

HOUSE BILL No. 2397

By Committee on Federal and State Affairs

3-8

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to abolition of the death penalty; creating the crime of aggravated
3 murder; sentences of imprisonment for life without the possibility of
4 parole; establishing the Kansas death penalty abolition fund; amending
5 K.S.A. 22-3405, 22-3705 and 22-4210 and K.S.A. 2012 Supp. 21-5419,
6 21-6614, 21-6618, 21-6620, 21-6622, 21-6626, 21-6628, 21-6629, 21-
7 6806, 22-3717, 22-3728, 22-4902, 22-4906, 38-2255, 38-2271, 38-
8 2312, 38-2365, 39-970, 65-5117, 72-1397 and 75-52,148 and repealing
9 the existing sections; also repealing K.S.A. 2012 Supp. 21-5401, 21-
10 6617 and 21-6619.

11
12 WHEREAS, Kansas reenacted the death penalty in 1994; and
13 WHEREAS, Inmates in Kansas are currently under sentence of death;
14 and
15 WHEREAS, Kansas has not carried out an execution since 1965:
16 Now, therefore,
17

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

19 New Section 1. (a) No person shall be sentenced to death for a crime
20 committed on or after July 1, 2013.

21 (b) Any person who is sentenced to death for a crime committed prior
22 to July 1, 2013, may be put to death pursuant to the provisions of article 40
23 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

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

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

27 (1) Intentional and premeditated killing of any person in the
28 commission of kidnapping, as defined in subsection (a) of K.S.A. 2012
29 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as
30 defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments
31 thereto, when the kidnapping or aggravated kidnapping was committed
32 with the intent to hold such person for ransom;

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

36 (3) intentional and premeditated killing of any person by an inmate or

1 prisoner confined in a state correctional institution, community
2 correctional institution or jail or while in the custody of an officer or
3 employee of a state correctional institution, community correctional
4 institution or jail;

5 (4) intentional and premeditated killing of the victim of one of the
6 following crimes in the commission of, or subsequent to, such crime:
7 Rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments thereto,
8 criminal sodomy, as defined in subsections (a)(3) or (a)(4) of K.S.A. 2012
9 Supp. 21-5504, and amendments thereto, or aggravated criminal sodomy,
10 as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and
11 amendments thereto, or any attempt thereof, as defined in K.S.A. 2012
12 Supp. 21-5301, and amendments thereto;

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

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

18 (7) intentional and premeditated killing of a child under the age of 14
19 in the commission of kidnapping, as defined in subsection (a) of K.S.A.
20 2012 Supp. 21-5408, and amendments thereto, or aggravated kidnapping,
21 as defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and
22 amendments thereto, when the kidnapping or aggravated kidnapping was
23 committed with intent to commit a sex offense upon or with the child or
24 with intent that the child commit or submit to a sex offense.

25 (b) For purposes of this section, "sex offense" means rape, as defined
26 in K.S.A. 2012 Supp. 21-5503, and amendments thereto, aggravated
27 indecent liberties with a child, as defined in subsection (b) of K.S.A. 2012
28 Supp. 21-5506, and amendments thereto, aggravated criminal sodomy, as
29 defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments
30 thereto, prostitution, as defined in K.S.A. 2012 Supp. 21-6419, and
31 amendments thereto, promoting prostitution, as defined in K.S.A. 2012
32 Supp. 21-6420, and amendments thereto, or sexual exploitation of a child,
33 as defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto.

34 (c) Notwithstanding subsections (b)(1) or (b)(2) of K.S.A. 2012 Supp.
35 21-5109, and amendments thereto, when the same conduct of a defendant
36 may establish the commission of aggravated murder and the commission
37 of another crime under the laws of this state, the defendant may be
38 prosecuted and sentenced for each of such crimes.

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

40 (e) This section shall be part of and supplemental to article 54 of
41 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, the
42 Kansas criminal code.

43 New Sec. 3. (a) When it is provided by law that a person shall be

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

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

20 New Sec. 4. (a) There is hereby established in the state treasury the
21 Kansas death penalty abolition fund which shall be administered by the
22 attorney general. All expenditures from the Kansas death penalty abolition
23 fund shall be for mental health and other support services for families of
24 victims of homicide. All expenditures from the Kansas death penalty
25 abolition fund shall be made in accordance with appropriation acts upon
26 warrants of the director of accounts and reports issued pursuant to
27 vouchers approved by the attorney general or the designee of the attorney
28 general.

29 (b) Annually, on or before June 30, the director of the budget shall
30 determine and certify to the director of accounts and reports the amount in
31 each account of the state general fund of a state agency that has been
32 determined by the director of the budget to be actual or projected cost
33 savings as a result of the abolition of the death penalty pursuant to section
34 1, and amendments thereto. Such cost savings shall include, but not be
35 limited to, cost avoidance in the prosecution, defense, corrections and
36 other associated costs resulting from the abolition of the death penalty.

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

42 Sec. 5. K.S.A. 2012 Supp. 21-5419 is hereby amended to read as
43 follows: 21-5419. (a) As used in this section:

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

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

5 (b) This section shall not apply to:

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

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

10 (3) the lawful dispensation or administration of lawfully prescribed
11 medication.

12 (c) As used in K.S.A. 2012 Supp. ~~21-5401~~, 21-5402, 21-5403, 21-
13 5404, 21-5405, 21-5406 ~~and~~ , subsections (a) and (b) of 21-5413 *and*
14 *section 2*, and amendments thereto, "person" and "human being" also mean
15 an unborn child.

