amendments thereto;
- 7 (D) aggravated robbery, as defined in K.S.A. 2022 Supp. 21-5420(b),
8 and amendments thereto;
- 9 (E) rape, as defined in K.S.A. 2022 Supp. 21-5503, and amendments
10 thereto;
- 11 (F) aggravated criminal sodomy, as defined in K.S.A. 2022 Supp. 21-
12 5504(b), and amendments thereto;
- 13 (G) abuse of a child, as defined in K.S.A. 2022 Supp. 21-5602, and
14 amendments thereto;
- 15 (H) felony theft of property, as defined in K.S.A. 2022 Supp. 21-
16 5801(a)(1) or (a)(3), and amendments thereto;
- 17 (I) burglary, as defined in K.S.A. 2022 Supp. 21-5807(a), and
18 amendments thereto;
- 19 (J) aggravated burglary, as defined in K.S.A. 2022 Supp. 21-5807(b),
20 and amendments thereto;
- 21 (K) arson, as defined in K.S.A. 2022 Supp. 21-5812(a), and
22 amendments thereto;
- 23 (L) aggravated arson, as defined in K.S.A. 2022 Supp. 21-5812(b),
24 and amendments thereto;
- 25 (M) treason, as defined in K.S.A. 2022 Supp. 21-5901, and
26 amendments thereto;
- 27 (N) any felony offense as provided in K.S.A. 2022 Supp. 21-5703,
28 21-5705 or 21-5706, and amendments thereto;
- 29 (O) any felony offense as provided in K.S.A. 2022 Supp. 21-6308(a)
30 or (b), and amendments thereto;
- 31 (P) endangering the food supply, as defined in K.S.A. 2022 Supp. 21-
32 6317(a), and amendments thereto;
- 33 (Q) aggravated endangering the food supply, as defined in K.S.A.
34 2022 Supp. 21-6317(b), and amendments thereto;
- 35 (R) fleeing or attempting to elude a police officer, as defined in
36 K.S.A. 8-1568(b), and amendments thereto;
- 37 (S) aggravated endangering a child, as defined in K.S.A. 2022 Supp.
38 21-5601(b)(1), and amendments thereto;
- 39 (T) abandonment of a child, as defined in K.S.A. 2022 Supp. 21-
40 5605(a), and amendments thereto;
- 41 (U) aggravated abandonment of a child, as defined in K.S.A. 2022
42 Supp. 21-5605(b), and amendments thereto; or
- 43 (V) mistreatment of a dependent adult or mistreatment of an elder

1 person, as defined in K.S.A. 2022 Supp. 21-5417, and amendments
2 thereto; and

3 (2) any of the following felonies, only when such felony is so distinct
4 from the homicide alleged to be a violation of subsection (a)(2) as to not
5 be an ingredient of the homicide alleged to be a violation of subsection (a)
6 (2):

7 (A) Murder in the first degree, as defined in subsection (a)(1);

8 (B) murder in the second degree, as defined in K.S.A. 2022 Supp. 21-
9 5403(a)(1), and amendments thereto;

10 (C) voluntary manslaughter, as defined in K.S.A. 2022 Supp. 21-
11 5404(a)(1), and amendments thereto;

12 (D) aggravated assault, as defined in K.S.A. 2022 Supp. 21-5412(b),
13 and amendments thereto;

14 (E) aggravated assault of a law enforcement officer, as defined in
15 K.S.A. 2022 Supp. 21-5412(d), and amendments thereto;

16 (F) aggravated battery, as defined in K.S.A. 2022 Supp. 21-5413(b)
17 (1), and amendments thereto; or

18 (G) aggravated battery against a law enforcement officer, as defined
19 in K.S.A. 2022 Supp. 21-5413(d), and amendments thereto.

20 (d) Murder in the first degree as defined in subsection (a)(2) is an
21 alternative method of proving murder in the first degree and is not a
22 separate crime from murder in the first degree as defined in subsection (a)
23 (1). The provisions of K.S.A. 2022 Supp. 21-5109, and amendments
24 thereto, are not applicable to murder in the first degree as defined in
25 subsection (a)(2). Murder in the first degree as defined in subsection (a)(2)
26 is not a lesser included offense of murder in the first degree as defined in
27 subsection (a)(1), and is not a lesser included offense of ~~capital~~
28 ~~aggravated~~ murder as defined in ~~K.S.A. 2022 Supp. 21-5401 section 2,~~
29 and amendments thereto. As set forth in ~~subsection (b) of~~ K.S.A. 2022
30 Supp. 21-5109(b), and amendments thereto, there are no lesser included
31 offenses of murder in the first degree under subsection (a)(2).

32 (e) The amendments to this section by chapter 96 of the 2013 Session
33 Laws of Kansas establish a procedural rule for the conduct of criminal
34 prosecutions and shall be construed and applied retroactively to all cases
35 currently pending.

36 Sec. 6. K.S.A. 2022 Supp. 21-5419 is hereby amended to read as
37 follows: 21-5419. (a) As used in this section:

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

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

42 (b) This section shall not apply to:

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

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

4 (3) the lawful dispensation or administration of lawfully prescribed
5 medication.

6 (c) As used in K.S.A. 2022 Supp. ~~21-5401~~, 21-5402, 21-5403, 21-
7 5404, 21-5405, 21-5406 ~~and subsections (a) and (b) of~~, 21-5413(a) and (b)
8 *and section 2*, and amendments thereto, "person" and "human being" also
9 mean an unborn child.

10 (d) This section shall be known as Alex's law.

11 Sec. 7. K.S.A. 2022 Supp. 21-6328 is hereby amended to read as
12 follows: 21-6328. As used in the Kansas racketeer influenced and corrupt
13 organization act:

14 (a) (1) "Beneficial interest" means the interest of a person:

15 (A) As a beneficiary under any trust arrangement pursuant to which a
16 trustee holds legal or record title to real property for the benefit of such
17 person; or

18 (B) under any other form of express fiduciary arrangement pursuant
19 to which any other person holds legal or record title to real property for the
20 benefit of such person.

21 (2) The term "beneficial interest" does not include the interest of a
22 stock holder in a corporation or the interest of a partner in either a general
23 partnership or a limited partnership. A beneficial interest shall be deemed
24 to be located where the real property owned by the trustee is located.

25 (b) "Covered person" means any person who:

26 (1) Is a criminal street gang member or criminal street gang associate,
27 as defined in K.S.A. 2022 Supp. 21-6313, and amendments thereto;

28 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
29 2022 Supp. 21-5426, and amendments thereto, human trafficking or
30 aggravated human trafficking, or K.S.A. 2022 Supp. 21-6422, and
31 amendments thereto, commercial sexual exploitation of a child;

32 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.
33 2022 Supp. 21-5703, and amendments thereto, unlawful manufacturing of
34 controlled substances, or K.S.A. 2022 Supp. 21-5705, and amendments
35 thereto, unlawful cultivation or distribution of controlled substances; or

36 (4) has engaged in or is engaging in any conduct prohibited by K.S.A.
37 2022 Supp. 21-6107, and amendments thereto, identity theft or identity
38 fraud.

39 (c) "Documentary material" means any book, paper, document,
40 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,
41 computer printout, other data compilation from which information can be
42 obtained or from which information can be translated into usable form, or
43 other tangible item.

1 (d) "Enterprise" means any individual, sole proprietorship,
2 partnership, corporation, business trust, union chartered under the laws of
3 this state, or other legal entity, or any unchartered union, association, or
4 group of individuals associated in fact although not a legal entity; and it
5 includes illicit as well as licit enterprises and governmental, as well as
6 other, entities. A criminal street gang, as defined in K.S.A. 2022 Supp. 21-
7 6313, and amendments thereto, constitutes an enterprise.

8 (e) "Pattern of racketeering activity" means engaging in at least two
9 incidents of racketeering activity that have the same or similar intents,
10 results, accomplices, victims or methods of commission or that otherwise
11 are interrelated by distinguishing characteristics and are not isolated
12 incidents, provided at least one of such incidents occurred after the
13 effective date of this act and that the last of such incidents occurred within
14 five years, excluding any period of imprisonment, after a prior incident of
15 racketeering activity.

16 (f) "Racketeering activity" means to commit, attempt to commit,
17 conspire to commit or to solicit, coerce or intimidate another person to
18 commit any:

19 (1) Felony or misdemeanor violation of: The felony provisions of
20 K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a
21 police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas
22 money transmitter act; article 12a of chapter 17 of the Kansas Statutes
23 Annotated, and amendments thereto, Kansas uniform securities act; ~~K.S.A.~~
24 ~~2022 Supp. 21-5401~~ *section 2*, and amendments thereto, ~~capital~~
25 *aggravated* murder; K.S.A. 2022 Supp. 21-5402, and amendments thereto,
26 murder in the first degree; K.S.A. 2022 Supp. 21-5403, and amendments
27 thereto, murder in the second degree; K.S.A. 2022 Supp. 21-5408, and
28 amendments thereto, kidnapping or aggravated kidnapping; K.S.A. 2022
29 Supp. 21-5412, and amendments thereto; K.S.A. 2022 Supp. 21-5413, and
30 amendments thereto; K.S.A. 2022 Supp. 21-5414, and amendments
31 thereto, domestic battery; K.S.A. 2022 Supp. 21-5415, and amendments
32 thereto, criminal threat or aggravated criminal threat; K.S.A. 2022 Supp.
33 21-5420, and amendments thereto, robbery or aggravated robbery; K.S.A.
34 2022 Supp. 21-5421, and amendments thereto, terrorism; K.S.A. 2022
35 Supp. 21-5422, and amendments thereto, illegal use of weapons of mass
36 destruction; K.S.A. 2022 Supp. 21-5423, and amendments thereto; K.S.A.
37 2022 Supp. 21-5426, and amendments thereto, human trafficking or
38 aggravated human trafficking; K.S.A. 2022 Supp. 21-5428, and
39 amendments thereto, blackmail; K.S.A. 2022 Supp. 21-5510, and
40 amendments thereto, sexual exploitation of a child; K.S.A. 2022 Supp. 21-
41 5601, and amendments thereto, endangering a child or aggravated
42 endangering a child; K.S.A. 2022 Supp. 21-5602, and amendments thereto,
43 abuse of a child; K.S.A. 2022 Supp. 21-5603, and amendments thereto,

1 contributing to a child's misconduct or deprivation; K.S.A. 2022 Supp. 21-
2 5607(b), and amendments thereto, furnishing alcoholic beverages to a
3 minor for illicit purposes; article 57 of chapter 21 of the Kansas Statutes
4 Annotated, and amendments thereto, crimes involving controlled
5 substances; K.S.A. 2022 Supp. 21-5801, and amendments thereto, theft;
6 K.S.A. 2022 Supp. 21-5803, and amendments thereto, criminal deprivation
7 of property; K.S.A. 2022 Supp. 21-5805, and amendments thereto; K.S.A.
8 2022 Supp. 21-5807, and amendments thereto, burglary or aggravated
9 burglary; K.S.A. 2022 Supp. 21-5812, and amendments thereto, arson or
10 aggravated arson; K.S.A. 2022 Supp. 21-5813, and amendments thereto,
11 criminal damage to property; K.S.A. 2022 Supp. 21-5814, and
12 amendments thereto, criminal use of an explosive; K.S.A. 2022 Supp. 21-
13 5821, and amendments thereto, giving a worthless check; K.S.A. 2022
14 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2022 Supp. 21-
15 5824, and amendments thereto, making false information; K.S.A. 2022
16 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2022
17 Supp. 21-5826, and amendments thereto, destroying written instrument;
18 K.S.A. 2022 Supp. 21-5828, and amendments thereto, criminal use of a
19 financial card; K.S.A. 2022 Supp. 21-5838, and amendments thereto,
20 conducting a pyramid promotional scheme; K.S.A. 2022 Supp. 21-5839,
21 and amendments thereto; K.S.A. 2022 Supp. 21-5903, and amendments
22 thereto, perjury; K.S.A. 2022 Supp. 21-5904, and amendments thereto,
23 interference with law enforcement; K.S.A. 2022 Supp. 21-5905, and
24 amendments thereto, interference with the judicial process; K.S.A. 2022
25 Supp. 21-5909, and amendments thereto, intimidation of a witness or
26 victim or aggravated intimidation of a witness or victim; K.S.A. 2022
27 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2022
28 Supp. 21-5913, and amendments thereto, obstructing apprehension or
29 prosecution; K.S.A. 2022 Supp. 21-5918, and amendments thereto; K.S.A.
30 2022 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2022 Supp.
31 21-6002, and amendments thereto, official misconduct; K.S.A. 2022 Supp.
32 21-6107, and amendments thereto, identity theft or identity fraud; K.S.A.
33 2022 Supp. 21-6301, and amendments thereto, criminal use of weapons;
34 K.S.A. 2022 Supp. 21-6302, and amendments thereto, criminal carrying of
35 a weapon; K.S.A. 2022 Supp. 21-6303, and amendments thereto, criminal
36 distribution of firearms to a felon; K.S.A. 2022 Supp. 21-6304, and
37 amendments thereto, criminal possession of a weapon by a convicted
38 felon; K.S.A. 2022 Supp. 21-6305, and amendments thereto, aggravated
39 weapons violation by a convicted felon; K.S.A. 2022 Supp. 21-6306, and
40 amendments thereto, defacing identification marks of a firearm; K.S.A.
41 2022 Supp. 21-6308, and amendments thereto, criminal discharge of a
42 firearm; K.S.A. 2022 Supp. 21-6310, and amendments thereto, unlawful
43 endangerment; K.S.A. 2022 Supp. 21-6312, and amendments thereto;

1 K.S.A. 2022 Supp. 21-6314, and amendments thereto, recruiting criminal
2 street gang membership; K.S.A. 2022 Supp. 21-6315, and amendments
3 thereto, criminal street gang intimidation; K.S.A. 2022 Supp. 21-6401, and
4 amendments thereto, promoting obscenity or promoting obscenity to
5 minors; K.S.A. 2022 Supp. 21-6404, and amendments thereto, gambling;
6 K.S.A. 2022 Supp. 21-6405, and amendments thereto, illegal bingo
7 operation; K.S.A. 2022 Supp. 21-6406, and amendments thereto,
8 commercial gambling; K.S.A. 2022 Supp. 21-6407, and amendments
9 thereto, dealing in gambling devices; K.S.A. 2022 Supp. 21-6408, and
10 amendments thereto; K.S.A. 2022 Supp. 21-6409, and amendments
11 thereto, installing communication facilities for gamblers; K.S.A. 2022
12 Supp. 21-6414(a) or (b), and amendments thereto, unlawful conduct of dog
13 fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 2022
14 Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct of
15 cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.
16 2022 Supp. 21-6419, and amendments thereto, selling sexual relations;
17 K.S.A. 2022 Supp. 21-6420, and amendments thereto, promoting the sale
18 of sexual relations; K.S.A. 2022 Supp. 21-6422, and amendments thereto,
19 commercial sexual exploitation of a child; K.S.A. 2022 Supp. 21-6501,
20 and amendments thereto, extortion; K.S.A. 2022 Supp. 21-6502, and
21 amendments thereto, debt adjusting; K.S.A. 2022 Supp. 21-6504, and
22 amendments thereto, equity skimming; K.S.A. 2022 Supp. 21-6506, and
23 amendments thereto, commercial bribery; K.S.A. 2022 Supp. 21-6507, and
24 amendments thereto, sports bribery; K.S.A. 2022 Supp. 21-6508, and
25 amendments thereto, tampering with a sports contest; K.S.A. 39-720, and
26 amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and
27 amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and
28 amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and
29 amendments thereto, workers' compensation act; K.S.A. 65-1657, and
30 amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441,
31 and amendments thereto, hazardous waste; K.S.A. 65-4167, and
32 amendments thereto, trafficking in counterfeit drugs; article 88 of chapter
33 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas
34 parimutuel racing act; or K.S.A. 79-3321, and amendments thereto,
35 Kansas cigarette and tobacco products act; or

36 (2) conduct defined as "racketeering activity" under 18 U.S.C. §
37 1961(1).

38 (g) "Real property" means any real property or any interest in such
39 real property, including, but not limited to, any lease of or mortgage upon
40 such real property.

41 (h) (1) "Trustee" means any:

42 (A) Person acting as trustee pursuant to a trust in which the trustee
43 holds legal or record title to real property;

1 (B) person who holds legal or record title to real property in which
2 any other person has a beneficial interest; or

3 (C) successor trustee or trustees to any or all of the foregoing persons.

4 (2) The term "trustee" does not include any person appointed or
5 acting as a personal representative as defined in K.S.A. 59-102, and
6 amendments thereto, or appointed or acting as a trustee of any
7 testamentary trust or as a trustee of any indenture of trust under which any
8 bonds have been or are to be issued.

9 (i) "Unlawful debt" means any money or other thing of value
10 constituting principal or interest of a debt that is legally unenforceable in
11 this state in whole or in part because the debt was incurred or contracted
12 in:

13 (1) Violation of any of the following provisions of law: Article 88 of
14 chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
15 Kansas parimutuel racing act; K.S.A. 2022 Supp. 21-6404, and
16 amendments thereto, gambling; K.S.A. 2022 Supp. 21-6405, and
17 amendments thereto, illegal bingo operation; K.S.A. 2022 Supp. 21-6406,
18 and amendments thereto, commercial gambling; K.S.A. 2022 Supp. 21-
19 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2022
20 Supp. 21-6408, and amendments thereto, unlawful possession of a
21 gambling device; or K.S.A. 2022 Supp. 21-6409, and amendments
22 thereto, installing communication facilities for gamblers; or

23 (2) gambling activity in violation of federal law or in the business of
24 lending money at a rate usurious under state or federal law.

25 Sec. 8. K.S.A. 2022 Supp. 21-6614 is hereby amended to read as
26 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
27 and (f), any person convicted in this state of a traffic infraction, cigarette
28 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
29 committed on or after July 1, 1993, any nongrid felony or felony ranked in
30 severity levels 6 through 10 of the nondrug grid, or for crimes committed
31 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
32 severity level 4 of the drug grid, or for crimes committed on or after July
33 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
34 the convicting court for the expungement of such conviction or related
35 arrest records if three or more years have elapsed since the person: (A)
36 Satisfied the sentence imposed; or (B) was discharged from probation, a
37 community correctional services program, parole, postrelease supervision,
38 conditional release or a suspended sentence.

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

1 (3) *Notwithstanding the provisions of subsection (a)(1), and except as*
2 *provided in subsections (b), (c), (d), (e) and (f), any person who has*
3 *completed the requirements of a specialty court program established*
4 *pursuant to K.S.A. 2022 Supp. 20-173, and amendments thereto, may*
5 *petition the district court for the expungement of the conviction and*
6 *related arrest records. The court may waive all or part of the docket fee*
7 *imposed for filing a petition pursuant to this subsection.*

8 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
9 3512, prior to its repeal, convicted of a violation of K.S.A. 2022 Supp. 21-
10 6419, and amendments thereto, or who entered into a diversion agreement
11 in lieu of further criminal proceedings for such violation, may petition the
12 convicting court for the expungement of such conviction or diversion
13 agreement and related arrest records if:

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

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

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

36 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
37 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto, or as
38 prohibited by any law of another state that is in substantial conformity
39 with that statute;

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

- 1 (3) perjury resulting from a violation of K.S.A. 8-261a, and
 2 amendments thereto, or resulting from the violation of a law of another
 3 state that is in substantial conformity with that statute;
- 4 (4) violating the provisions of K.S.A. 8-142 *Fifth*, and amendments
 5 thereto, relating to fraudulent applications or violating the provisions of a
 6 law of another state that is in substantial conformity with that statute;
- 7 (5) any crime punishable as a felony wherein a motor vehicle was
 8 used in the perpetration of such crime;
- 9 (6) failing to stop at the scene of an accident and perform the duties
 10 required by K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602 or 8-1604,
 11 and amendments thereto, or required by a law of another state that is in
 12 substantial conformity with those statutes;
- 13 (7) violating the provisions of K.S.A. 40-3104, and amendments
 14 thereto, relating to motor vehicle liability insurance coverage; or
- 15 (8) a violation of K.S.A. 21-3405b, prior to its repeal.
- 16 (d) (1) No person may petition for expungement until five or more
 17 years have elapsed since the person satisfied the sentence imposed or the
 18 terms of a diversion agreement or was discharged from probation, a
 19 community correctional services program, parole, postrelease supervision,
 20 conditional release or a suspended sentence, if such person was convicted
 21 of a first violation of K.S.A. 8-1567, and amendments thereto, including
 22 any diversion for such violation.
- 23 (2) No person may petition for expungement until 10 or more years
 24 have elapsed since the person satisfied the sentence imposed or was
 25 discharged from probation, a community correctional services program,
 26 parole, postrelease supervision, conditional release or a suspended
 27 sentence, if such person was convicted of a second or subsequent violation
 28 of K.S.A. 8-1567, and amendments thereto.
- 29 (3) Except as provided further, the provisions of this subsection shall
 30 apply to all violations committed on or after July 1, 2006. The provisions
 31 of subsection (d)(2) shall not apply to violations committed on or after
 32 July 1, 2014, but prior to July 1, 2015.
- 33 (e) There shall be no expungement of convictions for the following
 34 offenses or of convictions for an attempt to commit any of the following
 35 offenses:
- 36 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
 37 2022 Supp. 21-5503, and amendments thereto;
- 38 (2) indecent liberties with a child or aggravated indecent liberties
 39 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
 40 or K.S.A. 2022 Supp. 21-5506, and amendments thereto;
- 41 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
 42 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
 43 amendments thereto;

- 1 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
2 to its repeal, or K.S.A. 2022 Supp. 21-5504, and amendments thereto;
- 3 (5) indecent solicitation of a child or aggravated indecent solicitation
4 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
5 or K.S.A. 2022 Supp. 21-5508, and amendments thereto;
- 6 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
7 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;
- 8 (7) internet trading in child pornography or aggravated internet
9 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,
10 and amendments thereto;
- 11 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
12 repeal, or K.S.A. 2022 Supp. 21-5604, and amendments thereto;
- 13 (9) endangering a child or aggravated endangering a child, as defined
14 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2022 Supp.
15 21-5601, and amendments thereto;
- 16 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
17 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;
- 18 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
19 or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*;
- 20 (12) *aggravated murder, as defined in section 2*, and amendments
21 thereto;
- 22 ~~(12)~~(13) murder in the first degree, as defined in K.S.A. 21-3401,
23 prior to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments
24 thereto;
- 25 ~~(13)~~(14) murder in the second degree, as defined in K.S.A. 21-3402,
26 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
27 thereto;
- 28 ~~(14)~~(15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
29 to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;
- 30 ~~(15)~~(16) involuntary manslaughter, as defined in K.S.A. 21-3404,
31 prior to its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments
32 thereto;
- 33 ~~(16)~~(17) sexual battery, as defined in K.S.A. 21-3517, prior to its
34 repeal, or K.S.A. 2022 Supp. 21-5505, and amendments thereto, when the
35 victim was less than 18 years of age at the time the crime was committed;
- 36 ~~(17)~~(18) aggravated sexual battery, as defined in K.S.A. 21-3518,
37 prior to its repeal, or K.S.A. 2022 Supp. 21-5505, and amendments
38 thereto;
- 39 ~~(18)~~(19) a violation of K.S.A. 8-2,144, and amendments thereto,
40 including any diversion for such violation; or
- 41 ~~(19)~~(20) any conviction for any offense in effect at any time prior to
42 July 1, 2011, that is comparable to any offense as provided in this
43 subsection.

1 (f) Except as provided in K.S.A. 22-4908, and amendments thereto,
 2 for any offender who is required to register as provided in the Kansas
 3 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
 4 there shall be no expungement of any conviction or any part of the
 5 offender's criminal record while the offender is required to register as
 6 provided in the Kansas offender registration act.

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

- 11 (A) Defendant's full name;
- 12 (B) full name of the defendant at the time of arrest, conviction or
 13 diversion, if different than the defendant's current name;
- 14 (C) defendant's sex, race and date of birth;
- 15 (D) crime for which the defendant was arrested, convicted or
 16 diverted;
- 17 (E) date of the defendant's arrest, conviction or diversion; and
- 18 (F) identity of the convicting court, arresting law enforcement
 19 authority or diverting authority.

20 (2) Except as otherwise provided by law, a petition for expungement
 21 shall be accompanied by a docket fee in the amount of \$176. On and after
 22 July 1, 2019, through June 30, 2025, the supreme court may impose a
 23 charge, not to exceed \$19 per case, to fund the costs of non-judicial
 24 personnel. The charge established in this section shall be the only fee
 25 collected or moneys in the nature of a fee collected for the case. Such
 26 charge shall only be established by an act of the legislature and no other
 27 authority is established by law or otherwise to collect a fee.

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

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

36 (1) (A) The petitioner has not been convicted of a felony in the past
 37 two years and no proceeding involving any such crime is presently
 38 pending or being instituted against the petitioner *if the petition is filed*
 39 *under subsection (a)(1) or (a)(2); or*

40 (B) *no proceeding involving a felony is presently pending or being*
 41 *instituted against the petitioner if the petition is filed under subsection (a)*
 42 *(3);*

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

1 expungement;

2 (3) the expungement is consistent with the public welfare; and

3 (4) with respect to petitions seeking expungement of a felony
4 conviction, possession of a firearm by the petitioner is not likely to pose a
5 threat to the safety of the public.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (K) to aid in determining the petitioner's qualifications for a license to
19 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
20 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and
21 amendments thereto;

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

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

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

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

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

43 (2) A person whose arrest record, conviction or diversion of a crime

1 that resulted in such person being prohibited by state or federal law from
2 possessing a firearm has been expunged under this statute shall be deemed
3 to have had such person's right to keep and bear arms fully restored. This
4 restoration of rights shall include, but not be limited to, the right to use,
5 transport, receive, purchase, transfer and possess firearms. The provisions
6 of this paragraph shall apply to all orders of expungement, including any
7 orders issued prior to July 1, 2021.

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

13 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

- 1 qualifications for executive director of the commission, for employment
2 with the commission, for work in sensitive areas in parimutuel racing as
3 deemed appropriate by the executive director of the commission or for
4 licensure, renewal of licensure or continued licensure by the commission;
- 5 (10) the Kansas racing and gaming commission, or a designee of the
6 commission, and the request is accompanied by a statement that the
7 request is being made to aid in determining qualifications of the following
8 under the Kansas expanded lottery act: (A) Lottery gaming facility
9 managers and prospective managers, racetrack gaming facility managers
10 and prospective managers, licensees and certificate holders; and (B) their
11 officers, directors, employees, owners, agents and contractors;
- 12 (11) the Kansas sentencing commission;
- 13 (12) the state gaming agency, and the request is accompanied by a
14 statement that the request is being made to aid in determining
15 qualifications: (A) To be an employee of the state gaming agency; or (B)
16 to be an employee of a tribal gaming commission or to hold a license
17 issued pursuant to a tribal-gaming compact;
- 18 (13) the Kansas securities commissioner or a designee of the
19 commissioner, and the request is accompanied by a statement that the
20 request is being made in conjunction with an application for registration as
21 a broker-dealer, agent, investment adviser or investment adviser
22 representative by such agency and the application was submitted by the
23 person whose record has been expunged;
- 24 (14) the Kansas commission on peace officers' standards and training
25 and the request is accompanied by a statement that the request is being
26 made to aid in determining certification eligibility as a law enforcement
27 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;
- 28 (15) a law enforcement agency and the request is accompanied by a
29 statement that the request is being made to aid in determining eligibility
30 for employment as a law enforcement officer as defined by K.S.A. 22-
31 2202, and amendments thereto;
- 32 (16) (A) the attorney general and the request is accompanied by a
33 statement that the request is being made to aid in determining
34 qualifications for a license to act as a bail enforcement agent pursuant to
35 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.
36 2022 Supp. 50-6,141, and amendments thereto; or
- 37 (B) the attorney general for any other purpose authorized by law,
38 except that an expungement record shall not be the basis for denial of a
39 license to carry a concealed handgun under the personal and family
40 protection act; or
- 41 (17) the Kansas bureau of investigation, for the purpose of
42 completing a person's criminal history record information within the
43 central repository, in accordance with K.S.A. 22-4701 et seq., and

1 amendments thereto.

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

4 (2) Upon the issuance of an order of expungement that resulted in the
5 restoration of a person's right to keep and bear arms, the Kansas bureau of
6 investigation shall report to the federal bureau of investigation that such
7 expunged record be withdrawn from the national instant criminal
8 background check system. The Kansas bureau of investigation shall
9 include such order of expungement in the person's criminal history record
10 for purposes of documenting the restoration of such person's right to keep
11 and bear arms.

12 Sec. 9. K.S.A. 2022 Supp. 21-6618 is hereby amended to read as
13 follows: 21-6618. Upon conviction of a defendant of ~~capital~~ *aggravated*
14 murder and a finding that the defendant was less than 18 years of age at
15 the time of the commission thereof, the court shall sentence the defendant
16 as otherwise provided by law, and no sentence of ~~death or~~ life without the
17 possibility of parole shall be imposed ~~hereunder~~.

18 Sec. 10. K.S.A. 2022 Supp. 21-6620 is hereby amended to read as
19 follows: 21-6620. (a) (1) Except as provided in subsection (a)(2) and
20 K.S.A. 2022 Supp. 21-6618 and 21-6622, and amendments thereto, if a
21 defendant is convicted of the crime of ~~capital murder and a sentence of~~
22 ~~death is not imposed pursuant to K.S.A. 2022 Supp. 21-6617(e), and~~
23 ~~amendments thereto, or requested pursuant to K.S.A. 2022 Supp. 21-~~
24 ~~6617(a) or (b), and amendments thereto~~ *aggravated murder*, the defendant
25 shall be sentenced to life without the possibility of parole *pursuant to*
26 *section 3, and amendments thereto*.

27 (2) (A) Except as provided in subsection (a)(2)(B), a defendant
28 convicted of attempt to commit the crime of ~~capital~~ *aggravated* murder
29 shall be sentenced to imprisonment for life and shall not be eligible for
30 probation or suspension, modification or reduction of sentence. In
31 addition, the defendant shall not be eligible for parole prior to serving 25
32 years' imprisonment, and such 25 years' imprisonment shall not be reduced
33 by the application of good time credits. No other sentence shall be
34 permitted.

35 (B) The provisions of subsection (a)(2)(A) requiring the court to
36 impose a mandatory minimum term of imprisonment of 25 years shall not
37 apply if the court finds the defendant, because of the defendant's criminal
38 history classification, would be subject to presumptive imprisonment
39 pursuant to the sentencing guidelines grid for nondrug crimes and the
40 sentencing range would exceed 300 months if the sentence established for
41 a severity level 1 crime was imposed. In such case, the defendant is
42 required to serve a mandatory minimum term equal to the sentence
43 established for a severity level 1 crime pursuant to the sentencing range.

1 The defendant shall not be eligible for parole prior to serving such
2 mandatory minimum term of imprisonment, and such mandatory minimum
3 term of imprisonment shall not be reduced by the application of good time
4 credits. No other sentence shall be permitted.

5 (b) The provisions of this subsection shall apply only to the crime of
6 murder in the first degree as described in K.S.A. 2022 Supp. 21-5402(a)
7 (2), and amendments thereto, committed on or after July 1, 2014.

8 (1) Except as provided in subsection (b)(2), a defendant convicted of
9 murder in the first degree as described in K.S.A. 2022 Supp. 21-5402(a)
10 (2), and amendments thereto, shall be sentenced to imprisonment for life
11 and shall not be eligible for probation or suspension, modification or
12 reduction of sentence. In addition, the defendant shall not be eligible for
13 parole prior to serving 25 years' imprisonment, and such 25 years'
14 imprisonment shall not be reduced by the application of good time credits.
15 No other sentence shall be permitted.

16 (2) The provisions of subsection (b)(1) requiring the court to impose
17 a mandatory minimum term of imprisonment of 25 years shall not apply if
18 the court finds the defendant, because of the defendant's criminal history
19 classification, would be subject to presumptive imprisonment pursuant to
20 the sentencing guidelines grid for nondrug crimes and the sentencing range
21 would exceed 300 months if the sentence established for a severity level 1
22 crime was imposed. In such case, the defendant is required to serve a
23 mandatory minimum term equal to the sentence established for a severity
24 level 1 crime pursuant to the sentencing range. The defendant shall not be
25 eligible for parole prior to serving such mandatory minimum term of
26 imprisonment, and such mandatory minimum term of imprisonment shall
27 not be reduced by the application of good time credits. No other sentence
28 shall be permitted.

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

32 (1) (A) Except as provided in subsection (c)(1)(B), a defendant
33 convicted of murder in the first degree based upon the finding of
34 premeditated murder shall be sentenced pursuant to K.S.A. 2022 Supp. 21-
35 6623, and amendments thereto, unless the sentencing judge finds
36 substantial and compelling reasons, following a review of mitigating
37 circumstances, to impose the sentence specified in subsection (c)(2).

38 (B) The provisions of subsection (c)(1)(A) requiring the court to
39 impose the mandatory minimum term of imprisonment required by K.S.A.
40 2022 Supp. 21-6623, and amendments thereto, shall not apply if the court
41 finds the defendant, because of the defendant's criminal history
42 classification, would be subject to presumptive imprisonment pursuant to
43 the sentencing guidelines grid for nondrug crimes and the sentencing range

1 would exceed 600 months if the sentence established for a severity level 1
2 crime was imposed. In such case, the defendant is required to serve a
3 mandatory minimum term equal to the sentence established for a severity
4 level 1 crime pursuant to the sentencing range. The defendant shall not be
5 eligible for parole prior to serving such mandatory minimum term of
6 imprisonment, and such mandatory minimum term of imprisonment shall
7 not be reduced by the application of good time credits. No other sentence
8 shall be permitted.

9 (2) (A) If the sentencing judge does not impose the mandatory
10 minimum term of imprisonment required by K.S.A. 2022 Supp. 21-6623,
11 and amendments thereto, the judge shall state on the record at the time of
12 sentencing the substantial and compelling reasons therefor, and, except as
13 provided in subsection (c)(2)(B), the defendant shall be sentenced to
14 imprisonment for life and shall not be eligible for probation or suspension,
15 modification or reduction of sentence. In addition, the defendant shall not
16 be eligible for parole prior to serving 25 years' imprisonment, and such 25
17 years' imprisonment shall not be reduced by the application of good time
18 credits. No other sentence shall be permitted.

19 (B) The provisions of subsection (c)(2)(A) requiring the court to
20 impose a mandatory minimum term of imprisonment of 25 years shall not
21 apply if the court finds the defendant, because of the defendant's criminal
22 history classification, would be subject to presumptive imprisonment
23 pursuant to the sentencing guidelines grid for nondrug crimes and the
24 sentencing range would exceed 300 months if the sentence established for
25 a severity level 1 crime was imposed. In such case, the defendant is
26 required to serve a mandatory minimum term equal to the sentence
27 established for a severity level 1 crime pursuant to the sentencing range.
28 The defendant shall not be eligible for parole prior to serving such
29 mandatory minimum term of imprisonment, and such mandatory minimum
30 term of imprisonment shall not be reduced by the application of good time
31 credits. No other sentence shall be permitted.

32 (d) The provisions of this subsection shall apply only to the crime of
33 murder in the first degree based upon the finding of premeditated murder
34 committed on or after September 6, 2013, but prior to July 1, 2014.

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

41 (2) The court shall conduct a separate proceeding following the
42 determination of the defendant's guilt for the jury to determine whether
43 one or more aggravating circumstances exist. Such proceeding shall be

1 conducted by the court before a jury as soon as practicable. If any person
2 who served on the trial jury is unable to serve on the jury for the
3 proceeding, the court shall substitute an alternate juror who has been
4 impaneled for the trial jury. If there are insufficient alternate jurors to
5 replace trial jurors who are unable to serve at the proceeding, the court
6 may conduct such proceeding before a jury ~~which~~ *that* may have 12 or ~~less~~
7 *fewer* jurors, but at no time ~~less~~ *fewer* than six jurors. If the jury has been
8 discharged prior to the proceeding, a new jury shall be impaneled. Any
9 decision of the jury regarding the existence of an aggravating circumstance
10 shall be beyond a reasonable doubt. Jury selection procedures,
11 qualifications of jurors and grounds for exemption or challenge of
12 prospective jurors in criminal trials shall be applicable to the selection of
13 such jury. The jury at the proceeding may be waived in the manner
14 provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial
15 jury. If the jury at the proceeding has been waived, such proceeding shall
16 be conducted by the court.

17 (3) In the proceeding, evidence may be presented concerning any
18 matter relating to any of the aggravating circumstances enumerated in
19 K.S.A. 2022 Supp. 21-6624, and amendments thereto. Only such evidence
20 of aggravating circumstances as the prosecuting attorney has made known
21 to the defendant prior to the proceeding shall be admissible and no
22 evidence secured in violation of the constitution of the United States or of
23 the state of Kansas shall be admissible. No testimony by the defendant at
24 the time of the proceeding shall be admissible against the defendant at any
25 subsequent criminal proceeding. At the conclusion of the evidentiary
26 presentation, the court shall allow the parties a reasonable period of time in
27 which to present oral argument.

28 (4) At the conclusion of the evidentiary portion of the proceeding, the
29 court shall provide oral and written instructions to the jury to guide its
30 deliberations. If the prosecuting attorney relies on K.S.A. 2022 Supp. 21-
31 6624(a), and amendments thereto, as an aggravating circumstance, and the
32 court finds that one or more of the defendant's prior convictions satisfy
33 such subsection, the jury shall be instructed that a certified journal entry of
34 a prior conviction is presumed to prove the existence of such prior
35 conviction or convictions beyond a reasonable doubt.

36 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
37 that one or more of the aggravating circumstances enumerated in K.S.A.
38 2022 Supp. 21-6624, and amendments thereto, exist, the jury shall
39 designate, in writing, signed by the foreman of the jury, the statutory
40 aggravating circumstances ~~which~~ *that* it found. If, after a reasonable time
41 for deliberation, the jury is unable to reach a unanimous sentencing
42 decision, the court shall dismiss the jury and the defendant shall be
43 sentenced as provided by law. In nonjury cases, the court shall designate,

1 in writing, the specific circumstance or circumstances ~~which~~ *that* the court
2 found beyond a reasonable doubt.

3 (6) If one or more of the aggravating circumstances enumerated in
4 K.S.A. 2022 Supp. 21-6624, and amendments thereto, are found to exist
5 beyond a reasonable doubt pursuant to this subsection, the defendant shall
6 be sentenced pursuant to K.S.A. 2022 Supp. 21-6623, and amendments
7 thereto, unless the sentencing judge finds substantial and compelling
8 reasons, following a review of mitigating circumstances, to impose the
9 sentence specified in this paragraph. If the sentencing judge does not
10 impose the mandatory minimum term of imprisonment required by K.S.A.
11 2022 Supp. 21-6623, and amendments thereto, the judge shall state on the
12 record at the time of sentencing the substantial and compelling reasons
13 therefor, and the defendant shall be sentenced to imprisonment for life and
14 shall not be eligible for probation or suspension, modification or reduction
15 of sentence. In addition, the defendant shall not be eligible for parole prior
16 to serving 25 years' imprisonment, and such 25 years' imprisonment shall
17 not be reduced by the application of good time credits. No other sentence
18 shall be permitted.

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

22 (1) If a defendant is convicted of murder in the first degree based
23 upon the finding of premeditated murder, upon reasonable notice by the
24 prosecuting attorney, the court shall conduct a separate sentencing
25 proceeding in accordance with this subsection to determine whether the
26 defendant shall be required to serve a mandatory minimum term of
27 imprisonment of 40 years or for crimes committed on and after July 1,
28 1999, a mandatory minimum term of imprisonment of 50 years or
29 sentenced as otherwise provided by law.

30 (2) The sentencing proceeding shall be conducted by the court before
31 a jury as soon as practicable. If the trial jury has been discharged prior to
32 sentencing, a new jury shall be impaneled. Any decision to impose a
33 mandatory minimum term of imprisonment of 40 or 50 years shall be by a
34 unanimous jury. Jury selection procedures, qualifications of jurors and
35 grounds for exemption or challenge of prospective jurors in criminal trials
36 shall be applicable to the selection of such jury. The jury at the sentencing
37 proceeding may be waived in the manner provided by K.S.A. 22-3403, and
38 amendments thereto, for waiver of a trial jury. If the jury at the sentencing
39 proceeding has been waived, such proceeding shall be conducted by the
40 court.

41 (3) In the sentencing proceeding, evidence may be presented
42 concerning any matter that the court deems relevant to the question of
43 sentence and shall include matters relating to any of the aggravating

1 circumstances enumerated in K.S.A. 2022 Supp. 21-6624, and
2 amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.
3 21-4636, prior to its repeal, and any mitigating circumstances. Any such
4 evidence—~~which~~ *that* the court deems to have probative value may be
5 received regardless of its admissibility under the rules of evidence,
6 provided that the defendant is accorded a fair opportunity to rebut any
7 hearsay statements. Only such evidence of aggravating circumstances as
8 the prosecuting attorney has made known to the defendant prior to the
9 sentencing proceeding shall be admissible and no evidence secured in
10 violation of the constitution of the United States or of the state of Kansas
11 shall be admissible. Only such evidence of mitigating circumstances
12 subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto,
13 that the defendant has made known to the prosecuting attorney prior to the
14 sentencing proceeding shall be admissible. No testimony by the defendant
15 at the time of sentencing shall be admissible against the defendant at any
16 subsequent criminal proceeding. At the conclusion of the evidentiary
17 presentation, the court shall allow the parties a reasonable period of time in
18 which to present oral argument.

19 (4) At the conclusion of the evidentiary portion of the sentencing
20 proceeding, the court shall provide oral and written instructions to the jury
21 to guide its deliberations. If the prosecuting attorney relies on K.S.A. 2022
22 Supp. 21-6624(a), and amendments thereto, or for crimes committed prior
23 to July 1, 2011, K.S.A. 21-4636(a), prior to its repeal, as an aggravating
24 circumstance, and the court finds that one or more of the defendant's prior
25 convictions satisfy such subsection, the jury shall be instructed that a
26 certified journal entry of a prior conviction is presumed to prove the
27 existence of such prior conviction or convictions beyond a reasonable
28 doubt.

29 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
30 that one or more of the aggravating circumstances enumerated in K.S.A.
31 2022 Supp. 21-6624, and amendments thereto, or for crimes committed
32 prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further,
33 that the existence of such aggravating circumstances is not outweighed by
34 any mitigating circumstances—~~which~~ *that* are found to exist, the defendant
35 shall be sentenced pursuant to K.S.A. 2022 Supp. 21-6623, and
36 amendments thereto; otherwise, the defendant shall be sentenced as
37 provided by law. The sentencing jury shall designate, in writing, signed by
38 the foreman of the jury, the statutory aggravating circumstances—~~which~~
39 *that* it found. ~~The trier of fact may make the findings required by this~~
40 ~~subsection for the purpose of determining whether to sentence a defendant~~
41 ~~pursuant to K.S.A. 2022 Supp. 21-6623, and amendments thereto,~~
42 ~~notwithstanding contrary findings made by the jury or court pursuant to~~
43 ~~K.S.A. 2022 Supp. 21-6617(e), and amendments thereto, for the purpose~~

1 ~~of determining whether to sentence such defendant to death.~~ If, after a
2 reasonable time for deliberation, the jury is unable to reach a unanimous
3 sentencing decision, the court shall dismiss the jury and the defendant
4 shall be sentenced as provided by law. In nonjury cases, the court shall
5 designate in writing the specific circumstance or circumstances ~~which that~~
6 the court found beyond a reasonable doubt.

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

9 (1) Establish a procedural rule for sentencing proceedings, and as
10 such shall be construed and applied retroactively to all crimes committed
11 prior to the effective date of this act, except as provided further in this
12 subsection;

13 (2) shall not apply to cases in which the defendant's conviction and
14 sentence were final prior to June 17, 2013, unless the conviction or
15 sentence has been vacated in a collateral proceeding, including, but not
16 limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and

17 (3) shall apply only in sentencing proceedings otherwise authorized
18 by law.

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

28 (h) In the event any sentence imposed under this section is held to be
29 unconstitutional, the court having jurisdiction over a person previously
30 sentenced shall cause such person to be brought before the court and shall
31 sentence such person to the maximum term of imprisonment otherwise
32 provided by law.

33 (i) If any provision or provisions of this section or the application
34 thereof to any person or circumstance is held invalid, the invalidity shall
35 not affect other provisions or applications of this section ~~which that~~ can be
36 given effect without the invalid provision or provisions or application, and
37 to this end the provisions of this section are severable.

38 Sec. 11. K.S.A. 2022 Supp. 21-6622 is hereby amended to read as
39 follows: 21-6622. (a) ~~If, under K.S.A. 2022 Supp. 21-6617, and~~
40 ~~amendments thereto, the county or district attorney has filed a notice of~~
41 ~~intent to request a separate sentencing proceeding to determine whether~~
42 ~~the defendant should be sentenced to death and the defendant is convicted~~
43 ~~of the crime of capital murder, the defendant's counsel or the warden of the~~

1 ~~correctional institution or sheriff having custody of the defendant may~~
2 ~~request a determination by the court of whether the defendant is a person~~
3 ~~with intellectual disability. If the court determines that there is not~~
4 ~~sufficient reason to believe that the defendant is a person with intellectual~~
5 ~~disability, the court shall so find and the defendant shall be sentenced in~~
6 ~~accordance with K.S.A. 2022 Supp. 21-6617, 21-6619, 21-6624, 21-6625,~~
7 ~~21-6628 and 21-6629, and amendments thereto. If the court determines~~
8 ~~that there is sufficient reason to believe that the defendant is a person with~~
9 ~~intellectual disability, the court shall conduct a hearing to determine~~
10 ~~whether the defendant is a person with intellectual disability.~~

11 ~~(b) If a defendant is convicted of the crime of capital murder and a~~
12 ~~sentence of death is not imposed, or if a defendant is convicted of the~~
13 ~~crime of *aggravated murder* or murder in the first degree based upon the~~
14 ~~finding of premeditated murder, the defendant's counsel or the warden of~~
15 ~~the correctional institution or sheriff having custody of the defendant may~~
16 ~~request a determination by the court of whether the defendant is a person~~
17 ~~with intellectual disability. If the court determines that there is not~~
18 ~~sufficient reason to believe that the defendant is a person with intellectual~~
19 ~~disability, the court shall so find and the defendant shall be sentenced in~~
20 ~~accordance with K.S.A. 2022 Supp. 21-6620, 21-6623, 21-6624 and 21-~~
21 ~~6625, and amendments thereto. If the court determines that there is~~
22 ~~sufficient reason to believe that the defendant is a person with intellectual~~
23 ~~disability, the court shall conduct a hearing to determine whether the~~
24 ~~defendant is a person with intellectual disability.~~

25 ~~(e)(b) At the hearing, the court shall determine whether the defendant~~
26 ~~is a person with intellectual disability. The court shall order a psychiatric~~
27 ~~or psychological examination of the defendant. For that purpose, the court~~
28 ~~shall appoint two licensed physicians or licensed psychologists, or one of~~
29 ~~each, qualified by training and practice to make such examination, to~~
30 ~~examine the defendant and report their findings in writing to the judge~~
31 ~~within 14 days after the order of examination is issued. The defendant~~
32 ~~shall have the right to present evidence and cross-examine any witnesses at~~
33 ~~the hearing. No statement made by the defendant in the course of any~~
34 ~~examination provided for by this section, whether or not the defendant~~
35 ~~consents to the examination, shall be admitted in evidence against the~~
36 ~~defendant in any criminal proceeding.~~

37 ~~(d) If, at the conclusion of a hearing pursuant to subsection (a), the~~
38 ~~court determines that the defendant is not a person with intellectual~~
39 ~~disability, the defendant shall be sentenced in accordance with K.S.A.~~
40 ~~2022 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629,~~
41 ~~and amendments thereto.~~

42 ~~(e)(c) If, at the conclusion of a hearing pursuant to subsection (b) this~~
43 ~~section, the court determines that the defendant is not a person with~~

1 intellectual disability, the defendant shall be sentenced in accordance with
2 K.S.A. 2022 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and
3 amendments thereto.

4 ~~(f)~~(d) If, at the conclusion of a hearing pursuant to this section, the
5 court determines that the defendant is a person with intellectual disability,
6 the court shall sentence the defendant as otherwise provided by law, and
7 no sentence of ~~death~~, life without the possibility of parole, or mandatory
8 term of imprisonment pursuant to K.S.A. 2022 Supp. 21-6623, 21-6624
9 and 21-6625, and amendments thereto, shall be imposed hereunder.

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

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

19 Sec. 12. K.S.A. 2022 Supp. 21-6628 is hereby amended to read as
20 follows: 21-6628. (a) In the event the term of imprisonment for life
21 without the possibility of parole or any provision of K.S.A. 2022 Supp. 21-
22 6626 or 21-6627, and amendments thereto, authorizing such term is held to
23 be unconstitutional by the supreme court of Kansas or the United States
24 supreme court, the court having jurisdiction over a person previously
25 sentenced shall cause such person to be brought before the court and shall
26 modify the sentence to require no term of imprisonment for life without
27 the possibility of parole and shall sentence the defendant to the maximum
28 term of imprisonment otherwise provided by law.

29 ~~(b)~~ ~~In the event a sentence of death or any provision of chapter 252 of~~
30 ~~the 1994 Session Laws of Kansas authorizing such sentence is held to be~~
31 ~~unconstitutional by the supreme court of Kansas or the United States~~
32 ~~supreme court, the court having jurisdiction over a person previously~~
33 ~~sentenced shall cause such person to be brought before the court and shall~~
34 ~~modify the sentence and resentence the defendant as otherwise provided~~
35 ~~by law.~~

36 ~~(e)~~ In the event the mandatory term of imprisonment or any provision
37 of chapter 341 of the 1994 Session Laws of Kansas authorizing such
38 mandatory term is held to be unconstitutional by the supreme court of
39 Kansas or the United States supreme court, the court having jurisdiction
40 over a person previously sentenced shall cause such person to be brought
41 before the court and shall modify the sentence to require no mandatory
42 term of imprisonment and shall sentence the defendant as otherwise
43 provided by law.

1 Sec. 13. K.S.A. 2022 Supp. 21-6629 is hereby amended to read as
2 follows: 21-6629. (a) The provisions of K.S.A. 21-4622 through 21-4630,
3 as they existed immediately prior to July 1, 1994, shall be applicable only
4 to persons convicted of crimes committed on or after July 1, 1990, and
5 before July 1, 1994.

6 (b) The provisions of K.S.A. 21-4622 through 21-4627~~and~~, 21-4629
7 and 21-4630, as amended on July 1, 1994, and prior to their repeal, and
8 K.S.A. 2022 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-
9 6625 and ~~subsection (b) of 21-6628(b), and amendments thereto as they~~
10 *existed immediately prior to July 1, 2023*, shall be applicable only to
11 persons convicted of crimes committed on or after July 1, 1994, *and*
12 *before July 1, 2023*.

13 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.
14 2022 Supp. 21-6620 through 21-6625 and ~~subsection (c) of 21-6628(c),~~
15 ~~and amendments thereto as they existed immediately prior to July 1, 2023,~~
16 shall be applicable only to persons convicted of crimes committed on or
17 after July 1, 1994, *and before July 1, 2023*.

18 (d) *The provisions of K.S.A. 2022 Supp. 21-6618, 21-6620, 21-6622*
19 *and 21-6628, as amended on July 1, 2023, and K.S.A. 2022 Supp. 21-*
20 *6621, 21-6623, 21-6624 and 21-6625, and amendments thereto, shall be*
21 *applicable only to persons convicted of crimes committed on or after July*
22 *1, 2023*.

23 Sec. 14. K.S.A. 2022 Supp. 21-6806 is hereby amended to read as
24 follows: 21-6806. (a) Sentences of imprisonment shall represent the time a
25 person shall actually serve, subject to a reduction of the primary sentence
26 for good time as authorized by K.S.A. 2022 Supp. 21-6821, and
27 amendments thereto.

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

29 (c) Violations of K.S.A. 2022 Supp. ~~21-5401,~~ 21-5402, 21-5421, 21-
30 5422 and 21-5901, and amendments thereto, are off-grid crimes for the
31 purpose of sentencing. Except as otherwise provided by K.S.A. 2022
32 Supp. ~~21-6617,~~ 21-6618, ~~21-6619,~~ 21-6622, 21-6624, 21-6625, 21-6628
33 and 21-6629, and amendments thereto, the sentence shall be imprisonment
34 for life and shall not be subject to statutory provisions for suspended
35 sentence, community service or probation.

36 (d) As identified in K.S.A. 2022 Supp. 21-5426, 21-5503, 21-5504,
37 21-5506, 21-5510, 21-5514 and 21-6422, and amendments thereto, if the
38 offender is 18 years of age or older and the victim is under 14 years of age,
39 such violations are off-grid crimes for the purposes of sentencing. Except
40 as provided in K.S.A. 2022 Supp. 21-6626, and amendments thereto, the
41 sentence shall be imprisonment for life pursuant to K.S.A. 2022 Supp. 21-
42 6627, and amendments thereto.

43 (e) *A violation of section 2, and amendments thereto, is an off-grid*

1 *crime for the purposes of sentencing. Except as provided in K.S.A. 2022*
2 *Supp. 21-6618 and 21-6622, and amendments thereto, the sentence shall*
3 *be imprisonment for life without the possibility of parole pursuant to*
4 *section 3, and amendments thereto.*

5 Sec. 15. K.S.A. 2022 Supp. 22-2512 is hereby amended to read as
6 follows: 22-2512. (a) Property seized under a search warrant or validly
7 seized without a warrant shall be safely kept by the agency seizing the
8 property unless otherwise directed by the magistrate, and shall be so kept
9 as long as necessary for the purpose of being produced as evidence on any
10 trial. If no criminal charges are filed or prosecution is declined, the
11 property shall be returned to its rightful owner or disposed of in
12 accordance with this section. The property seized may not be taken from
13 the agency having it in custody so long as it is or may be required as
14 evidence in any trial. The officer seizing the property shall give a receipt to
15 the person detained or arrested particularly describing each article of
16 property being held. When property is seized under a search warrant, the
17 officer seizing the property shall file a copy of such receipt with the
18 magistrate who issued the search warrant. Such copy may be filed
19 electronically in a manner and form prescribed by the court. When seized
20 property is no longer required as evidence in the prosecution of any
21 indictment or information, the court that has jurisdiction of such property
22 may transfer the property to the jurisdiction of any other court, including
23 courts of another state or federal courts, if it is shown to the satisfaction of
24 the court that such property is required as evidence in any prosecution in
25 such other court.

26 (b) (1) Notwithstanding the provisions of subsection (a) and with the
27 approval of the affected court, any law enforcement officer who seizes
28 dangerous drugs or hazardous materials as evidence related to a criminal
29 investigation may collect representative samples of such dangerous drugs
30 or hazardous materials and lawfully destroy or dispose of, or direct another
31 person to lawfully destroy or dispose of, the remaining quantity of such
32 dangerous drugs or hazardous materials.

33 (2) In any prosecution, representative samples of dangerous drugs or
34 hazardous materials accompanied by photographs, videotapes, laboratory
35 analysis reports or other means used to verify and document the identity
36 and quantity of the drugs or materials shall be deemed competent evidence
37 of such drugs or materials and shall be admissible in any proceeding,
38 hearing or trial as if such drugs or materials had been introduced as
39 evidence.

40 (3) As used in this section:

41 (A) "Dangerous drugs" means any drug, substance or immediate
42 precursor included in any of the schedules designated in K.S.A. 65-4105,
43 65-4107, 65-4109 and 65-4111, and amendments thereto;

1 (B) "hazardous materials" means any substance that is capable of
2 posing an unreasonable risk to health, safety and property. It shall include
3 any substance that by its nature is explosive, flammable, corrosive,
4 poisonous, radioactive, a biological hazard or a material that may cause
5 spontaneous combustion. It shall include, but not be limited to, substances
6 listed in the table of hazardous materials contained in the code of federal
7 regulations title 49 and national fire protection association's fire protection
8 guide on hazardous materials; and

9 (C) "representative sample" means an amount large enough to contain
10 a testable amount of a substance without destroying the sample
11 completely.

12 (4) The provisions of this subsection shall not apply to ammunition
13 and components thereof.

14 (c) When seized property is no longer required as evidence, it shall be
15 disposed of as follows:

16 (1) Property stolen, embezzled, obtained by false pretenses, or
17 otherwise obtained unlawfully from the rightful owner thereof shall be
18 restored to the owner;

19 (2) money shall be restored to the owner unless it was contained in a
20 slot machine or otherwise used in unlawful gambling or lotteries, in which
21 case it shall be forfeited and shall be paid to the state treasurer pursuant to
22 K.S.A. 20-2801, and amendments thereto;

23 (3) property that is unclaimed or the ownership of which is unknown
24 shall be sold at public auction to be held by the sheriff, or the sheriff's
25 designee, and the proceeds, less the cost of sale and any storage charges
26 incurred in preserving it, shall be paid to the state treasurer pursuant to
27 K.S.A. 20-2801, and amendments thereto;

28 (4) articles of contraband shall be destroyed, except that any such
29 articles the disposition of which is otherwise provided by law shall be
30 dealt with as so provided and any such articles the disposition of which is
31 not otherwise provided by law and ~~which~~ *that* may be capable of innocent
32 use may in the discretion of the court be sold and the proceeds disposed of
33 as provided in subsection (c)(3);

34 (5) explosives, bombs and like devices that have been used in the
35 commission of crime may be returned to the rightful owner or, in the
36 discretion of the court having jurisdiction of the property, destroyed or
37 forfeited to the Kansas bureau of investigation;

38 (6) (A) except as provided in subsections (c)(6)(B) and (d), any
39 weapon or ammunition, in the discretion of the court having jurisdiction of
40 the property, shall be:

41 (i) Forfeited to the law enforcement agency seizing the weapon for
42 use within such agency, for sale to a properly licensed federal firearms
43 dealer, for trading to a properly licensed federal firearms dealer for other

1 new or used firearms or accessories for use within such agency or for
2 trading to another law enforcement agency for that agency's use;

3 (ii) forfeited to the Kansas bureau of investigation for law
4 enforcement, testing or comparison by the Kansas bureau of investigation
5 forensic laboratory;

6 (iii) forfeited to a county regional forensic science center or other
7 county forensic laboratory for testing, comparison or other forensic
8 science purposes; or

9 (iv) forfeited to the Kansas department of wildlife and parks for use
10 pursuant to the conditions set forth in K.S.A. 32-1047, and amendments
11 thereto-;

12 (B) except as provided in subsection (d), any weapon that cannot be
13 forfeited pursuant to subsection (c)(6)(A) due to the condition of the
14 weapon, and any weapon that was used in the commission of a felony as
15 described in K.S.A. 2022 Supp. 21-5401, *prior to its repeal, or K.S.A.*
16 *2022 Supp. 21-5402, 21-5403, 21-5404-~~or~~, 21-5405 or section 2,* and
17 amendments thereto, shall be destroyed-;

18 (7) controlled substances forfeited for violations of K.S.A. 2022
19 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt
20 with as provided under K.S.A. 60-4101 through 60-4126, and amendments
21 thereto;

22 (8) unless otherwise provided by law, all other property shall be
23 disposed of in such manner as the court in its sound discretion shall direct.

24 (d) (1) If a weapon is seized from an individual and the individual is
25 not convicted of the violation for which the weapon was seized, then
26 within 30 days after the declination or conclusion of prosecution of the
27 case against the individual, including any period of appeal, the law
28 enforcement agency that seized the weapon shall verify whether the
29 weapon is stolen. If the weapon is stolen or was seized from an individual
30 whom the agency knows is not the owner of the weapon, the law
31 enforcement agency shall notify the owner of the weapon that such
32 weapon may be retrieved. If the weapon was seized from a juvenile, the
33 agency shall notify the parent or legal guardian of the juvenile that such
34 weapon may be retrieved by the parent or legal guardian. If the agency
35 determines there is no other more appropriate person described in this
36 paragraph to retrieve the weapon, the agency shall notify the person from
37 whom the weapon was seized that such weapon may be retrieved. Such
38 notification shall include the location where such weapon may be
39 retrieved.

40 (2) If the law enforcement agency determines that the individual
41 authorized to retrieve a weapon pursuant to paragraph (1) is prohibited by
42 state or federal law from possessing the seized weapon, the agency shall
43 notify the individual that the weapon will not be returned due to the

1 disqualifying law, which shall be described in the notice. The law
2 enforcement agency shall not dispose of such weapon for 60 days after the
3 notice was given to provide a period for the individual to bring an action in
4 an appropriate court challenging the agency's determination. The law
5 enforcement agency may dispose of the weapon as provided by law 60
6 days after the notice described in paragraph (1) is given unless otherwise
7 directed by the court. An owner of a weapon who is prohibited by law
8 from possessing the weapon may either: (A) Request the law enforcement
9 agency to transfer the weapon to a properly licensed federal firearms
10 dealer designated by the owner; or (B) bring an action in an appropriate
11 court to request a court order to transfer the weapon as allowed by law.

12 (e) If weapons are sold as authorized by subsection (c)(6)(A), the
13 proceeds of the sale shall be credited to the asset seizure and forfeiture
14 fund of the seizing agency.

15 (f) For purposes of this section, the term "weapon" means a weapon
16 described in K.S.A. 2022 Supp. 21-6301, and amendments thereto.

17 Sec. 16. K.S.A. 2022 Supp. 22-3717 is hereby amended to read as
18 follows: 22-3717. (a) Except as otherwise provided by this section, K.S.A.
19 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
20 21-4638 and 21-4642, prior to their repeal; K.S.A. 2022 Supp. 21-6617,
21 *prior to its repeal*; K.S.A. 2022 Supp. 21-6620, 21-6623, 21-6624, 21-6625
22 and 21-6626, and amendments thereto;—~~and~~ K.S.A. 8-1567, and
23 amendments thereto; *and section 3, and amendments thereto*, an inmate,
24 including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its
25 repeal, or K.S.A. 2022 Supp. 21-6707, and amendments thereto, shall be
26 eligible for parole after serving the entire minimum sentence imposed by
27 the court, less good time credits.

28 (b) (1) An inmate sentenced to imprisonment for life without the
29 possibility of parole pursuant to K.S.A. 2022 Supp. 21-6617, and
30 amendments thereto, shall not be eligible for parole.

31 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
32 their repeal, and K.S.A. 2022 Supp. 21-6620, 21-6623, 21-6624 and 21-
33 6625, and amendments thereto, an inmate sentenced to imprisonment for
34 the crime of:

35 (A) Capital murder committed on or after July 1, 1994, shall be
36 eligible for parole after serving 25 years of confinement, without
37 deduction of any good time credits;

38 (B) murder in the first degree based upon a finding of premeditated
39 murder committed on or after July 1, 1994, but prior to July 1, 2014, shall
40 be eligible for parole after serving 25 years of confinement, without
41 deduction of any good time credits; and

42 (C) murder in the first degree as described in K.S.A. 2022 Supp. 21-
43 5402(a)(2), and amendments thereto, committed on or after July 1, 2014,

1 shall be eligible for parole after serving 25 years of confinement, without
2 deduction of any good time credits.

3 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
4 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
5 21-4638, prior to their repeal, and K.S.A. 2022 Supp. 21-6620, 21-6623,
6 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to
7 imprisonment for an off-grid offense committed on or after July 1, 1993,
8 but prior to July 1, 1999, shall be eligible for parole after serving 15 years
9 of confinement, without deduction of any good time credits and an inmate
10 sentenced to imprisonment for an off-grid offense committed on or after
11 July 1, 1999, shall be eligible for parole after serving 20 years of
12 confinement without deduction of any good time credits.

13 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
14 repeal, an inmate sentenced for a class A felony committed before July 1,
15 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
16 its repeal, or K.S.A. 2022 Supp. 21-6707, and amendments thereto, shall
17 be eligible for parole after serving 15 years of confinement, without
18 deduction of any good time credits.

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

23 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
24 4643, prior to its repeal, or K.S.A. 2022 Supp. 21-6627, and amendments
25 thereto, committed on or after July 1, 2006, shall be eligible for parole
26 after serving the mandatory term of imprisonment without deduction of
27 any good time credits.

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

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

35 (A) The aggregate minimum sentences, as determined pursuant to
36 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2022 Supp. 21-6606, and
37 amendments thereto, less good time credits for those crimes ~~which~~ *that* are
38 not class A felonies; and

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

41 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
42 4643, prior to its repeal, or K.S.A. 2022 Supp. 21-6627, and amendments
43 thereto, for crimes committed on or after July 1, 2006, the inmate shall be

1 eligible for parole after serving the mandatory term of imprisonment.

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

7 (A) Except as provided in subparagraphs (D) and (E), persons
8 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
9 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
10 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
11 July 1, 2012, must serve 36 months on postrelease supervision.

12 (B) Except as provided in subparagraphs (D) and (E), persons
13 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
14 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
15 drug severity level 4 crimes committed on or after July 1, 2012, must serve
16 24 months on postrelease supervision.

17 (C) Except as provided in subparagraphs (D) and (E), persons
18 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
19 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
20 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
21 must serve 12 months on postrelease supervision.

22 (D) Persons sentenced to a term of imprisonment that includes a
23 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
24 amendments thereto, committed on or after July 1, 1993, but prior to July
25 1, 2006, a sexually motivated crime ~~in~~ for which the offender has been
26 ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and
27 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its
28 repeal, or K.S.A. 2022 Supp. 21-5509, and amendments thereto, or
29 unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A.
30 2022 Supp. 21-5512, and amendments thereto, shall serve the period of
31 postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or
32 (d)(1)(C), plus the amount of good time and program credit earned and
33 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2022
34 Supp. 21-6821, and amendments thereto, on postrelease supervision.

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

39 (ii) If the sentencing judge departs from the presumptive postrelease
40 supervision period, the judge shall state on the record at the time of
41 sentencing the substantial and compelling reasons for the departure.
42 Departures in this section are subject to appeal pursuant to K.S.A. 21-
43 4721, prior to its repeal, or K.S.A. 2022 Supp. 21-6820, and amendments

1 thereto.

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

4 (a) Written briefs or oral arguments submitted by either the defendant
5 or the state;

6 (b) any evidence received during the proceeding;

7 (c) the presentence report, the victim's impact statement and any
8 psychological evaluation as ordered by the court pursuant to K.S.A. 21-
9 4714(e), prior to its repeal, or K.S.A. 2022 Supp. 21-6813(e), and
10 amendments thereto; and

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

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

16 (v) In carrying out the provisions of subsection (d)(1)(D), the court
17 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2022 Supp. 21-
18 6817, and amendments thereto.

19 (vi) Upon petition and payment of any restitution ordered pursuant to
20 K.S.A. 2022 Supp. 21-6604, and amendments thereto, the prisoner review
21 board may provide for early discharge from the postrelease supervision
22 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of
23 court ordered programs and completion of the presumptive postrelease
24 supervision period, as determined by the crime of conviction, pursuant to
25 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
26 postrelease supervision is at the discretion of the board.

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

30 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
31 repeal, or K.S.A. 2022 Supp. 21-5508, and amendments thereto, shall be
32 required to participate in a treatment program for sex offenders during the
33 postrelease supervision period.

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

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

1 upon which sentence was imposed irrespective of the severity level of the
2 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 1,
5 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 crime
9 committed on or after the effective date of this act, when the offender was
10 under 18 years of age, and who are released from prison, shall be released
11 to a mandatory period of postrelease supervision for 60 months, plus the
12 amount of good time and program credit earned and retained pursuant to
13 K.S.A. 21-4722, prior to its repeal, or K.S.A. 2022 Supp. 21-6821, and
14 amendments thereto.

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

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

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

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

31 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp.
32 21-5503, and amendments thereto;

33 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
34 or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;

35 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
36 to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and amendments thereto;

37 (D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its
38 repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) and (a)(4), and amendments
39 thereto;

40 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
41 or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;

42 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
43 or K.S.A. 2022 Supp. 21-5508(a), and amendments thereto;

1 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
2 to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments thereto;

3 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
4 or K.S.A. 2022 Supp. 21-5510, and amendments thereto;

5 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
6 K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;

7 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A.
8 2022 Supp. 21-5604(b), and amendments thereto;

9 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,
10 prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments
11 thereto, if committed in whole or in part for the purpose of the sexual
12 gratification of the defendant or another;

13 (L) internet trading in child pornography, as defined in K.S.A. 2022
14 Supp. 21-5514(a), and amendments thereto;

15 (M) aggravated internet trading in child pornography, as defined in
16 K.S.A. 2022 Supp. 21-5514(b), and amendments thereto;

17 (N) commercial sexual exploitation of a child, as defined in K.S.A.
18 2022 Supp. 21-6422, and amendments thereto; or

19 (O) an attempt, conspiracy or criminal solicitation, as defined in
20 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
21 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
22 sexually violent crime as defined in this section.

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

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

33 (f) If a person is sentenced to prison for a crime committed on or after
34 July 1, 1993, while on probation, parole, conditional release or in a
35 community corrections program, for a crime committed prior to July 1,
36 1993, and the person is not eligible for retroactive application of the
37 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
38 4724, prior to its repeal, the new sentence shall not be aggregated with the
39 old sentence, but shall begin when the person is paroled or reaches the
40 conditional release date on the old sentence. If the offender was past the
41 offender's conditional release date at the time the new offense was
42 committed, the new sentence shall not be aggregated with the old sentence
43 but shall begin when the person is ordered released by the prisoner review

1 board or reaches the maximum sentence expiration date on the old
2 sentence, whichever is earlier. The new sentence shall then be served as
3 otherwise provided by law. The period of postrelease supervision shall be
4 based on the new sentence, except that those offenders whose old sentence
5 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
6 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
7 term of life imprisonment, for which there is no conditional release or
8 maximum sentence expiration date, shall remain on postrelease
9 supervision for life or until discharged from supervision by the prisoner
10 review board.

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

26 (h) The prisoner review board shall hold a parole hearing at least the
27 month prior to the month an inmate will be eligible for parole under
28 subsections (a), (b) and (c). At least one month preceding the parole
29 hearing, the county or district attorney of the county where the inmate was
30 convicted shall give written notice of the time and place of the public
31 comment sessions for the inmate to any victim of the inmate's crime who
32 is alive and whose address is known to the county or district attorney or, if
33 the victim is deceased, to the victim's family if the family's address is
34 known to the county or district attorney. Except as otherwise provided,
35 failure to notify pursuant to this section shall not be a reason to postpone a
36 parole hearing. In the case of any inmate convicted of an off-grid felony or
37 a class A felony, the secretary of corrections shall give written notice of the
38 time and place of the public comment session for such inmate at least one
39 month preceding the public comment session to any victim of such
40 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
41 amendments thereto. If notification is not given to such victim or such
42 victim's family in the case of any inmate convicted of an off-grid felony or
43 a class A felony, the board shall postpone a decision on parole of the

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

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

36 (j) (1) Before ordering the parole of any inmate, the prisoner review
37 board shall have the inmate appear either in person or via a video
38 conferencing format and shall interview the inmate unless impractical
39 because of the inmate's physical or mental condition or absence from the
40 institution. Every inmate while on parole shall remain in the legal custody
41 of the secretary of corrections and is subject to the orders of the secretary.
42 Whenever the board formally considers placing an inmate on parole and
43 no agreement has been entered into with the inmate under K.S.A. 75-

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

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

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

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

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

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

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

30 (1) Unless it finds compelling circumstances that would render a plan
31 of payment unworkable, shall order as a condition of parole or postrelease
32 supervision that the parolee or the person on postrelease supervision pay
33 any transportation expenses resulting from returning the parolee or the
34 person on postrelease supervision to this state to answer criminal charges
35 or a warrant for a violation of a condition of probation, assignment to a
36 community correctional services program, parole, conditional release or
37 postrelease supervision;

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

43 (3) may order that the parolee or person on postrelease supervision

1 perform community or public service work for local governmental
2 agencies, private corporations organized not-for-profit or charitable or
3 social service organizations performing services for the community;

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

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

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

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

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

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

1 attorney of the county where the inmate was sentenced.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
2 4643, prior to its repeal, or K.S.A. 2022 Supp. 21-6627, and amendments
3 thereto, for crimes committed on or after July 1, 2006, shall be placed on
4 parole for life and shall not be discharged from supervision by the prisoner
5 review board. When the board orders the parole of an inmate pursuant to
6 this subsection, the board shall order as a condition of parole that the
7 inmate be electronically monitored for the duration of the inmate's natural
8 life.

9 (v) Whenever the prisoner review board orders a person to be
10 electronically monitored pursuant to this section, or the court orders a
11 person to be electronically monitored pursuant to K.S.A. 2022 Supp. 21-
12 6604(r), and amendments thereto, the board shall order the person to
13 reimburse the state for all or part of the cost of such monitoring. In
14 determining the amount and method of payment of such sum, the board
15 shall take account of the financial resources of the person and the nature of
16 the burden that the payment of such sum will impose.

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

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

26 (B) As used in this subsection, all other terms have the meanings
27 provided by K.S.A. 2022 Supp. 21-5510, and amendments thereto.

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

33 Sec. 17. K.S.A. 2022 Supp. 22-4902 is hereby amended to read as
34 follows: 22-4902. As used in the Kansas offender registration act, unless
35 the context otherwise requires:

36 (a) "Offender" means:

37 (1) A sex offender;

38 (2) a violent offender;

39 (3) a drug offender;

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

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

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

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

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

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

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

12 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
13 K.S.A. 2022 Supp. 21-5511, and amendments thereto;

14 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
15 repeal, or K.S.A. 2022 Supp. 21-5504(a)(1) or (a)(2), and amendments
16 thereto;

17 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
18 repeal, or K.S.A. 2012 Supp. 21-6420, prior to its amendment by section
19 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

20 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
21 repeal, or K.S.A. 2012 Supp. 21-6421, prior to its amendment by section
22 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

23 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
24 to its repeal, or K.S.A. 2022 Supp. 21-5513, and amendments thereto;

25 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
26 to its repeal, or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto;

27 (6) is convicted of sexual extortion, as defined in K.S.A. 2022 Supp.
28 21-5515, and amendments thereto;

29 (7) is convicted of breach of privacy, as defined in K.S.A. 2022 Supp.
30 21-6101(a)(6), (a)(7) or (a)(8), and amendments thereto;

31 (8) is convicted of an attempt, conspiracy or criminal solicitation, as
32 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
33 K.S.A. 2022 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
34 of an offense defined in this subsection; or

35 (9) has been convicted of an offense that is comparable to any crime
36 defined in this subsection, or any out-of-state conviction for an offense that
37 under the laws of this state would be an offense defined in this subsection.

38 (c) "Sexually violent crime" means:

39 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
40 2022 Supp. 21-5503, and amendments thereto;

41 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
42 to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;

43 (3) aggravated indecent liberties with a child, as defined in K.S.A.

- 1 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
2 amendments thereto;
- 3 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
4 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
5 amendments thereto;
- 6 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
7 to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;
- 8 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
9 prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments
10 thereto;
- 11 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
12 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and
13 amendments thereto;
- 14 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
15 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;
- 16 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
17 its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;
- 18 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
19 repeal, or K.S.A. 2022 Supp. 21-5604(b), and amendments thereto;
- 20 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
21 repeal, and K.S.A. 2022 Supp. 21-5509, and amendments thereto;
- 22 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
23 its repeal, or K.S.A. 2022 Supp. 21-5512, and amendments thereto;
- 24 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
25 prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments
26 thereto, if committed in whole or in part for the purpose of the sexual
27 gratification of the defendant or another;
- 28 (14) commercial sexual exploitation of a child, as defined in K.S.A.
29 2022 Supp. 21-6422, and amendments thereto;
- 30 (15) promoting the sale of sexual relations, as defined in K.S.A. 2022
31 Supp. 21-6420, and amendments thereto;
- 32 (16) internet trading in child pornography or aggravated internet
33 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,
34 and amendments thereto;
- 35 (17) any conviction or adjudication for an offense that is comparable
36 to a sexually violent crime as defined in this subsection, or any out-of-state
37 conviction or adjudication for an offense that under the laws of this state
38 would be a sexually violent crime as defined in this subsection;
- 39 (18) an attempt, conspiracy or criminal solicitation, as defined in
40 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
41 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
42 violent crime, as defined in this subsection; or
- 43 (19) any act that has been determined beyond a reasonable doubt to

1 have been sexually motivated, unless the court, on the record, finds that
 2 the act involved non-forcible sexual conduct, the victim was at least 14
 3 years of age and the offender was not more than four years older than the
 4 victim. As used in this paragraph, "sexually motivated" means that one of
 5 the purposes for which the defendant committed the crime was for the
 6 purpose of the defendant's sexual gratification.

7 (d) "Sexually violent predator" means any person who, on or after
 8 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
 9 59-29a01 et seq., and amendments thereto.

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

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

13 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
 14 or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*;

15 (B) *aggravated murder, as defined in section 2*, and amendments
 16 thereto;

17 ~~(B)~~(C) murder in the first degree, as defined in K.S.A. 21-3401, prior
 18 to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;

19 ~~(C)~~(D) murder in the second degree, as defined in K.S.A. 21-3402,
 20 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
 21 thereto;

22 ~~(D)~~(E) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
 23 its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;

24 ~~(E)~~(F) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
 25 to its repeal, or K.S.A. 2022 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
 26 amendments thereto. The provisions of this paragraph shall not apply to
 27 violations of K.S.A. 2022 Supp. 21-5405(a)(3), and amendments thereto,
 28 that occurred on or after July 1, 2011, through July 1, 2013;

29 ~~(F)~~(G) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,
 30 or K.S.A. 2022 Supp. 21-5408(a), and amendments thereto;

31 ~~(G)~~(H) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to
 32 its repeal, or K.S.A. 2022 Supp. 21-5408(b), and amendments thereto;

33 ~~(H)~~(I) criminal restraint, as defined in K.S.A. 21-3424, prior to its
 34 repeal, or K.S.A. 2022 Supp. 21-5411, and amendments thereto, except by
 35 a parent, and only when the victim is less than 18 years of age; or

36 ~~(I)~~(J) aggravated human trafficking, as defined in K.S.A. 21-3447,
 37 prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments
 38 thereto, if not committed in whole or in part for the purpose of the sexual
 39 gratification of the defendant or another;

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

43 (3) has been convicted of an offense that is comparable to any crime

1 defined in this subsection, any out-of-state conviction for an offense that
2 under the laws of this state would be an offense defined in this subsection;
3 or

4 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
5 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
6 K.S.A. 2022 Supp. 21-5301, 21-5302 and 21-5303, and amendments
7 thereto, of an offense defined in this subsection.

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

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

10 (A) Unlawful manufacture or attempting such of any controlled
11 substance or controlled substance analog, as defined in K.S.A. 65-4159,
12 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
13 K.S.A. 2022 Supp. 21-5703, and amendments thereto;

14 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
15 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
16 ammonia or phenylpropanolamine, or their salts, isomers or salts of
17 isomers with intent to use the product to manufacture a controlled
18 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
19 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2022 Supp. 21-5709(a),
20 and amendments thereto;

21 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
22 36a05(a)(1), prior to its transfer, or K.S.A. 2022 Supp. 21-5705(a)(1), and
23 amendments thereto. The provisions of this paragraph shall not apply to
24 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b) that
25 occurred on or after July 1, 2009, through April 15, 2010;

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

30 (3) is or has been convicted of an attempt, conspiracy or criminal
31 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
32 their repeal, or K.S.A. 2022 Supp. 21-5301, 21-5302 and 21-5303, and
33 amendments thereto, of an offense defined in this subsection.

34 (g) Convictions or adjudications that result from or are connected
35 with the same act, or result from crimes committed at the same time, shall
36 be counted for the purpose of this section as one conviction or
37 adjudication. Any conviction or adjudication set aside pursuant to law is
38 not a conviction or adjudication for purposes of this section. A conviction
39 or adjudication from any out-of-state court shall constitute a conviction or
40 adjudication for purposes of this section.

41 (h) "School" means any public or private educational institution,
42 including, but not limited to, postsecondary school, college, university,
43 community college, secondary school, high school, junior high school,

1 middle school, elementary school, trade school, vocational school or
2 professional school providing training or education to an offender for three
3 or more consecutive days or parts of days, or for 10 or more
4 nonconsecutive days in a period of 30 consecutive days.

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

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

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

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

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

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

27 (o) "Registering entity" means any person, agency or other
28 governmental unit, correctional facility or registering law enforcement
29 agency responsible for obtaining the required information from, and
30 explaining the required registration procedures to, any person required to
31 register pursuant to the Kansas offender registration act. "Registering
32 entity" includes, but is not limited to, sheriff's offices, tribal police
33 departments and correctional facilities.

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

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

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

1 (s) "Duration of registration" means the length of time ~~during which~~
2 *when* an offender is required to register for a specified offense or violation.

3 (t) (1) Notwithstanding any other provision of this section, "offender"
4 ~~shall~~ *does* not include any person who is:

5 (A) Convicted of unlawful transmission of a visual depiction of a
6 child, as defined in K.S.A. 2022 Supp. 21-5611(a), and amendments
7 thereto, aggravated unlawful transmission of a visual depiction of a child,
8 as defined in K.S.A. 2022 Supp. 21-5611(b), and amendments thereto, or
9 unlawful possession of a visual depiction of a child, as defined in K.S.A.
10 2022 Supp. 21-5610, and amendments thereto;

11 (B) adjudicated as a juvenile offender for an act which, if committed
12 by an adult, would constitute the commission of a crime defined in
13 subsection (t)(1)(A);

14 (C) adjudicated as a juvenile offender for an act which, if committed
15 by an adult, would constitute the commission of sexual extortion as
16 defined in K.S.A. 2022 Supp. 21-5515, and amendments thereto; or

17 (D) adjudicated as a juvenile offender for an act which, if committed
18 by an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6101(a)
19 (6), (a)(7) or (a)(8), and amendments thereto.

20 (2) Notwithstanding any other provision of law, a court shall not
21 order any person to register under the Kansas offender registration act for
22 the offenses described in subsection (t)(1).

23 Sec. 18. K.S.A. 2022 Supp. 22-4906 is hereby amended to read as
24 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted
25 of any of the following offenses, an offender's duration of registration shall
26 be, if confined, 15 years after the date of parole, discharge or release,
27 whichever date is most recent, or, if not confined, 15 years from the date of
28 conviction:

29 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
30 or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto;

31 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
32 K.S.A. 2022 Supp. 21-5511, and amendments thereto, when one of the
33 parties involved is less than 18 years of age;

34 (C) promoting the sale of sexual relations, as defined in K.S.A. 2022
35 Supp. 21-6420, and amendments thereto;

36 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
37 repeal, or K.S.A 2012 Supp. 21-6421, prior to its amendment by section 18
38 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, when
39 one of the parties involved is less than 18 years of age;

40 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
41 to its repeal, or K.S.A. 2022 Supp. 21-5513, and amendments thereto,
42 when one of the parties involved is less than 18 years of age;

43 (F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,

- 1 or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*;
- 2 (*G*) *aggravated murder, as defined in section 2, and amendments*
- 3 *thereto*;
- 4 (~~G~~)(*H*) *murder in the first degree, as defined in K.S.A. 21-3401, prior*
- 5 *to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto*;
- 6 (~~H~~)(*I*) *murder in the second degree, as defined in K.S.A. 21-3402,*
- 7 *prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments*
- 8 *thereto*;
- 9 (~~H~~)(*J*) *voluntary manslaughter, as defined in K.S.A. 21-3403, prior to*
- 10 *its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto*;
- 11 (~~H~~)(*K*) *involuntary manslaughter, as defined in K.S.A. 21-3404, prior*
- 12 *to its repeal, or K.S.A. 2022 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and*
- 13 *amendments thereto*;
- 14 (~~K~~)(*L*) *criminal restraint, as defined in K.S.A. 21-3424, prior to its*
- 15 *repeal, or K.S.A. 2022 Supp. 21-5411, and amendments thereto, except by*
- 16 *a parent, and only when the victim is less than 18 years of age*;
- 17 (~~L~~)(*M*) *sexual extortion, as defined in K.S.A. 2022 Supp. 21-5515,*
- 18 *and amendments thereto, when one of the parties involved is less than 18*
- 19 *years of age*;
- 20 (~~M~~)(*N*) *breach of privacy, as defined in K.S.A. 2022 Supp. 21-*
- 21 *6101(a)(6), (a)(7) or (a)(8), and amendments thereto*;
- 22 (~~N~~)(*O*) *any act that has been determined beyond a reasonable doubt*
- 23 *to have been sexually motivated, unless the court, on the record, finds that*
- 24 *the act involved non-forcible sexual conduct, the victim was at least 14*
- 25 *years of age and the offender was not more than four years older than the*
- 26 *victim*;
- 27 (~~O~~)(*P*) *conviction of any person required by court order to register for*
- 28 *an offense not otherwise required as provided in the Kansas offender*
- 29 *registration act*;
- 30 (~~P~~)(*Q*) *conviction of any person felony and the court makes a finding*
- 31 *on the record that a deadly weapon was used in the commission of such*
- 32 *person felony*;
- 33 (~~Q~~)(*R*) *unlawful manufacture or attempting such of any controlled*
- 34 *substance or controlled substance analog, as defined in K.S.A. 65-4159,*
- 35 *prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or*
- 36 *K.S.A. 2022 Supp. 21-5703, and amendments thereto*;
- 37 (~~R~~)(*S*) *possession of ephedrine, pseudoephedrine, red phosphorus,*
- 38 *lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized*
- 39 *ammonia or phenylpropanolamine, or their salts, isomers or salts of*
- 40 *isomers with intent to use the product to manufacture a controlled*
- 41 *substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.*
- 42 *2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2022 Supp. 21-*
- 43 *5709(a), and amendments thereto*;

1 (S)(T) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
2 36a05(a)(1), prior to its transfer, or K.S.A. 2022 Supp. 21-5705(a)(1), and
3 amendments thereto; or

4 (⊕)(U) any attempt, conspiracy or criminal solicitation, as defined in
5 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
6 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
7 offense defined in this subsection.

8 (2) Except as otherwise provided by the Kansas offender registration
9 act, the duration of registration terminates, if not confined, at the
10 expiration of 15 years from the date of conviction. Any period of time
11 ~~during which~~ when any offender is incarcerated in any jail or correctional
12 facility or ~~during which~~ when the offender does not comply with any and
13 all requirements of the Kansas offender registration act shall not count
14 toward the duration of registration.

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

20 (A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
21 repeal, or K.S.A. 2022 Supp. 21-5504(a)(1) or (a)(2), and amendments
22 thereto, when one of the parties involved is less than 18 years of age;

23 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
24 prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments
25 thereto;

26 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
27 repeal, or K.S.A. 2022 Supp. 21-5509, and amendments thereto;

28 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
29 repeal, or K.S.A. 2022 Supp. 21-5604(b), and amendments thereto;

30 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
31 to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;

32 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
33 its repeal, or K.S.A. 2022 Supp. 21-5512, and amendments thereto;

34 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
35 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, if
36 the victim is 14 or more years of age but less than 18 years of age;

37 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
38 its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;

39 (I) internet trading in child pornography, as defined in K.S.A. 2022
40 Supp. 21-5514, and amendments thereto;

41 (J) aggravated internet trading in child pornography, as defined in
42 K.S.A. 2022 Supp. 21-5514, and amendments thereto, if the victim is 14 or
43 more years of age but less than 18 years of age;

1 (K) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
2 repeal, or K.S.A. 2012 Supp. 21-6420, prior to its amendment by section
3 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
4 the person selling sexual relations is 14 or more years of age but less than
5 18 years of age; or

6 (L) any attempt, conspiracy or criminal solicitation, as defined in
7 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
8 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
9 offense defined in this subsection.

10 (2) Except as otherwise provided by the Kansas offender registration
11 act, the duration of registration terminates, if not confined, at the
12 expiration of 25 years from the date of conviction. Any period of time
13 ~~during which~~ when any offender is incarcerated in any jail or correctional
14 facility or ~~during which~~ when the offender does not comply with any and
15 all requirements of the Kansas offender registration act shall not count
16 toward the duration of registration.

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

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

23 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
24 2022 Supp. 21-5503, and amendments thereto;

25 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
26 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and
27 amendments thereto;

28 (3) aggravated indecent liberties with a child, as defined in K.S.A.
29 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
30 amendments thereto;

31 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
32 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
33 amendments thereto;

34 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
35 to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;

36 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
37 to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments thereto;

38 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
39 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, if
40 the victim is less than 14 years of age;

41 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
42 repeal, or K.S.A. 2012 Supp. 21-6420, prior to its amendment by section
43 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if

1 the person selling sexual relations is less than 14 years of age;

2 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
3 K.S.A. 2022 Supp. 21-5408(a), and amendments thereto;

4 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
5 repeal, or K.S.A. 2022 Supp. 21-5408(b), and amendments thereto;

6 (11) aggravated internet trading in child pornography, as defined in
7 K.S.A. 2022 Supp. 21-5514, and amendments thereto, if the victim is less
8 than 14 years of age;

9 (12) commercial sexual exploitation of a child, as defined in K.S.A.
10 2022 Supp. 21-6422, and amendments thereto; or

11 (13) any attempt, conspiracy or criminal solicitation, as defined in
12 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
13 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
14 offense defined in this subsection.

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

18 (f) Notwithstanding any other provisions of this section, for an
19 offender less than 14 years of age who is adjudicated as a juvenile offender
20 for an act which, if committed by an adult, would constitute a sexually
21 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the
22 court shall:

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

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

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

40 If such offender violates a condition of release during the term of the
41 conditional release, the court may require such offender to register
42 pursuant to ~~paragraph (1)~~ subsection (f).

43 (g) Notwithstanding any other provisions of this section, for an

1 offender 14 years of age or more who is adjudicated as a juvenile offender
2 for an act which, if committed by an adult, would constitute a sexually
3 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and
4 such crime is not an off-grid felony or a felony ranked in severity level 1
5 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or
6 K.S.A. 2022 Supp. 21-6804, and amendments thereto, the court shall:

7 (1) Require registration until such offender reaches 18 years of age, at
8 the expiration of five years from the date of adjudication or, if confined,
9 from release from confinement, whichever date occurs later. Any period of
10 time ~~during which~~ when the offender is incarcerated in any jail, juvenile
11 facility or correctional facility or ~~during which~~ when the offender does not
12 comply with any and all requirements of the Kansas offender registration
13 act shall not count toward the duration of registration;

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

16 (3) require registration, but such registration information shall not be
17 open to inspection by the public or posted on any internet website, as
18 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
19 registration but such registration is not open to the public, such offender
20 shall provide a copy of such court order to the registering law enforcement
21 agency at the time of registration. The registering law enforcement agency
22 shall forward a copy of such court order to the Kansas bureau of
23 investigation.

24 If such offender violates a condition of release during the term of the
25 conditional release, the court may require such offender to register
26 pursuant to ~~paragraph (1)~~ subsection (g).

27 (h) Notwithstanding any other provisions of this section, an offender
28 14 *or more* years of age ~~or more~~ who is adjudicated as a juvenile offender
29 for an act which, if committed by an adult, would constitute a sexually
30 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and
31 such crime is an off-grid felony or a felony ranked in severity level 1 of
32 the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or
33 K.S.A. 2022 Supp. 21-6804, and amendments thereto, shall be required to
34 register for such offender's lifetime.

35 (i) Notwithstanding any other provision of law, if a diversionary
36 agreement or probation order, either adult or juvenile, or a juvenile
37 offender sentencing order, requires registration under the Kansas offender
38 registration act for an offense that would not otherwise require registration
39 as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all
40 provisions of the Kansas offender registration act shall apply, except that
41 the duration of registration shall be controlled by such diversionary
42 agreement, probation order or juvenile offender sentencing order.

43 (j) The duration of registration does not terminate if the convicted or

1 adjudicated offender again becomes liable to register as provided by the
2 Kansas offender registration act during the required period of registration.

3 (k) For any person moving to Kansas who has been convicted or
4 adjudicated in an out-of-state court, or who was required to register under
5 an out-of-state law, the duration of registration shall be the length of time
6 required by the out-of-state jurisdiction or by the Kansas offender
7 registration act, whichever length of time is longer. The provisions of this
8 subsection shall apply to convictions or adjudications prior to June 1,
9 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
10 convictions or adjudications on or after June 1, 2006, and to persons who
11 moved to Kansas on or after June 1, 2006.

12 (l) For any person residing, maintaining employment or attending
13 school in this state who has been convicted or adjudicated by an out-of-
14 state court of an offense that is comparable to any crime requiring
15 registration pursuant to the Kansas offender registration act, but who was
16 not required to register in the jurisdiction of conviction or adjudication, the
17 duration of registration shall be the duration required for the comparable
18 offense pursuant to the Kansas offender registration act.

19 Sec. 19. K.S.A. 2022 Supp. 23-3222 is hereby amended to read as
20 follows: 23-3222. (a) Except as provided in subsection (d), a parent
21 entitled to legal custody or residency of or parenting time with a child
22 under this article shall give written notice to the other parent not less than
23 30 days prior to: (1) Changing the residence of the child; or (2) removing
24 the child from this state for a period of time exceeding 90 days. Such
25 notice shall be sent by restricted mail, return receipt requested, to the last
26 known address of the other parent.

27 (b) Failure to give notice as required by subsection (a) is an indirect
28 civil contempt punishable as provided by law. In addition, the court may
29 assess, against the parent required to give notice, reasonable attorney fees
30 and any other expenses incurred by the other parent by reason of the
31 failure to give notice.

32 (c) A change of the residence or the removal of a child as described in
33 subsection (a) may be considered a material change of circumstances
34 ~~which~~ *that* justifies modification of a prior order of legal custody,
35 residency, child support or parenting time. In determining any motion
36 seeking a modification of a prior order based on change of residence or
37 removal as described in (a), the court shall consider all factors the court
38 deems appropriate including, but not limited to: (1) The effect of the move
39 on the best interests of the child; (2) the effect of the move on any party
40 having rights granted under this article; and (3) the increased cost the
41 move will impose on any party seeking to exercise rights granted under
42 this article.

43 (d) A parent entitled to the legal custody or residency of a child under

1 this article shall not be required to give the notice required by this section
2 to the other parent when the other parent has been convicted of any crime
3 specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes
4 Annotated *or K.S.A. 2022 Supp. 21-5401*, prior to their repeal, or K.S.A.
5 2022 Supp. ~~21-5401~~ 21-5402 through 21-5609, *section 2*, 21-6104, 21-
6 6325, 21-6326 or 21-6419 through 21-6422, and amendments thereto, in
7 which the child is the victim of such crime.

8 Sec. 20. K.S.A. 38-2255 is hereby amended to read as follows: 38-
9 2255. (a) *Considerations*. Prior to entering an order of disposition, the
10 court shall give consideration to:

- 11 (1) The child's physical, mental and emotional condition;
- 12 (2) the child's need for assistance;
- 13 (3) the manner in which the parent participated in the abuse, neglect
14 or abandonment of the child;
- 15 (4) any relevant information from the intake and assessment process;
16 and
- 17 (5) the evidence received at the dispositional hearing.

18 (b) *Custody with a parent*. The court may place the child in the
19 custody of either of the child's parents subject to terms and conditions
20 ~~which~~ *that* the court prescribes to assure the proper care and protection of
21 the child, including, but not limited to:

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

27 (c) *Removal of a child from custody of a parent*. The court shall not
28 enter the initial order removing a child from the custody of a parent
29 pursuant to this section unless the court first finds probable cause that:

- 30 (1) (A) The child is likely to sustain harm if not immediately removed
31 from the home;
- 32 (B) allowing the child to remain in home is contrary to the welfare of
33 the child; or
- 34 (C) immediate placement of the child is in the best interest of the
35 child; and

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

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

42 (d) *Custody of a child removed from the custody of a parent*. If the
43 court has made the findings required by subsection (c), the court shall

1 enter an order awarding custody to: A relative of the child or to a person
2 with whom the child has close emotional ties who shall not be required to
3 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
4 and amendments thereto; any other suitable person; a shelter facility; a
5 youth residential facility; a staff secure facility, notwithstanding any other
6 provision of law, if the child has been subjected to human trafficking or
7 aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426,
8 and amendments thereto, or commercial sexual exploitation of a child, as
9 defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or the
10 child committed an act which, if committed by an adult, would constitute a
11 violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto; or, if
12 the child is 15 years of age or younger, or 16 or 17 years of age if the child
13 has no identifiable parental or family resources or shows signs of physical,
14 mental, emotional or sexual abuse, to the secretary. Custody awarded
15 under this subsection shall continue until further order of the court.

16 (1) When custody is awarded to the secretary, the secretary shall
17 consider any placement recommendation by the court and notify the court
18 of the placement or proposed placement of the child within 10 days of the
19 order awarding custody. After providing the parties or interested parties
20 notice and opportunity to be heard, the court may determine whether the
21 secretary's placement or proposed placement is contrary to the welfare or
22 in the best interests of the child. In making that determination the court
23 shall consider the health and safety needs of the child and the resources
24 available to meet the needs of children in the custody of the secretary. If
25 the court determines that the placement or proposed placement is contrary
26 to the welfare or not in the best interests of the child, the court shall notify
27 the secretary, who shall then make an alternative placement.

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

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

40 (4) The court may enter an order restraining any alleged perpetrator
41 of physical, mental or emotional abuse or sexual abuse of the child from
42 residing in the child's home; visiting, contacting, harassing or intimidating
43 the child, other family member or witness; or attempting to visit, contact,

1 harass or intimidate the child, other family member or witness. Such
 2 restraining order shall be served by personal service pursuant to K.S.A.
 3 38-2237(a), and amendments thereto, on any alleged perpetrator to whom
 4 the order is directed.

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

8 (e) *Further determinations regarding a child removed from the home.*
 9 If custody has been awarded under subsection (d) to a person other than a
 10 parent, a permanency plan shall be provided or prepared pursuant to
 11 K.S.A. 38-2264, and amendments thereto. If a permanency plan is
 12 provided at the dispositional hearing, the court may determine whether
 13 reintegration is a viable alternative or, if reintegration is not a viable
 14 alternative, whether the child should be placed for adoption or a permanent
 15 custodian appointed. In determining whether reintegration is a viable
 16 alternative, the court shall consider:

17 (1) Whether a parent has been found by a court to have committed
 18 one of the following crimes or to have violated the law of another state
 19 prohibiting such crimes or to have aided and abetted, attempted, conspired
 20 or solicited the commission of one of these crimes:

21 (A) *Capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.*
 22 *2022 Supp. 21-5401, prior to its repeal;*

23 (B) *aggravated murder, section 2, and amendments thereto;*

24 (C) *murder in the first degree, K.S.A. 21-3401, prior to its repeal, or*
 25 *K.S.A. 2022 Supp. 21-5402, and amendments thereto;*

26 ~~(B)(D)~~ *murder in the second degree, K.S.A. 21-3402, prior to its*
 27 *repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;* ~~(C)~~
 28 ~~*capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022 Supp.*~~
 29 ~~*21-5401, and amendments thereto;*~~

30 ~~(D)~~ *(E) voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or*
 31 *K.S.A. 2022 Supp. 21-5404, and amendments thereto; or*

32 ~~(E)~~ *(F) a felony battery that resulted in bodily injury;*

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

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

38 (4) whether the child has been in the custody of the secretary and
 39 placed with neither parent for 15 of the most recent 22 months beginning
 40 60 days after the date ~~on which~~ *when* a child in the secretary's custody was
 41 removed from the child's home;

42 (5) whether the parents have failed to work diligently toward
 43 reintegration;

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

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

5 (f) *Proceedings if reintegration is not a viable alternative.* If the court
6 determines that reintegration is not a viable alternative, proceedings to
7 terminate parental rights and permit placement of the child for adoption or
8 appointment of a permanent custodian shall be initiated unless the court
9 finds that compelling reasons have been documented in the case plan why
10 adoption or appointment of a permanent custodian would not be in the best
11 interests of the child. If compelling reasons have not been documented, the
12 county or district attorney shall file a motion within 30 days to terminate
13 parental rights or a motion to appoint a permanent custodian within 30
14 days and the court shall hold a hearing on the motion within 90 days of its
15 filing. No hearing is required when the parents voluntarily relinquish
16 parental rights or consent to the appointment of a permanent custodian.

17 (g) *Additional orders.* In addition to or in lieu of any other order
18 authorized by this section:

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

26 (2) If the court has reason to believe that a child is before the court
27 due, in whole or in part, to the use or misuse of alcohol or a violation of
28 K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto, by
29 the child, a parent of the child, or another person responsible for the care
30 of the child, the court may order the child, parent of the child or other
31 person responsible for the care of the child to submit to and complete an
32 alcohol and drug evaluation by a qualified person or agency and comply
33 with any recommendations. If the evaluation is performed by a
34 community-based alcohol and drug safety program certified pursuant to
35 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
36 other person responsible for the care of the child shall pay a fee not to
37 exceed the fee established by that statute. If the court finds that the child
38 and those legally liable for the child's support are indigent, the fee may be
39 waived. In no event shall the fee be assessed against the secretary.

40 (3) If child support has been requested and the parent or parents have
41 a duty to support the child, the court may order one or both parents to pay
42 child support and, when custody is awarded to the secretary, the court shall
43 order one or both parents to pay child support. The court shall determine,

1 for each parent separately, whether the parent is already subject to an order
2 to pay support for the child. If the parent is not presently ordered to pay
3 support for any child who is subject to the jurisdiction of the court and the
4 court has personal jurisdiction over the parent, the court shall order the
5 parent to pay child support in an amount determined under K.S.A. 38-
6 2277, and amendments thereto. Except for good cause shown, the court
7 shall issue an immediate income withholding order pursuant to K.S.A. 23-
8 3101 et seq., and amendments thereto, for each parent ordered to pay
9 support under this subsection, regardless of whether a payor has been
10 identified for the parent. A parent ordered to pay child support under this
11 subsection shall be notified, at the hearing or otherwise, that the child
12 support order may be registered pursuant to K.S.A. 38-2279, and
13 amendments thereto. The parent shall also be informed that, after
14 registration, the income withholding order may be served on the parent's
15 employer without further notice to the parent and the child support order
16 may be enforced by any method allowed by law. Failure to provide this
17 notice shall not affect the validity of the child support order.

18 Sec. 21. K.S.A. 38-2271 is hereby amended to read as follows: 38-
19 2271. (a) It is presumed in the manner provided in K.S.A. 60-414, and
20 amendments thereto, that a parent is unfit by reason of conduct or
21 condition ~~which~~ that renders the parent unable to fully care for a child, if
22 the state establishes, by clear and convincing evidence, that:

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

26 (2) a parent has twice before been convicted of a crime specified in
27 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
28 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
29 Annotated, or K.S.A. 2022 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
30 through 21-6421, and amendments thereto, or comparable offenses under
31 the laws of another jurisdiction, or an attempt or attempts to commit such
32 crimes and the victim was under the age of 18 years;

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

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

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

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

7 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
8 prior to its repeal, or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*,
9 *aggravated murder, section 2*, and amendments thereto, murder in the first
10 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022 Supp. 21-5402,
11 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
12 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
13 thereto, voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or
14 K.S.A. 2022 Supp. 21-5404, and amendments thereto, human trafficking
15 or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their
16 repeal, or K.S.A. 2022 Supp. 21-5426, and amendments thereto, or
17 commercial sexual exploitation of a child, K.S.A. 2022 Supp. 21-6422,
18 and amendments thereto, or comparable proceedings under the laws of
19 another jurisdiction or, has been adjudicated a juvenile offender because of
20 an act which, if committed by an adult, would be an offense as provided in
21 this subsection, and the victim of such murder was the other parent of the
22 child;

23 (8) a parent abandoned or neglected the child after having knowledge
24 of the child's birth or either parent has been granted immunity from
25 prosecution for abandonment of the child under K.S.A. 21-3604(b), prior
26 to its repeal, or K.S.A. 2022 Supp. 21-5605(d), and amendments thereto;
27 or

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

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

33 (11) a father abandoned the mother after having knowledge of the
34 pregnancy;

35 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
36 repeal, or K.S.A. 2022 Supp. 21-5503, and amendments thereto, or
37 comparable proceedings under the laws of another jurisdiction resulting in
38 the conception of the child; or

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

43 (b) The burden of proof is on the parent to rebut the presumption of

1 unfitness by a preponderance of the evidence. In the absence of proof that
2 the parent is presently fit and able to care for the child or that the parent
3 will be fit and able to care for the child in the foreseeable future, the court
4 shall terminate parental rights in proceedings pursuant to K.S.A. 38-2266
5 et seq., and amendments thereto.

6 Sec. 22. K.S.A. 38-2303 is hereby amended to read as follows: 38-
7 2303. (a) Proceedings under this code involving acts committed by a
8 juvenile which, if committed by an adult, would constitute a violation of
9 any of the following statutes may be commenced at any time: (1) Rape as
10 defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-
11 5503, and amendments thereto; (2) aggravated criminal sodomy as defined
12 in K.S.A. 21-3506, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2022
13 Supp. 21-5504(b), and amendments thereto; (3) murder as described in
14 K.S.A. 21-3401, 21-3402 or 21-3439, prior to their repeal, or K.S.A. 2022
15 Supp. 21-5401, *prior to its repeal, or K.S.A. 2022 Supp. 21-5402* ~~or~~, 21-
16 5403 *or section 2*, and amendments thereto; (4) terrorism as defined in
17 K.S.A. 21-3449, prior to its repeal, or K.S.A. 2022 Supp. 21-5421, and
18 amendments thereto; or (5) illegal use of weapons of mass destruction as
19 defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2022 Supp. 21-
20 5422, and amendments thereto.

21 (b) Except as provided by subsections (c) and (e), a proceeding under
22 this code for any act committed by a juvenile which, if committed by an
23 adult, would constitute a violation of any of the following statutes shall be
24 commenced within five years after its commission if the victim is less than
25 16 years of age: (1) Lewd and lascivious behavior as defined in K.S.A. 21-
26 3508, prior to its repeal, or K.S.A. 2022 Supp. 21-5513, and amendments
27 thereto; (2) unlawful voluntary sexual relations as defined in K.S.A. 21-
28 3522, prior to its repeal, or K.S.A. 2022 Supp. 21-5507, and amendments
29 thereto; or (3) aggravated incest as defined in K.S.A. 21-3603, prior to its
30 repeal, or ~~subsection (b) of~~ K.S.A. 2022 Supp. 21-5604(b), and
31 amendments thereto.

32 (c) Except as provided in subsection (e), a proceeding under this code
33 for any act committed by a juvenile which, if committed by an adult,
34 would constitute a sexually violent crime as defined in K.S.A. 22-3717,
35 and amendments thereto:

36 (1) When the victim is 18 years of age or older shall be commenced
37 within 10 years or one year from the date on which the identity of the
38 suspect is conclusively established by DNA testing, whichever is later; or

39 (2) when the victim is under 18 years of age shall be commenced
40 within 10 years of the date the victim turns 18 years of age or one year
41 from the date on which the identity of the suspect is conclusively
42 established by DNA testing, whichever is later.

43 (3) For the purposes of this subsection, "DNA" means

1 deoxyribonucleic acid.

2 (d) Except as provided by subsection (e), proceedings under this code
3 not governed by ~~subsections~~ *subsection* (a), (b) or (c) shall be commenced
4 within two years after the act giving rise to the proceedings is committed.

5 (e) The period within which the proceedings—~~must~~ *shall* be
6 commenced shall not include any period in which:

7 (1) The accused is absent from the state;

8 (2) the accused is so concealed within the state that process cannot be
9 served upon the accused;

10 (3) the fact of the offense is concealed; or

11 (4) whether or not the fact of the offense is concealed by the active
12 act or conduct of the accused, there is substantial competent evidence to
13 believe two or more of the following factors are present: (A) The victim
14 was a child under 15 years of age at the time of the offense; (B) the victim
15 was of such age or intelligence that the victim was unable to determine
16 that the acts constituted an offense; (C) the victim was prevented by a
17 parent or other legal authority from making known to law enforcement
18 authorities the fact of the offense whether or not the parent or other legal
19 authority is the accused; and (D) there is substantial competent expert
20 testimony indicating the victim psychologically repressed such victim's
21 memory of the fact of the offense, and in the expert's professional opinion
22 the recall of such memory is accurate, free of undue manipulation, and
23 substantial corroborating evidence can be produced in support of the
24 allegations contained in the complaint or information; but in no event may
25 a proceeding be commenced as provided in subsection (e)(4) later than the
26 date the victim turns 28 years of age. Corroborating evidence may include,
27 but is not limited to, evidence the alleged juvenile offender committed
28 similar acts against other persons or evidence of contemporaneous
29 physical manifestations of the offense. Parent or other legal authority shall
30 include, but not be limited to, natural and stepparents, grandparents, aunts,
31 uncles or siblings.

32 (f) An offense is committed either when every element occurs, or, if a
33 legislative purpose to prohibit a continuing offense plainly appears, at the
34 time when the course of conduct or the alleged juvenile offender's
35 complicity therein is terminated. Time starts to run on the day after the
36 offense is committed.

37 (g) A proceeding under this code is commenced when a complaint or
38 information is filed, or an indictment returned, and a warrant thereon is
39 delivered to the sheriff or other officer for execution. No such proceeding
40 shall be deemed to have been commenced if the warrant so issued is not
41 executed without unreasonable delay.

42 Sec. 23. K.S.A. 38-2312 is hereby amended to read as follows: 38-
43 2312. (a) Except as provided in subsections (b) and (c), any records or files

1 specified in this code concerning a juvenile may be expunged upon
2 application to a judge of the court of the county ~~in which~~ *where* the records
3 or files are maintained. The application for expungement may be made by
4 the juvenile, if 18 years of age or older or, if the juvenile is less than 18
5 years of age, by the juvenile's parent or next friend.

6 (b) There shall be no expungement of records or files concerning acts
7 committed by a juvenile which, if committed by an adult, would constitute
8 a violation of *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022 Supp. 21-*
9 *5401, prior to its repeal, capital murder; section 2, and amendments*
10 *thereto, aggravated murder; K.S.A. 21-3401, prior to its repeal, or K.S.A.*
11 *2022 Supp. 21-5402, and amendments thereto, murder in the first degree;*
12 *K.S.A. 21-3402, prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and*
13 *amendments thereto, murder in the second degree; K.S.A. 21-3403, prior*
14 *to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto,*
15 *voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A.*
16 *2022 Supp. 21-5405, and amendments thereto, involuntary manslaughter;*
17 ~~*K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022 Supp. 21-5401, and*~~
18 ~~*amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or*~~
19 ~~*K.S.A. 2022 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto,*~~
20 ~~*involuntary manslaughter while driving under the influence of alcohol or*~~
21 ~~*drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503,*~~
22 ~~*and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or*~~
23 ~~*K.S.A. 2022 Supp. 21-5506(a), and amendments thereto, indecent liberties*~~
24 ~~*with a child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-*~~
25 ~~*5506(b), and amendments thereto, aggravated indecent liberties with a*~~
26 ~~*child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2022 Supp. 21-*~~
27 ~~*5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.*~~
28 ~~*21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and*~~
29 ~~*amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior*~~
30 ~~*to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments thereto,*~~
31 ~~*aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its*~~
32 ~~*repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, sexual*~~
33 ~~*exploitation of a child; K.S.A. 2022 Supp. 21-5514(a), and amendments*~~
34 ~~*thereto, internet trading in child pornography; K.S.A. 2022 Supp. 21-*~~
35 ~~*5514(b), and amendments thereto, aggravated internet trading in child*~~
36 ~~*pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2022 Supp. 21-*~~
37 ~~*5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608,*~~
38 ~~*prior to its repeal, or K.S.A. 2022 Supp. 21-5601(a), and amendments*~~
39 ~~*thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.*~~
40 ~~*2022 Supp. 21-5602, and amendments thereto, abuse of a child; or which*~~
41 ~~*would constitute an attempt to commit a violation of any of the offenses*~~
42 ~~*specified in this subsection.*~~

43 (c) Notwithstanding any other law to the contrary, for any offender

1 who is required to register as provided in the Kansas offender registration
2 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
3 expungement of any conviction or any part of the offender's criminal
4 record while the offender is required to register as provided in the Kansas
5 offender registration act.

6 (d) When a petition for expungement is filed, the court shall set a date
7 for a hearing on the petition and shall give notice thereof to the county or
8 district attorney. The petition shall state: (1) The juvenile's full name; (2)
9 the full name of the juvenile as reflected in the court record, if different
10 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
11 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
12 of the trial court. Except as otherwise provided by law, a petition for
13 expungement shall be accompanied by a docket fee in the amount of \$176.
14 On and after July 1, 2019, through June 30, 2025, the supreme court may
15 impose a charge, not to exceed \$19 per case, to fund the costs of non-
16 judicial personnel. All petitions for expungement shall be docketed in the
17 original action. Any person who may have relevant information about the
18 petitioner may testify at the hearing. The court may inquire into the
19 background of the petitioner.

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

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

24 (ii) one year has elapsed since the final discharge for an adjudication
25 concerning acts committed by a juvenile which, if committed by an adult,
26 would constitute a violation of K.S.A. 2022 Supp. 21-6419, and
27 amendments thereto; or

28 (iii) the juvenile is a victim of human trafficking, aggravated human
29 trafficking or commercial sexual exploitation of a child, the adjudication
30 concerned acts committed by the juvenile as a result of such victimization,
31 including, but not limited to, acts which, if committed by an adult, would
32 constitute a violation of K.S.A. 2022 Supp. 21-6203 or 21-6419, and
33 amendments thereto, and the hearing on expungement occurred on or after
34 the date of final discharge. The provisions of this clause shall not allow an
35 expungement of records or files concerning acts described in subsection
36 (b);

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

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

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

3 (f) Upon entry of an order expunging records or files, the offense
4 ~~which~~ *that* the records or files concern shall be treated as if it never
5 occurred, except that upon conviction of a crime or adjudication in a
6 subsequent action under this code the offense may be considered in
7 determining the sentence to be imposed. The petitioner, the court and all
8 law enforcement officers and other public offices and agencies shall
9 properly reply on inquiry that no record or file exists with respect to the
10 juvenile. Inspection of the expunged files or records thereafter may be
11 permitted by order of the court upon petition by the person who is the
12 subject thereof. The inspection shall be limited to inspection by the person
13 who is the subject of the files or records and the person's designees.

14 (g) A certified copy of any order made pursuant to subsection (a) or
15 (d) shall be sent to the Kansas bureau of investigation, ~~which~~ *and the*
16 *Kansas bureau of investigation* shall notify every juvenile or criminal
17 justice agency ~~which~~ *that* may possess records or files ordered to be
18 expunged. If the agency fails to comply with the order within a reasonable
19 time after its receipt, such agency may be adjudged in contempt of court
20 and punished accordingly.

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

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

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

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

34 (1) The person whose record was expunged;

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

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

41 (4) the secretary for aging and disability services, or a designee of the
42 secretary, for the purpose of obtaining information relating to employment
43 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,

1 of the Kansas department for aging and disability services of any person
2 whose record has been expunged;

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

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

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

17 (8) the Kansas sentencing commission; or

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

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

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

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

27 Sec. 24. K.S.A. 38-2365 is hereby amended to read as follows: 38-
28 2365. (a) When a juvenile offender has been placed in the custody of the
29 secretary, the secretary shall have a reasonable time to make a placement.
30 If the juvenile offender has not been placed, any party who believes that
31 the amount of time elapsed without placement has exceeded a reasonable
32 time may file a motion for review with the court. In determining what is a
33 reasonable amount of time, matters considered by the court shall include,
34 but not be limited to, the nature of the underlying offense, efforts made for
35 placement of the juvenile offender and the availability of a suitable
36 placement. The secretary shall notify the court, the juvenile's attorney of
37 record and the juvenile's parent, in writing, of the initial placement and any
38 subsequent change of placement as soon as the placement has been
39 accomplished. The notice to the juvenile offender's parent shall be sent to
40 such parent's last known address or addresses. The court shall have no
41 power to direct a specific placement by the secretary, but may make
42 recommendations to the secretary. The secretary may place the juvenile
43 offender in an institution operated by the secretary, a youth residential

1 facility or any other appropriate placement. If the court has recommended
2 an out-of-home placement, the secretary may not return the juvenile
3 offender to the home from which removed without first notifying the court
4 of the plan.

5 (b) If a juvenile is in the custody of the secretary, the secretary shall
6 prepare and present a permanency plan at sentencing or within 30 days
7 thereafter. If the juvenile is 14 years of age or older and the juvenile is
8 able, the secretary shall prepare the permanency plan in consultation with
9 the juvenile. If a permanency plan is already in place under a child in need
10 of care proceeding, the court may adopt the plan under the present
11 proceeding. The written permanency plan shall provide for reintegration of
12 the juvenile into such juvenile's family or, if reintegration is not a viable
13 alternative, for other permanent placement of the juvenile. Reintegration
14 may not be a viable alternative when:

15 (1) The parent has been found by a court to have committed *capital*
16 *murder*, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022 Supp. 21-5401,
17 *prior to its repeal, aggravated murder, section 2, and amendments thereto*,
18 murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A.
19 2022 Supp. 21-5402, and amendments thereto, murder in the second
20 degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2022 Supp. 21-5403,
21 and amendments thereto, ~~capital murder, K.S.A. 21-3439, prior to its~~
22 ~~repeal, or K.S.A. 2022 Supp. 21-5401, and amendments thereto~~; voluntary
23 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2022 Supp.
24 21-5404, and amendments thereto, of a child or violated a law of another
25 state ~~which~~ that prohibits such murder or manslaughter of a child;

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

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

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

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

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

38 (c) If the juvenile is placed in the custody of the secretary, the plan
39 shall be prepared and submitted by the secretary. If the juvenile is placed
40 in the custody of a facility or person other than the secretary, the plan shall
41 be prepared and submitted by a court services officer. If the permanency
42 goal is reintegration into the family, the permanency plan shall include
43 measurable objectives and time schedules for reintegration.

1 (d) During the time a juvenile remains in the custody of the secretary,
2 the secretary shall submit to the court, at least every six months, a written
3 report of the progress being made toward the goals of the permanency plan
4 submitted pursuant to subsections (b) and (c) and the specific actions taken
5 to achieve the goals of the permanency plan. If the juvenile is placed in
6 foster care, the court may request the foster parent to submit to the court,
7 at least every six months, a report in regard to the juvenile's adjustment,
8 progress and condition. Such report shall be made a part of the juvenile's
9 court social file. The court shall review the plan submitted by the secretary
10 and the report, if any, submitted by the foster parent and determine
11 whether reasonable efforts and progress have been made to achieve the
12 goals of the permanency plan. If the court determines that progress is
13 inadequate or that the permanency plan is no longer viable, the court shall
14 hold a hearing pursuant to subsection (e).

15 (e) When the secretary has custody of the juvenile, a permanency
16 hearing shall be held no more than 12 months after the juvenile is first
17 placed outside such juvenile's home and at least every 12 months
18 thereafter. Juvenile offenders who have been in extended out-of-home
19 placement shall be provided a permanency hearing within 30 days of a
20 request from the secretary. The court may appoint a guardian ad litem to
21 represent the juvenile offender at the permanency hearing. At the
22 permanency hearing, the court shall determine whether and, if applicable,
23 when the juvenile will be:

24 (1) Reintegrated with the juvenile's parents;
25 (2) placed for adoption;
26 (3) placed with a permanent custodian; or
27 (4) if the juvenile is 16 years of age or older and the secretary has
28 documented compelling reasons why it would not be in the juvenile's best
29 interests for a placement in one of the placements pursuant to ~~paragraphs~~
30 *paragraph* (1), (2) or (3), placed in another planned permanent
31 arrangement.

32 (f) At each permanency hearing, the court shall:

33 (1) Make a written finding as to whether reasonable efforts have been
34 made to accomplish the permanency goal and whether continued out-of-
35 home placement is necessary for the juvenile's safety;

36 (2) make a written finding as to whether the reasonable and prudent
37 parenting standard has been met and whether the juvenile has regular,
38 ongoing opportunities to engage in age or developmentally appropriate
39 activities. The secretary shall report to the court the steps the secretary is
40 taking to ensure that the reasonable and prudent parenting standard is
41 being met and that the juvenile has regular, ongoing opportunities to
42 engage in age or developmentally appropriate activities, including
43 consultation with the juvenile in an age-appropriate manner about the

1 opportunities of the juvenile to participate in the activities; and

2 (3) if the juvenile is 14 years of age or older, document the efforts
3 made by the secretary to help the juvenile prepare for the transition from
4 custody to a successful adulthood. The secretary shall report to the court
5 the programs and services that are being provided to the juvenile ~~which~~
6 *that* will help the juvenile prepare for the transition from custody to a
7 successful adulthood.

8 (g) The requirements of this subsection shall apply only if the
9 permanency goal in place at the time of the hearing is another planned
10 permanent arrangement as described in subsection (e)(4). At each
11 permanency hearing held with respect to the juvenile, in addition to the
12 requirements of subsection (f), the court shall:

13 (1) Ask the juvenile, if the juvenile is able, by attendance at the
14 hearing or by report to the court, about the desired permanency outcome
15 for the juvenile;

16 (2) document the intensive, ongoing and, as of the date of the hearing,
17 unsuccessful permanency efforts made by the secretary to return the
18 juvenile home or secure a placement for the juvenile with a fit and willing
19 relative, a legal guardian or an adoptive parent. The secretary shall report
20 to the court the intensive, ongoing and, as of the date of the hearing,
21 unsuccessful efforts made by the secretary to return the juvenile home or
22 secure a placement for the juvenile with a fit and willing relative, a legal
23 guardian or an adoptive parent, including efforts that utilize search
24 technology, including social media, to find biological family members of
25 the children; and

26 (3) make a judicial determination explaining why, as of the date of
27 the hearing, another planned permanent living arrangement is the best
28 permanency plan for the juvenile and provide compelling reasons why it
29 continues to not be in the best interests of the juvenile to return home, be
30 placed for adoption, be placed with a legal guardian or be placed with a fit
31 and willing relative.

32 (h) Whenever a hearing is required under subsection (e), the court
33 shall notify all interested parties of the hearing date, the secretary, foster
34 parent and preadoptive parent or relatives providing care for the juvenile
35 and hold a hearing. If the juvenile is 14 years of age or older, the court
36 shall require notice of the time and place of the permanency hearing be
37 given to the juvenile. Such notice shall request the juvenile's participation
38 in the hearing by attendance or by report to the court. Individuals receiving
39 notice pursuant to this subsection shall not be made a party to the action
40 solely on the basis of this notice and opportunity to be heard. After
41 providing the persons receiving notice an opportunity to be heard, the
42 court shall determine whether the juvenile's needs are being adequately
43 met; whether services set out in the permanency plan necessary for the

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

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

14 (j) When the court finds any of the following conditions exist, the
15 county or district attorney or the county or district attorney's designee shall
16 file a petition alleging the juvenile to be a child in need of care and
17 requesting termination of parental rights pursuant to the Kansas code for
18 care of children:

19 (1) The court determines that reintegration is not a viable alternative
20 and either adoption or permanent guardianship might be in the best
21 interests of the juvenile;

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

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

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

30 (k) A petition to terminate parental rights is not required to be filed if
31 one of the following exceptions is documented to exist:

32 (1) The juvenile is in a stable placement with relatives;

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

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

1 rights.

2 Sec. 25. K.S.A. 39-970 is hereby amended to read as follows: 39-970.

3 (a) As used in this section:

4 (1) "Adult care home" means any nursing facility, nursing facility for
5 mental health, intermediate care facility for people with intellectual
6 disability, assisted living facility, residential health care facility, home plus,
7 boarding care home or adult day care facility that is required to be licensed
8 to operate by the secretary for aging and disability services.

9 (2) "Applicant" means an individual who applies for employment
10 with an adult care home or applies to work for an employment agency or
11 as an independent contractor who provides staff to an adult care home.

12 (3) "Completion of the sentence" means the last day of the entire term
13 of incarceration imposed by a sentence, including any term that is
14 deferred, suspended or subject to parole, probation, diversion, community
15 corrections, fines, fees, restitution or any other imposed sentencing
16 requirements.

17 (4) "Department" means the Kansas department for aging and
18 disability services.

19 (5) "Direct access" means work that involves an actual or reasonable
20 expectation of one-on-one interaction with a consumer or a consumer's
21 property, personally identifiable information, medical records, treatment
22 information or financial information.

23 (6) "Direct supervision" means that a supervisor is physically present
24 within an immediate distance to a supervisee and is available to provide
25 constant direction, feedback and assistance to a client and the supervisee.

26 (7) "Employment agency" means an organization or entity that has a
27 contracted relationship with an adult care home to provide staff with direct
28 access to consumers.

29 (8) "Independent contractor" means an organization, entity, agency or
30 individual that provides contracted workers or services to an adult care
31 home.

32 (9) "Secretary" means the secretary for aging and disability services.

33 (b) (1) No person shall knowingly operate an adult care home if, in
34 the adult care home, there works any person who has adverse findings on
35 any state or national registry, as defined in rules and regulations adopted
36 by the secretary for aging and disability services, or has been convicted of
37 or has been adjudicated a juvenile offender because of having committed
38 an act that if done by an adult would constitute the commission of capital
39 murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022
40 Supp. 21-5401, *prior to its repeal, aggravated murder, pursuant to section*
41 *2, and amendments thereto, first degree murder, pursuant to K.S.A. 21-*
42 *3401, prior to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments*
43 *thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its*

1 repeal, or K.S.A. 2022 Supp. 21-5403(a), and amendments thereto,
2 voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or
3 K.S.A. 2022 Supp. 21-5404, and amendments thereto, assisting suicide,
4 pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2022 Supp. 21-
5 5407, and amendments thereto, mistreatment of a dependent adult or
6 mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its
7 repeal, or K.S.A. 2022 Supp. 21-5417, and amendments thereto, human
8 trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 2022
9 Supp. 21-5426(a), and amendments thereto, aggravated human trafficking,
10 pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 2022 Supp. 21-
11 5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior
12 to its repeal, or K.S.A. 2022 Supp. 21-5503, and amendments thereto,
13 indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its
14 repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto,
15 aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504,
16 prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and amendments
17 thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to
18 its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto,
19 indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its
20 repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments thereto,
21 aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511,
22 prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments
23 thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior
24 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, sexual
25 battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 2022
26 Supp. 21-5505(a), and amendments thereto, aggravated sexual battery,
27 pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 2022 Supp. 21-
28 5505(b), and amendments thereto, commercial sexual exploitation of a
29 child, pursuant to K.S.A. 2022 Supp. 21-6422, and amendments thereto, an
30 attempt to commit any of the crimes listed in this paragraph, pursuant to
31 K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022 Supp. 21-5301, and
32 amendments thereto, a conspiracy to commit any of the crimes listed in
33 this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A.
34 2022 Supp. 21-5302, and amendments thereto, or criminal solicitation of
35 any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303,
36 prior to its repeal, or K.S.A. 2022 Supp. 21-5303, and amendments
37 thereto, or similar statutes of other states or the federal government. The
38 provisions of subsection (b)(2)(C) shall not apply to any person who is
39 employed by an adult care home on or before July 1, 2010, and while
40 continuously employed by the same adult care home or to any person
41 during or upon successful completion of a diversion agreement.

42 (2) (A) A person operating an adult care home may employ an
43 applicant who has been convicted of any of the following if six or more

1 years have elapsed since completion of the sentence imposed or the
 2 applicant was discharged from probation, a community correctional
 3 services program, parole, postrelease supervision, conditional release or a
 4 suspended sentence; if six or more years have elapsed since the applicant
 5 has been finally discharged from the custody of the commissioner of
 6 juvenile justice or from probation or has been adjudicated a juvenile
 7 offender, whichever time is longer; or if the applicant has been granted a
 8 waiver of such six-year disqualification: A felony conviction for a crime
 9 that is described in:

10 ~~(A)~~(i) Article 34 of chapter 21 of the Kansas Statutes Annotated,
 11 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes
 12 Annotated, and amendments thereto, except those crimes listed in
 13 subsection (b)(1);

14 ~~(B)~~(ii) articles 35 or 36 of chapter 21 of the Kansas Statutes
 15 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
 16 Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6420, and
 17 amendments thereto, except those crimes listed in subsection (b)(1) and
 18 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2022 Supp. 21-5606, and
 19 amendments thereto;

20 ~~(C)~~(iii) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2022 Supp. 21-
 21 5801, and amendments thereto;

22 ~~(D)~~(iv) an attempt to commit any of the crimes listed in this
 23 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
 24 Supp. 21-5301, and amendments thereto;

25 ~~(E)~~(v) a conspiracy to commit any of the crimes listed in this
 26 paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2022
 27 Supp. 21-5302, and amendments thereto;

28 ~~(F)~~(vi) criminal solicitation of any of the crimes listed in this
 29 paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022
 30 Supp. 21-5303, and amendments thereto; or

31 ~~(G)~~(vii) similar statutes of other states or the federal government.

32 (B) An individual who has been disqualified for employment due to
 33 conviction or adjudication of an offense listed in this paragraph~~(2)~~ may
 34 apply to the secretary for aging and disability services for a waiver of such
 35 disqualification if five years have elapsed since completion of the sentence
 36 for such conviction. The secretary shall adopt rules and regulations
 37 establishing the waiver process and criteria to be considered by the
 38 secretary in evaluating any such waiver request.

39 (3) (A) A person operating an adult care home may employ an
 40 applicant who has been convicted of any of the following if six or more
 41 years have elapsed since completion of the sentence imposed or the
 42 applicant was discharged from probation, a community correctional
 43 services program, parole, postrelease supervision, conditional release or a

1 suspended sentence; if six or more years have elapsed since the applicant
2 has been finally discharged from the custody of the commissioner of
3 juvenile justice or from probation or has been adjudicated a juvenile
4 offender, whichever time is longer; or if the applicant has been granted a
5 waiver of such six-year disqualification:

6 (i) Interference with custody of a committed person pursuant to
7 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2022 Supp. 21-5410, and
8 amendments thereto; mistreatment of a confined person pursuant to K.S.A.
9 21-3425, prior to its repeal, or K.S.A. 2022 Supp. 21-5416, and
10 amendments thereto; unlawful administration of a substance pursuant to
11 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2022 Supp. 21-5425, and
12 amendments thereto; violation of a protective order pursuant to K.S.A. 21-
13 3843, prior to its repeal, or K.S.A. 2022 Supp. 21-5924, and amendments
14 thereto; promoting obscenity or promoting obscenity to minors pursuant to
15 K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2022 Supp.
16 21-6401, and amendments thereto; or cruelty to animals pursuant to
17 K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 2022
18 Supp. 21-6412, and amendments thereto; or

19 (ii) any felony conviction of: Unlawful manufacture of a controlled
20 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
21 K.S.A. 2022 Supp. 21-5703, and amendments thereto; unlawful cultivation
22 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
23 36a05, prior to its repeal, or K.S.A. 2022 Supp. 21-5705, and amendments
24 thereto; unlawful manufacture, distribution, cultivation or possession of a
25 controlled substance using a communication facility pursuant to K.S.A.
26 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2022 Supp. 21-5707,
27 and amendments thereto; unlawful obtainment or sale of a prescription-
28 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or
29 K.S.A. 2022 Supp. 21-5708, and amendments thereto; unlawful
30 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.
31 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2022 Supp. 21-5710,
32 and amendments thereto; unlawful distribution or possession of a
33 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,
34 prior to its repeal, or K.S.A. 2022 Supp. 21-5713, and amendments
35 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.
36 2022 Supp. 21-5823, and amendments thereto; criminal use of a financial
37 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2022 Supp.
38 21-5828, and amendments thereto; any violation of the Kansas medicaid
39 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,
40 or K.S.A. 2022 Supp. 21-5925 et seq., and amendments thereto; making a
41 false claim, statement or representation to the medicaid program pursuant
42 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2022 Supp. 21-5927, and
43 amendments thereto; unlawful acts relating to the medicaid program

1 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2022 Supp. 21-
2 5928, and amendments thereto; obstruction of a medicaid fraud
3 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.
4 2022 Supp. 21-5929, and amendments thereto; identity theft or identity
5 fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A.
6 2022 Supp. 21-6107, and amendments thereto; or social welfare fraud
7 pursuant to K.S.A. 39-720, and amendments thereto.

8 (B) The provisions of this paragraph~~(3)~~ shall not apply to any person
9 who is employed by an adult care home on or before July 1, 2018, and is
10 continuously employed by the same adult care home or to any person
11 during or upon successful completion of a diversion agreement.

12 (C) An individual who has been disqualified for employment due to
13 conviction or adjudication of an offense listed in this paragraph~~(3)~~ may
14 apply to the secretary for aging and disability services for a waiver of such
15 disqualification if five years have elapsed since completion of the sentence
16 for such conviction. The secretary shall adopt rules and regulations
17 establishing the waiver process and criteria to be considered by the
18 secretary in evaluating any such waiver request.

19 (c) No person shall operate an adult care home if such person has
20 been found to be in need of a guardian or conservator, or both as provided
21 in the act for obtaining a guardian or a conservator, or both. The provisions
22 of this subsection shall not apply to an individual who, as a minor, was
23 found to be in need of a guardian or conservator for reasons other than
24 impairment.

25 (d) (1) The Kansas bureau of investigation shall release all records of
26 adult and juvenile convictions and adjudications and adult and juvenile
27 convictions and adjudications of any other state or country concerning
28 persons working in an adult care home to the secretary for aging and
29 disability services. The Kansas bureau of investigation may charge to the
30 Kansas department for aging and disability services a reasonable fee for
31 providing criminal history record information under this subsection.

32 (2) The department shall require an applicant to be fingerprinted and
33 to submit to a state and national criminal history record check. The
34 fingerprints shall be used to identify the individual and to determine
35 whether the individual has a record of criminal history in this state or other
36 jurisdiction. The department is authorized to submit the fingerprints to the
37 Kansas bureau of investigation and the federal bureau of investigation for
38 a state and national criminal history record check. The department may use
39 the information obtained from fingerprinting and the criminal history
40 record check for purposes of verifying the identification of the person and
41 for making an official determination of the qualifications and fitness of the
42 person to work in the adult care home.

43 (3) An applicant for employment in an adult care home shall have 20

1 calendar days after receipt of authorization to submit the applicant's
2 fingerprints through an authorized collection site in order to be eligible for
3 provisional employment or the applicant's application shall be deemed
4 withdrawn.

5 (4) (A) The current or prospective employer of an applicant shall pay
6 a fee not to exceed \$19 of the total cost for criminal history record
7 information to the department for each applicant submitted.

8 (B) The prospective employer, employee or independent contractor
9 shall pay the fingerprint collection fee at the time of fingerprinting to the
10 authorized collection site.

11 (5) If an applicant disputes the contents of a criminal history record
12 check, then the applicant may file an appeal with the Kansas bureau of
13 investigation.

14 (6) Individuals who have been disqualified for employment by reason
15 of their criminal history records and who have met the requirements of this
16 subsection may apply for a waiver with the department within 30 days of
17 the receipt of the notice of employment prohibition.

18 (7) The department shall adopt rules and regulations specifying the
19 criteria and procedure for issuing a waiver of the employment prohibition.
20 The secretary shall consider the following criteria when rendering a
21 decision on such a waiver request: Passage of time; extenuating
22 circumstances; demonstration of rehabilitation; and relevancy of the
23 criminal history record information to the position for which the applicant
24 is applying. Any employment prohibition issued shall remain in effect
25 unless or until a waiver is granted.

26 (e) For the purpose of complying with this section, the operator of an
27 adult care home shall request from the Kansas department for aging and
28 disability services an eligibility determination regarding adult and juvenile
29 convictions and adjudications. For the purpose of complying with this
30 section, the operator of an adult care home shall receive from any
31 employment agency or independent contractor that provides employees to
32 work in the adult care home written certification that such employees are
33 not prohibited from working in the adult care home under this section. For
34 the purpose of complying with this section, a person who operates an adult
35 care home may hire an applicant for provisional employment on a one-
36 time basis of 60 calendar days pending the results from the Kansas
37 department for aging and disability services of a request for information
38 under this subsection. A provisional employee may only be supervised by
39 an employee that has completed all training required by federal
40 regulations, rules and regulations of the department and the adult care
41 home's policies and procedures. No adult care home, the operator or
42 employees of an adult care home or an employment agency or an
43 independent contractor shall be liable for civil damages resulting from any

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

5 (f) The secretary for aging and disability services shall provide each
6 operator requesting information under this section with a pass or fail
7 determination after review of any criminal history record information in
8 writing and within three working days of receipt of such information from
9 the Kansas bureau of investigation or the federal bureau of investigation.

10 (g) A person who volunteers in an adult care home shall not be
11 subject to the provisions of this section unless the volunteer performs
12 equivalent functions to those performed by direct access employees.

13 (h) No person who has been continuously employed by the same
14 adult care home since July 1, 1992, shall be subject to the provisions of
15 this section while employed by such adult care home.

16 (i) The operator of an adult care home shall not be required under this
17 section to conduct a criminal history record check on an applicant for
18 employment with the adult care home if the applicant has been the subject
19 of a criminal history record check under this act within one year prior to
20 the application for employment with the adult care home.

21 (j) No person who is in the custody of the secretary of corrections and
22 who provides services, under direct supervision in nonpatient areas, on the
23 grounds or other areas designated by the superintendent of the Kansas
24 soldiers' home or the Kansas veterans' home shall be subject to the
25 provisions of this section while providing such services.

26 (k) (1) All fees charged by the secretary for criminal history record
27 checks conducted pursuant to this section shall be established by rules and
28 regulations of the secretary.

29 (2) All moneys collected and remitted to the Kansas department for
30 aging and disability services for fees charged for criminal history record
31 checks conducted pursuant to this section shall be remitted to the state
32 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.
33 Upon receipt of each such remittance, the state treasurer shall deposit the
34 entire amount into the state treasury to the credit of the state licensure fee
35 fund created by K.S.A. 39-930, and amendments thereto.

36 (l) The Kansas department for aging and disability services may
37 implement the amendments made to this section by this act in phases for
38 different categories of employers. The department shall adopt rules and
39 regulations establishing dates and procedures for the implementation of the
40 criminal history record checks required by this section, and such dates may
41 be staggered to facilitate implementation of the criminal history record
42 checks required by this section.

43 (m) Upon authorization by the secretary for aging and disability

1 services, other state agencies may access an internet-based application
2 portal that is operated and maintained by the Kansas department for aging
3 and disability services for purposes of processing criminal history record
4 information requests in accordance with this section. Agencies may not
5 share criminal history record information or the resulting pass or fail
6 determinations with any other agency. The secretary for aging and
7 disability services may charge an authorized agency the amount of \$1 per
8 request made pursuant to this subsection.

9 (n) This section shall be *a* part of and supplemental to the adult care
10 home licensure act.

11 Sec. 26. K.S.A. 39-2009 is hereby amended to read as follows: 39-
12 2009. (a) As used in this section:

13 (1) "Applicant" means an individual who applies for employment
14 with a center, facility, hospital or a provider of services or applies to work
15 for an employment agency or as an independent contractor that provides
16 staff to a center, facility, hospital or a provider of services.

17 (2) "Completion of the sentence" means the last day of the entire term
18 of incarceration imposed by a sentence, including any term that is
19 deferred, suspended or subject to parole, probation, diversion, community
20 corrections, fines, fees, restitution or any other imposed sentencing
21 requirements.

22 (3) "Department" means the Kansas department for aging and
23 disability services.

24 (4) "Direct access" means work that involves an actual or reasonable
25 expectation of one-on-one interaction with a consumer or a consumer's
26 property, personally identifiable information, medical records, treatment
27 information or financial information.

28 (5) "Direct supervision" means that a supervisor is physically present
29 within an immediate distance to a supervisee and is available to provide
30 constant direction, feedback and assistance to a client and the supervisee.

31 (6) "Employment agency" means an organization or entity that has a
32 contracted relationship with a center, hospital, facility or provider of
33 services to provide staff with direct access to consumers.

34 (7) "Independent contractor" means an organization, entity, agency or
35 individual that provides contracted workers or services to a center, facility,
36 hospital or provider of services.

37 (b) (1) No licensee shall knowingly operate a center, facility, hospital
38 or be a provider of services if any person who works in the center, facility,
39 hospital or for a provider of services has adverse findings on any state or
40 national registry, as defined in rules and regulations adopted by the
41 secretary for aging and disability services, or has been convicted of or has
42 been adjudicated a juvenile offender because of having ~~committing~~
43 *committed* an act that if done by an adult would constitute the commission

1 of capital murder, pursuant to K.S.A. 21-3439 *or K.S.A. 2022 Supp. 21-*
2 *5401*, prior to ~~its~~ *their* repeal, ~~or K.S.A. 2022 Supp. 21-5401~~ *aggravated*
3 *murder, pursuant to section 2*, and amendments thereto, first degree
4 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022
5 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
6 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2022 Supp. 21-5403(a),
7 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-
8 3403, prior to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments
9 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or
10 K.S.A. 2022 Supp. 21-5407, and amendments thereto, mistreatment of a
11 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-
12 3437, prior to its repeal, or K.S.A. 2022 Supp. 21-5417, and amendments
13 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,
14 or K.S.A. 2022 Supp. 21-5426(a), and amendments thereto, aggravated
15 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
16 K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, rape, pursuant to
17 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and
18 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-
19 3503, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and
20 amendments thereto, aggravated indecent liberties with a child, pursuant to
21 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
22 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
23 3506, prior to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and
24 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
25 21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and
26 amendments thereto, aggravated indecent solicitation of a child, pursuant
27 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b),
28 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.
29 21-3516, prior to its repeal, or K.S.A. 2022 Supp. 21-5510, and
30 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to
31 its repeal, or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto,
32 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,
33 or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto, commercial
34 sexual exploitation of a child, pursuant to K.S.A. 2022 Supp. 21-6422, and
35 amendments thereto, an attempt to commit any of the crimes listed in this
36 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
37 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of
38 the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its
39 repeal, or K.S.A. 2022 Supp. 21-5302, and amendments thereto, or
40 criminal solicitation of any of the crimes listed in this paragraph, pursuant
41 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022 Supp. 21-5303, and
42 amendments thereto, or similar statutes of other states or the federal
43 government.

1 (2) (A) A licensee operating a center, facility or hospital or as a
2 provider of services may employ an applicant who has been convicted of
3 any of the following if six or more years have elapsed since completion of
4 the sentence imposed or the applicant was discharged from probation, a
5 community correctional services program, parole, postrelease supervision,
6 conditional release or a suspended sentence; if six or more years have
7 elapsed since a community correctional services program, parole,
8 postrelease supervision, conditional release or a suspended sentence; or if
9 the applicant has been granted a waiver of such six-year disqualification: A
10 felony conviction for a crime that is described in:

11 ~~(A)~~(i) Article 34 of chapter 21 of the Kansas Statutes Annotated,
12 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes
13 Annotated, and amendments thereto, except those crimes listed in
14 paragraph (1);

15 ~~(B)~~(ii) article 35 or 36 of chapter 21 of the Kansas Statutes
16 Annotated, and amendments thereto, prior to their repeal, or article 55 or
17 56 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2022 Supp.
18 21-6420, and amendments thereto, except those crimes listed in paragraph
19 (1);

20 ~~(C)~~(iii) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2022 Supp. 21-
21 5801, and amendments thereto;

22 ~~(D)~~(iv) an attempt to commit any of the crimes listed in this
23 paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
24 Supp. 21-5301, and amendments thereto;

25 ~~(E)~~(v) a conspiracy to commit any of the crimes listed in this
26 paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2022
27 Supp. 21-5302, and amendments thereto;

28 ~~(F)~~(vi) criminal solicitation of any of the crimes listed in this
29 paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022
30 Supp. 21-5303, and amendments thereto; or

31 ~~(G)~~(vii) similar statutes of other states or the federal government.

32 (B) An individual who has been disqualified for employment due to
33 conviction or adjudication of an offense listed in this paragraph~~(2)~~ may
34 apply to the secretary for aging and disability services for a waiver of such
35 disqualification if five years have elapsed since completion of the sentence
36 for such conviction. The secretary shall adopt rules and regulations
37 establishing the waiver process and the criteria to be utilized by the
38 secretary in evaluating any such waiver request.

39 (3) (A) A licensee operating a center, facility, hospital or as a provider
40 of services may employ an applicant who has been convicted of any of the
41 following if six or more years have elapsed since completion of the
42 sentence imposed or the applicant was discharged from probation, a
43 community correctional services program, parole, postrelease supervision,

1 conditional release or a suspended sentence; if six or more years have
2 elapsed since the applicant has been finally discharged from the custody of
3 the commissioner of juvenile justice or from probation or has been
4 adjudicated a juvenile offender, whichever time is longer; or if the
5 applicant has been granted a waiver of such six-year disqualification:

6 (i) Interference with custody of a committed person pursuant to
7 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2022 Supp. 21-5410, and
8 amendments thereto; mistreatment of a confined person pursuant to K.S.A.
9 21-3425, prior to its repeal, or K.S.A. 2022 Supp. 21-5416, and
10 amendments thereto; unlawful administration of a substance pursuant to
11 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2022 Supp. 21-5425, and
12 amendments thereto; violation of a protective order pursuant to K.S.A. 21-
13 3843, prior to its repeal, or K.S.A. 2022 Supp. 21-5924; promoting
14 obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or
15 21-4301a, prior to their repeal, or K.S.A. 2022 Supp. 21-6401, and
16 amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-
17 4310 or 21-4311, prior to their repeal, or K.S.A. 2022 Supp. 21-6412, and
18 amendments thereto; or

19 (ii) any felony conviction of: Unlawful manufacture of a controlled
20 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
21 K.S.A. 2022 Supp. 21-5703, and amendments thereto; unlawful cultivation
22 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
23 36a05, prior to its repeal, or K.S.A. 2022 Supp. 21-5705, and amendments
24 thereto; unlawful manufacture, distribution, cultivation or possession of a
25 controlled substance using a communication facility pursuant to K.S.A.
26 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2022 Supp. 21-5707,
27 and amendments thereto; unlawful obtainment or sale of a prescription-
28 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or
29 K.S.A. 2022 Supp. 21-5708, and amendments thereto; unlawful
30 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.
31 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2022 Supp. 21-5710,
32 and amendments thereto; unlawful distribution or possession of a
33 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,
34 prior to its repeal, or K.S.A. 2022 Supp. 21-5713, and amendments
35 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.
36 2022 Supp. 21-5823, and amendments thereto; criminal use of a financial
37 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2022 Supp.
38 21-5828, and amendments thereto; any violation of the Kansas medicaid
39 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,
40 or K.S.A. 2022 Supp. 21-5925 et seq., and amendments thereto; making a
41 false claim, statement or representation to the medicaid program pursuant
42 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2022 Supp. 21-5927, and
43 amendments thereto; unlawful acts relating to the medicaid program

1 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2022 Supp. 21-
2 5928, and amendments thereto; obstruction of a medicaid fraud
3 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.
4 2022 Supp. 21-5929, and amendments thereto; identity theft or identity
5 fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A.
6 2022 Supp. 21-6107, and amendments thereto; or social welfare fraud
7 pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this
8 paragraph shall not apply to any person who is employed by a center,
9 facility, hospital or provider of services on or before July 1, 2018, and is
10 continuously employed by the same center, facility, hospital or provider of
11 services or to any person during or upon successful completion of a
12 diversion agreement.

13 (B) An individual who has been disqualified for employment due to
14 conviction or adjudication of an offense listed in this paragraph~~(3)~~ may
15 apply to the secretary for aging and disability services for a waiver of such
16 disqualification if five years have elapsed since completion of the sentence
17 for such conviction. The secretary shall adopt rules and regulations
18 establishing the waiver process and criteria to be considered by the
19 secretary in evaluating any such waiver request.

20 (c) No licensee shall operate a center, facility, hospital or be a
21 provider of services if such person has been found to be an adult with an
22 impairment in need of a guardian or a conservator, or both, as provided in
23 the act for obtaining a guardian or conservator, or both. The provisions of
24 this subsection shall not apply to an individual who, as a minor, was found
25 to be in need of a guardian or conservator for reasons other than
26 impairment.

27 (d) (1) The Kansas bureau of investigation shall release all records of
28 adult and juvenile convictions and adjudications and adult and juvenile
29 convictions and adjudications of any other state or country concerning
30 persons working in a center, facility, hospital or for a provider of services
31 to the secretary for aging and disability services. The Kansas bureau of
32 investigation may charge to the Kansas department for aging and disability
33 services a reasonable fee for providing criminal history record information
34 under this subsection.

35 (2) The department shall require an applicant to be fingerprinted and
36 to submit to a state and national criminal history record check. The
37 fingerprints shall be used to identify the individual and to determine
38 whether the individual has a record of criminal history in this state or other
39 jurisdiction. The department is authorized to submit the fingerprints to the
40 Kansas bureau of investigation and the federal bureau of investigation for
41 a state and national criminal history record check. The department may use
42 the information obtained from fingerprinting and the criminal history
43 record check for purposes of verifying the identification of the person and

1 for making an official determination of the qualifications and fitness of the
2 person to work in the center, facility, hospital or for a provider of services.

3 (3) An applicant for employment in ~~an~~ a center, facility, hospital or
4 for a provider of services shall have 20 calendar days after receipt of
5 authorization to submit the applicant's fingerprints through an authorized
6 collection site in order to be eligible for provisional employment or the
7 applicant's application shall be deemed withdrawn.

8 (4) (A) The current or prospective employer of an applicant shall pay
9 a fee not to exceed \$19 of the total cost for criminal history record
10 information to the department for each applicant submitted.

11 (B) The prospective employer, employee or independent contractor
12 shall pay the fingerprint collection fee at the time of fingerprinting to the
13 authorized collection site.

14 (5) If an applicant disputes the contents of a criminal history record
15 check, then the applicant may file an appeal with the Kansas bureau of
16 investigation.

17 (6) Individuals who have been disqualified for employment by reason
18 of their criminal history records and who have met the requirements of this
19 subsection may apply for a waiver with the department within 30 days of
20 the receipt of the notice of employment prohibition.

21 (7) The department shall adopt rules and regulations specifying the
22 criteria and procedure for issuing a waiver of the employment prohibition.
23 The secretary shall consider the following criteria when rendering a
24 decision on such a waiver request: Passage of time; extenuating
25 circumstances; demonstration of rehabilitation; and relevancy of the
26 criminal history record information to the position for which the applicant
27 is applying. Any employment prohibition issued shall remain in effect
28 unless or until a waiver is granted.

29 (d) The secretary shall provide each licensee requesting information
30 under this section with a pass or fail determination after review of any
31 criminal history record information in writing and within three working
32 days of receipt of such information from the Kansas bureau of
33 investigation or the federal bureau of investigation.

34 (e) Any licensee or member of the staff who receives information
35 concerning the fitness or unfitness of any person shall keep such
36 information confidential, except that the staff person may disclose such
37 information to the person who is the subject of the request for information.
38 A violation of this subsection shall be an unclassified misdemeanor
39 punishable by a fine of \$100.

40 (f) For the purpose of complying with this section, the licensee
41 operating a center, facility, hospital or a provider of services shall request
42 from the Kansas department for aging and disability services an eligibility
43 determination regarding adult and juvenile convictions and adjudications.

1 For the purpose of complying with this section, the licensee operating a
2 center, facility, hospital or a provider of services shall receive from any
3 employment agency or independent contractor that provides employees to
4 work in the center, facility, hospital or for the provider of services written
5 certification that such employees are not prohibited from working in the
6 center, facility, hospital or for the provider of services under this section.
7 For the purpose of complying with this section, a licensee may hire an
8 applicant for provisional employment on a one-time basis of 60 calendar
9 days pending the results from the Kansas department for aging and
10 disability services of an eligibility determination under this subsection. A
11 provisional employee may only be supervised by an employee who has
12 completed all training required by federal regulations, department rules
13 and regulations and the center's, facility's, hospital's or provider of
14 services' policies and procedures. No licensee, its contractors or
15 employees, shall be liable for civil damages to any person refused
16 employment or discharged from employment by reason of such licensee's
17 compliance with the provisions of this section if such licensee acts in good
18 faith to comply with this section.

19 (g) The licensee operating a center, facility, hospital or a provider of
20 services shall not require an applicant under this section to be
21 fingerprinted, if the applicant has been the subject of a criminal history
22 record check under this act within one year prior to the application for
23 employment with the licensee operating a center, facility, hospital or a
24 provider of services and has maintained a record of continuous
25 employment, with no lapse of employment of over 90 days in any center,
26 facility, hospital or a provider of services covered by this act.

27 Sec. 27. K.S.A. 65-5117 is hereby amended to read as follows: 65-
28 5117. (a) As used in this section:

29 (1) "Applicant" means an individual who applies for employment
30 with a home health agency or applies to work for an employment agency
31 or as an independent contractor that provides staff to a home health
32 agency.

33 (2) "Completion of the sentence" means the last day of the entire term
34 of incarceration imposed by a sentence, including any term that is
35 deferred, suspended or subject to parole, probation, diversion, community
36 corrections, fines, fees, restitution or any other imposed sentencing
37 requirements.

38 (3) "Department" means the Kansas department for aging and
39 disability services.

40 (4) "Direct access" means work that involves an actual or reasonable
41 expectation of one-on-one interaction with a consumer or a consumer's
42 property, personally identifiable information, medical records, treatment
43 information or financial information.

1 (5) "Direct supervision" means that a supervisor is physically present
2 within an immediate distance to a supervisee and is available to provide
3 constant direction, feedback and assistance to a client and the supervisee.

4 (6) "Employment agency" means an organization or entity that has a
5 contracted relationship with a home health agency to provide staff with
6 direct access to consumers.

7 (7) "Independent contractor" means an organization, entity, agency or
8 individual that provides contracted workers or services to a home health
9 agency.

10 (b) (1) No person shall knowingly operate a home health agency if,
11 for the home health agency, there works any person who has adverse
12 findings on any state or national registry, as defined in rules and
13 regulations adopted by the secretary for aging and disability services, or
14 has been convicted of or has been adjudicated a juvenile offender because
15 of having committed an act that if done by an adult would constitute the
16 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
17 repeal, or K.S.A. 2022 Supp. 21-5401, *prior to its repeal, aggravated*
18 *murder, pursuant to section 2*, and amendments thereto, first degree
19 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022
20 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
21 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2022 Supp. 21-5403(a),
22 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-
23 3403, prior to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments
24 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or
25 K.S.A. 2022 Supp. 21-5407, and amendments thereto, mistreatment of a
26 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-
27 3437, prior to its repeal, or K.S.A. 2022 Supp. 21-5417, and amendments
28 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,
29 or K.S.A. 2022 Supp. 21-5426(a), and amendments thereto, aggravated
30 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
31 K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, rape, pursuant to
32 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and
33 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-
34 3503, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and
35 amendments thereto, aggravated indecent liberties with a child, pursuant to
36 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
37 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
38 3506, prior to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and
39 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
40 21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and
41 amendments thereto, aggravated indecent solicitation of a child, pursuant
42 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b),
43 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.

1 21-3516, prior to its repeal, or K.S.A. 2022 Supp. 21-5510, and
2 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to
3 its repeal, or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto,
4 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,
5 or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto, commercial
6 sexual exploitation of a child, pursuant to K.S.A. 2022 Supp. 21-6422, and
7 amendments thereto, an attempt to commit any of the crimes listed in this
8 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
9 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of
10 the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its
11 repeal, or K.S.A. 2022 Supp. 21-5302, and amendments thereto, or
12 criminal solicitation of any of the crimes listed in this paragraph, pursuant
13 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022 Supp. 21-5303, and
14 amendments thereto, or similar statutes of other states or the federal
15 government. The provisions of subsection (b)(2)(C) shall not apply to any
16 person who is employed by a home health agency on or before July 1,
17 2010, and while continuously employed by the same home health agency
18 or to any person during or upon successful completion of a diversion
19 agreement.

20 (2) (A) A person operating a home health agency may employ an
21 applicant who has been convicted of any of the following if six or more
22 years have elapsed since completion of the sentence imposed or the
23 applicant was discharged from probation, a community correctional
24 services program, parole, postrelease supervision, conditional release or a
25 suspended sentence; if six or more years have elapsed since the applicant
26 has been finally discharged from the custody of the commissioner of
27 juvenile justice or from probation or has been adjudicated a juvenile
28 offender, whichever time is longer; or if the applicant has been granted a
29 waiver of such six-year disqualification: A felony conviction for a crime
30 that is described in:

31 ~~(A)~~(i) Article 34 of chapter 21 of the Kansas Statutes Annotated,
32 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes
33 Annotated, and amendments thereto, except those crimes listed in
34 subsection (b)(1);

35 ~~(B)~~(ii) article 35 or 36 of chapter 21 of the Kansas Statutes
36 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
37 Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6420, and
38 amendments thereto, except those crimes listed in subsection (b)(1) and
39 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2022 Supp. 21-5606, and
40 amendments thereto;

41 ~~(C)~~(iii) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2022 Supp. 21-
42 5801, and amendments thereto;

43 ~~(D)~~(iv) an attempt to commit any of the crimes listed in this

1 paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
2 Supp. 21-5301, and amendments thereto;

3 ~~(E)(v)~~ a conspiracy to commit any of the crimes listed in this
4 paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2022
5 Supp. 21-5302, and amendments thereto;

6 ~~(F)(vi)~~ criminal solicitation of any of the crimes listed in this
7 paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022
8 Supp. 21-5303, and amendments thereto; or

9 ~~(G)(vii)~~ similar statutes of other states or the federal government.

10 (B) An individual who has been disqualified for employment due to
11 conviction or adjudication of an offense listed in this paragraph~~(2)~~ may
12 apply to the secretary for aging and disability services for a waiver of such
13 disqualification if five years have elapsed since completion of the sentence
14 for such conviction. The secretary shall adopt rules and regulations
15 establishing the waiver process and the criteria to be utilized by the
16 secretary in evaluating any such waiver request.

17 (3) (A) A person operating a home health agency may employ an
18 applicant who has been convicted of any of the following if six or more
19 years have elapsed since completion of the sentence imposed or the
20 applicant was discharged from probation, a community correctional
21 services program, parole, postrelease supervision, conditional release or a
22 suspended sentence; if six or more years have elapsed since the applicant
23 has been finally discharged from the custody of the commissioner of
24 juvenile justice or from probation or has been adjudicated a juvenile
25 offender, whichever time is longer; or if the applicant has been granted a
26 waiver of such six-year disqualification:

27 (i) Interference with custody of a committed person pursuant to
28 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2022 Supp. 21-5410, and
29 amendments thereto; mistreatment of a confined person pursuant to K.S.A.
30 21-3425, prior to its repeal, or K.S.A. 2022 Supp. 21-5416, and
31 amendments thereto; unlawful administration of a substance pursuant to
32 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2022 Supp. 21-5425, and
33 amendments thereto; violation of a protective order pursuant to K.S.A. 21-
34 3843, prior to its repeal, or K.S.A. 2022 Supp. 21-5924; promoting
35 obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or
36 21-4301a, prior to their repeal, or K.S.A. 2022 Supp. 21-6401, and
37 amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-
38 4310 or 21-4311, prior to their repeal, or K.S.A. 2022 Supp. 21-6412, and
39 amendments thereto; or

40 (ii) any felony conviction of: Unlawful manufacture of a controlled
41 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
42 K.S.A. 2022 Supp. 21-5703, and amendments thereto; unlawful cultivation
43 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-

1 36a05, prior to its repeal, or K.S.A. 2022 Supp. 21-5705, and amendments
2 thereto; unlawful manufacture, distribution, cultivation or possession of a
3 controlled substance using a communication facility pursuant to K.S.A.
4 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2022 Supp. 21-5707,
5 and amendments thereto; unlawful obtainment or sale of a prescription-
6 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or
7 K.S.A. 2022 Supp. 21-5708, and amendments thereto; unlawful
8 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.
9 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2022 Supp. 21-5710,
10 and amendments thereto; unlawful distribution or possession of a
11 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,
12 prior to its repeal, or K.S.A. 2022 Supp. 21-5713, and amendments
13 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.
14 2022 Supp. 21-5823, and amendments thereto; criminal use of a financial
15 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2022 Supp.
16 21-5828, and amendments thereto; any violation of the Kansas medicaid
17 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,
18 or K.S.A. 2022 Supp. 21-5925 et seq., and amendments thereto; making a
19 false claim, statement or representation to the medicaid program pursuant
20 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2022 Supp. 21-5927, and
21 amendments thereto; unlawful acts relating to the medicaid program
22 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2022 Supp. 21-
23 5928, and amendments thereto; obstruction of a medicaid fraud
24 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.
25 2022 Supp. 21-5929, and amendments thereto; identity theft or identity
26 fraud pursuant to K.S.A. 21-4018, prior to its repeal, or K.S.A. 2022 Supp.
27 21-6107, and amendments thereto; or social welfare fraud pursuant to
28 K.S.A. 39-720, and amendments thereto. The provisions of this paragraph
29 shall not apply to any person who is employed by a home health agency on
30 or before July 1, 2018, and is continuously employed by the same home
31 health agency or to any person during or upon successful completion of a
32 diversion agreement.

33 (B) An individual who has been disqualified for employment due to
34 conviction or adjudication of an offense listed in this paragraph~~(3)~~ may
35 apply to the secretary for aging and disability services for a waiver of such
36 disqualification if five years have elapsed since completion of the sentence
37 for such conviction. The secretary shall adopt rules and regulations
38 establishing the waiver process and criteria to be considered by the
39 secretary in evaluating any such waiver request.

40 (c) No person shall operate a home health agency if such person has
41 been found to be a person in need of a guardian or a conservator, or both,
42 as provided in the act for obtaining a guardian or a conservator, or both.
43 The provisions of this subsection shall not apply to an individual who, as a

1 minor, was found to be in need of a guardian or conservator for reasons
2 other than impairment.

3 (d) (1) The Kansas bureau of investigation shall release all records of
4 adult and juvenile convictions and adjudications and adult and juvenile
5 convictions and adjudications of any other state or country concerning
6 persons working in a home health agency to the secretary for aging and
7 disability services. The Kansas bureau of investigation may charge to the
8 Kansas department for aging and disability services a reasonable fee for
9 providing criminal history record information under this subsection.

10 (2) The department shall require an applicant to be fingerprinted and
11 to submit to a state and national criminal history record check. The
12 fingerprints shall be used to identify the individual and to determine
13 whether the individual has a record of criminal history in this state or other
14 jurisdiction. The department is authorized to submit the fingerprints to the
15 Kansas bureau of investigation and the federal bureau of investigation for
16 a state and national criminal history record check. The department may use
17 the information obtained from fingerprinting and the criminal history
18 record check for purposes of verifying the identification of the person and
19 for making an official determination of the qualifications and fitness of the
20 person to work in the home health agency.

21 (3) An applicant for employment in ~~an~~ a home health agency shall
22 have 20 calendar days after receipt of authorization to submit the
23 applicant's fingerprints through an authorized collection site in order to be
24 eligible for provisional employment or the applicant's application shall be
25 deemed withdrawn.

26 (4) (A) The current or prospective employer of an applicant shall pay
27 a fee not to exceed \$19 of the total cost for criminal history record
28 information to the department for each applicant submitted.

29 (B) The prospective employer, employee or independent contractor
30 shall pay the fingerprint collection fee at the time of fingerprinting to the
31 authorized collection site.

32 (5) If an applicant disputes the contents of a criminal history record
33 check, then the applicant may file an appeal with the Kansas bureau of
34 investigation.

35 (6) Individuals who have been disqualified for employment by reason
36 of their criminal history records and who have met the requirements of this
37 subsection may apply for a waiver with the department within 30 days of
38 the receipt of the notice of employment prohibition.

39 (7) The department shall adopt rules and regulations specifying the
40 criteria and procedure for issuing a waiver of the employment prohibition.
41 The secretary shall consider the following criteria when rendering a
42 decision on such a waiver request: Passage of time; extenuating
43 circumstances; demonstration of rehabilitation; and relevancy of the

1 criminal history record information to the position for which the applicant
2 is applying. Any employment prohibition issued shall remain in effect
3 unless or until a waiver is granted.

4 (e) For the purpose of complying with this section, the operator of a
5 home health agency shall request from the Kansas department for aging
6 and disability services an eligibility determination regarding adult and
7 juvenile convictions and adjudications. For the purpose of complying with
8 this section, a person who operates a home health agency may hire an
9 applicant for provisional employment on a one-time basis of 60 calendar
10 days pending the results from the Kansas department for aging and
11 disability services of a request for information under this subsection. A
12 provisional employee may only be supervised by an employee who has
13 completed all training required by federal regulations, rules and
14 regulations of the department and the home health agency's policies and
15 procedures. No home health agency, the operator or employees of a home
16 health agency or an employment agency or an independent contractor shall
17 be liable for civil damages resulting from any decision to employ, to refuse
18 to employ or to discharge from employment any person based on such
19 home health agency's compliance with the provisions of this section if
20 such home health agency or employment agency acts in good faith to
21 comply with this section.

22 (f) The secretary for aging and disability services shall provide each
23 operator requesting information under this section with a pass or fail
24 determination after review of any criminal history information in writing
25 and within three working days of receipt of such information from the
26 Kansas bureau of investigation or the federal bureau of investigation.

27 (g) A person who volunteers to assist a home health agency shall not
28 be subject to the provisions of this section unless the volunteer performs
29 functions equivalent to functions performed by direct access employees.

30 (h) No person who has been continuously employed by the same
31 home health agency since July 1, 1992, shall be subject to the
32 requirements of this section while employed by such home health agency.

33 (i) The operator of a home health agency shall not be required under
34 this section to conduct a criminal history record check on an applicant for
35 employment with the home health agency if the applicant has been the
36 subject of a criminal history record check under this act within one year
37 prior to the application for employment with the home health agency.

38 (j) No person who is in the custody of the secretary of corrections and
39 who provides services, under direct supervision in non-patient areas, on
40 the grounds or other areas designated by the superintendent of the Kansas
41 soldiers' home or the Kansas veterans' home shall be subject to the
42 provisions of this section while providing such services.

43 (k) (1) All fees charged by the secretary for criminal history record

1 checks conducted pursuant to this section shall be established by rules and
2 regulations of the secretary.

3 (2) All moneys collected and remitted to the department for fees
4 charged for criminal history record checks conducted pursuant to this
5 section shall be remitted to the state treasurer in accordance with K.S.A.
6 65-5113, and amendments thereto. Upon receipt of each such remittance,
7 the state treasurer shall deposit the entire amount into the state treasury to
8 the credit of the state licensure fee fund created by K.S.A. 39-930, and
9 amendments thereto.

10 (l) The department may implement the amendments made to this
11 section by this act in phases for different categories of employers. The
12 department shall adopt rules and regulations establishing dates and
13 procedures for the implementation of the criminal history record checks
14 required by this section, and such dates may be staggered to facilitate
15 implementation of the criminal history record checks required by this
16 section.

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

20 Sec. 28. K.S.A. 72-2165 is hereby amended to read as follows: 72-
21 2165. (a) The state board of education shall not knowingly issue a license
22 to or renew the license of any person who has been convicted of:

23 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
24 2022 Supp. 21-5503, and amendments thereto;

25 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
26 to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;

27 (3) aggravated indecent liberties with a child, as defined in K.S.A.
28 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
29 amendments thereto;

30 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
31 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
32 amendments thereto;

33 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
34 to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;

35 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
36 prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments
37 thereto;

38 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
39 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and
40 amendments thereto;

41 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
42 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;

43 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its

- 1 repeal, or K.S.A. 2022 Supp. 21-5604(b), and amendments thereto;
- 2 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
3 prior to its repeal, or K.S.A. 2022 Supp. 21-5601(b), and amendments
4 thereto;
- 5 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
6 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;
- 7 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
8 or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*;
- 9 (13) *aggravated murder, as defined in section 2*, and amendments
10 thereto;
- 11 ~~(13)~~(14) murder in the first degree, as defined in K.S.A. 21-3401,
12 prior to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments
13 thereto;
- 14 ~~(14)~~(15) murder in the second degree, as defined in K.S.A. 21-3402,
15 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
16 thereto;
- 17 ~~(15)~~(16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
18 to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;
- 19 ~~(16)~~(17) involuntary manslaughter, as defined in K.S.A. 21-3404,
20 prior to its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments
21 thereto;
- 22 ~~(17)~~(18) involuntary manslaughter while driving under the influence
23 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 24 ~~(18)~~(19) sexual battery, as defined in K.S.A. 21-3517, prior to its
25 repeal, or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto, when,
26 at the time the crime was committed, the victim was less than 18 years of
27 age or a student of the person committing such crime;
- 28 ~~(19)~~(20) aggravated sexual battery, as defined in K.S.A. 21-3518,
29 prior to its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments
30 thereto;
- 31 ~~(20)~~(21) commercial sexual exploitation of a child, as defined in
32 K.S.A. 2022 Supp. 21-6422, and amendments thereto;
- 33 ~~(21)~~(22) human trafficking, as defined in K.S.A. 21-3446, prior to its
34 repeal, or K.S.A. 2022 Supp. 21-5426(a), and amendments thereto;
- 35 ~~(22)~~(23) aggravated human trafficking, as defined in K.S.A. 21-3447,
36 prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments
37 thereto;
- 38 ~~(23)~~(24) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
39 2022 Supp. 21-5301, and amendments thereto, to commit any act specified
40 in this subsection;
- 41 ~~(24)~~(25) conspiracy under K.S.A. 21-3302, prior to its repeal, or
42 K.S.A. 2022 Supp. 21-5302, and amendments thereto, to commit any act
43 specified in this subsection;

1 ~~(25)~~(26) an act in another state or by the federal government that is
2 comparable to any act described in this subsection; or

3 ~~(26)~~(27) an offense in effect at any time prior to the effective date of
4 this act that is comparable to an offense as provided in this subsection.

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

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

13 (2) a felony described in any section of article 34 of chapter 21 of the
14 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
15 of the Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6104, 21-6325,
16 21-6326 or 21-6418, and amendments thereto, other than an act specified
17 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
18 repeal, or K.S.A. 2022 Supp. 21-5413(a), and amendments thereto, or
19 domestic battery, as described in K.S.A. 21-3412a, prior to its repeal, or
20 K.S.A. 2022 Supp. 21-5414, and amendments thereto, if the victim is a
21 minor or student;

22 (3) a felony described in any section of article 35 of chapter 21 of the
23 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
24 of the Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6419 through
25 21-6421, and amendments thereto, other than an act specified in
26 subsection (a);

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

31 (5) a felony described in article 37 of chapter 21 of the Kansas
32 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
33 Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6412(a)(6), and
34 amendments thereto;

35 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
36 repeal, or K.S.A. 2022 Supp. 21-6401(a), and amendments thereto,
37 promoting obscenity to minors, as described in K.S.A. 21-4301a, prior to
38 its repeal, or K.S.A. 2022 Supp. 21-6401(b), and amendments thereto, or
39 promoting to minors obscenity harmful to minors, as described in K.S.A.
40 21-4301c, prior to its repeal, or K.S.A. 2022 Supp. 21-6402, and
41 amendments thereto;

42 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
43 repeal, or K.S.A. 2022 Supp. 21-5601(a), and amendments thereto;

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

4 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
5 Supp. 21-5301, and amendments thereto, to commit any act specified in
6 this subsection;

7 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
8 2022 Supp. 21-5302, and amendments thereto, to commit any act specified
9 in this subsection; or

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

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

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

25 (2) the conduct of the person subsequent to commission of the
26 offense or act;

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

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

29 (5) whether the offense or act was an isolated or recurring incident;
30 and

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

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

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

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

4 Sec. 29. K.S.A. 75-52,148 is hereby amended to read as follows: 75-
5 52,148. (a) The department of corrections shall be required to review and
6 report on the following serious offenses committed by sex offenders, as
7 defined by K.S.A. 22-4902, and amendments thereto, while such offenders
8 are in the custody of the secretary of corrections:

9 (1) Murder in the first degree, as defined in K.S.A. 2022 Supp. 21-
10 5402, and amendments thereto;

11 (2) murder in the second degree, as defined in K.S.A. 2022 Supp. 21-
12 5403, and amendments thereto;

13 ~~(3) capital murder, as defined in K.S.A. 2022 Supp. 21-~~
14 ~~5401~~ aggravated murder, as defined in section 2, and amendments thereto;

15 (4) rape, as defined in K.S.A. 2022 Supp. 21-5503, and amendments
16 thereto;

17 (5) aggravated criminal sodomy, as defined in K.S.A. 2022 Supp. 21-
18 5504(b), and amendments thereto;

19 (6) sexual exploitation of a child, as defined in K.S.A. 2022 Supp. 21-
20 5510, and amendments thereto;

21 (7) kidnapping, as defined in K.S.A. 2022 Supp. 21-5408(a), and
22 amendments thereto;

23 (8) aggravated kidnapping, as defined in K.S.A. 2022 Supp. 21-
24 5408(b), and amendments thereto;

25 (9) criminal restraint, as defined in K.S.A. 2022 Supp. 21-5411, and
26 amendments thereto;

27 (10) indecent solicitation of a child, as defined in K.S.A. 2022 Supp.
28 21-5508(a), and amendments thereto;

29 (11) aggravated indecent solicitation of a child, as defined in K.S.A.
30 2022 Supp. 21-5508(b), and amendments thereto;

31 (12) indecent liberties with a child, as defined in K.S.A. 2022 Supp.
32 21-5506(a), and amendments thereto;

33 (13) aggravated indecent liberties with a child, as defined in K.S.A.
34 2022 Supp. 21-5506(b), and amendments thereto;

35 (14) criminal sodomy, as defined in K.S.A. 2022 Supp. 21-5504(a),
36 and amendments thereto;

37 (15) child abuse, as defined in K.S.A. 2022 Supp. 21-5602, and
38 amendments thereto;

39 (16) aggravated robbery, as defined in K.S.A. 2022 Supp. 21-5420(b),
40 and amendments thereto;

41 (17) burglary, as defined in K.S.A. 2022 Supp. 21-5807(a), and
42 amendments thereto;

43 (18) aggravated burglary, as defined in K.S.A. 2022 Supp. 21-

1 5807(b), and amendments thereto;
2 (19) theft, as defined in K.S.A. 2022 Supp. 21-5801, and amendments
3 thereto;
4 (20) vehicular homicide, as defined in K.S.A. 2022 Supp. 21-5406,
5 and amendments thereto;
6 (21) involuntary manslaughter while driving under the influence, as
7 defined in K.S.A. 2022 Supp. 21-5405(a)(3) or (a)(5), and amendments
8 thereto; or
9 (22) stalking, as defined in K.S.A. 2022 Supp. 21-5427, and
10 amendments thereto.
11 (b) The secretary of corrections shall submit such report to the
12 speaker of the house of representatives and the president of the senate
13 annually, ~~beginning January 1, 2007.~~
14 Sec. 30. K.S.A. 38-2255, 38-2271, 38-2303, 38-2312, 38-2365, 39-
15 970, 39-2009, 65-5117, 72-2165 and 75-52,148 and K.S.A. 2022 Supp. 21-
16 5301, 21-5401, 21-5402, 21-5419, 21-6328, 21-6614, 21-6614i, 21-6617,
17 21-6618, 21-6619, 21-6620, 21-6622, 21-6628, 21-6629, 21-6806, 22-
18 2512, 22-3717, 22-4902, 22-4906 and 23-3222 are hereby repealed.
19 Sec. 31. This act shall take effect and be in force from and after its
20 publication in the statute book.