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

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

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

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

1 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,
2 any felony ranked in severity levels 1 through 3 of the drug grid, or for
3 crimes committed on or after July 1, 2012, any felony ranked in severity
4 levels 1 through 4 of the drug grid, or:

5 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
6 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto, or as
7 prohibited by any law of another state which is in substantial conformity
8 with that statute;

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

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

17 (4) violating the provisions of the fifth clause of K.S.A. 8-142, and
18 amendments thereto, relating to fraudulent applications or violating the
19 provisions of a law of another state which is in substantial conformity with
20 that statute;

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

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

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

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

30 (c) No person may petition for expungement until 10 or more years
31 have elapsed since the person satisfied the sentence imposed, the terms of
32 a diversion agreement or was discharged from probation, a community
33 correctional services program, parole, postrelease supervision, conditional
34 release or a suspended sentence, if such person was convicted of a
35 violation of K.S.A. 8-1567, and amendments thereto, including any
36 diversion for such violation.

37 (d) There shall be no expungement of convictions for the following
38 offenses or of convictions for an attempt to commit any of the following
39 offenses:

40 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
41 2012 Supp. 21-5503, and amendments thereto;

42 (2) indecent liberties with a child or aggravated indecent liberties
43 with a child as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,

- 1 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;
- 2 (3) criminal sodomy as defined in subsection (a)(2) or (a)(3) of
3 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
4 2012 Supp. 21-5504, and amendments thereto;
- 5 (4) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
6 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;
- 7 (5) indecent solicitation of a child or aggravated indecent solicitation
8 of a child as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or
9 K.S.A. 2012 Supp. 21-5508, and amendments thereto;
- 10 (6) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
11 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;
- 12 (7) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal,
13 or K.S.A. 2012 Supp. 21-5604, and amendments thereto;
- 14 (8) endangering a child or aggravated endangering a child as defined
15 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp.
16 21-5601, and amendments thereto;
- 17 (9) abuse of a child as defined in K.S.A. 21-3609, prior to its repeal,
18 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;
- 19 (10) capital murder as defined in K.S.A. 21-3439, prior to its repeal,
20 or K.S.A. 2012 Supp. 21-5401, ~~and amendments thereto~~ prior to its repeal;
- 21 (11) *aggravated murder as defined in section 2, and amendments*
22 *thereto;*
- 23 ~~(11)~~ (12) murder in the first degree as defined in K.S.A. 21-3401,
24 prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments
25 thereto;
- 26 ~~(12)~~ (13) murder in the second degree as defined in K.S.A. 21-3402,
27 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
28 thereto;
- 29 ~~(13)~~ (14) voluntary manslaughter as defined in K.S.A. 21-3403, prior
30 to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;
- 31 ~~(14)~~ (15) involuntary manslaughter as defined in K.S.A. 21-3404,
32 prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments
33 thereto;
- 34 ~~(15)~~ (16) sexual battery as defined in K.S.A. 21-3517, prior to its
35 repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto, when the
36 victim was less than 18 years of age at the time the crime was committed;
- 37 ~~(16)~~ (17) aggravated sexual battery as defined in K.S.A. 21-3518,
38 prior to its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments
39 thereto;
- 40 ~~(17)~~ (18) a violation of K.S.A. 8-2,144, and amendments thereto,
41 including any diversion for such violation; or
- 42 ~~(18)~~ (19) any conviction for any offense in effect at any time prior to
43 July 1, 2011, that is comparable to any offense as provided in this

1 subsection.

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

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

12 (A) Defendant's full name;

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

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

16 (D) crime for which the defendant was arrested, convicted or
17 diverted;

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

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

21 (2) Except as otherwise provided by law, a petition for expungement
22 shall be accompanied by a docket fee in the amount of \$100. On and after
23 April 12, 2012, through June 30, 2013, the supreme court may impose a
24 charge, not to exceed \$19 per case, to fund the costs of non-judicial
25 personnel. The charge established in this section shall be the only fee
26 collected or moneys in the nature of a fee collected for the case. Such
27 charge shall only be established by an act of the legislature and no other
28 authority is established by law or otherwise to collect a fee.

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

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

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

40 (2) the circumstances and behavior of the petitioner warrant the
41 expungement; and

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

43 (h) When the court has ordered an arrest record, conviction or

1 diversion expunged, the order of expungement shall state the information
2 required to be contained in the petition. The clerk of the court shall send a
3 certified copy of the order of expungement to the Kansas bureau of
4 investigation which shall notify the federal bureau of investigation, the
5 secretary of corrections and any other criminal justice agency which may
6 have a record of the arrest, conviction or diversion. After the order of
7 expungement is entered, the petitioner shall be treated as not having been
8 arrested, convicted or diverted of the crime, except that:

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

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

14 (A) In any application for licensure as a private detective, private
15 detective agency, certification as a firearms trainer pursuant to K.S.A.
16 2012 Supp. 75-7b21, and amendments thereto, or employment as a
17 detective with a private detective agency, as defined by K.S.A. 75-7b01,
18 and amendments thereto; as security personnel with a private patrol
19 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
20 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
21 the department of social and rehabilitation services;

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

24 (C) to aid in determining the petitioner's qualifications for
25 employment with the Kansas lottery or for work in sensitive areas within
26 the Kansas lottery as deemed appropriate by the executive director of the
27 Kansas lottery;

28 (D) to aid in determining the petitioner's qualifications for executive
29 director of the Kansas racing and gaming commission, for employment
30 with the commission or for work in sensitive areas in parimutuel racing as
31 deemed appropriate by the executive director of the commission, or to aid
32 in determining qualifications for licensure or renewal of licensure by the
33 commission;

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

39 (F) upon application for a commercial driver's license under K.S.A.
40 8-2,125 through 8-2,142, and amendments thereto;

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

43 (H) to aid in determining the petitioner's qualifications to be an

1 employee of a tribal gaming commission or to hold a license issued
2 pursuant to a tribal-state gaming compact;

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

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

8 (K) for applications received on and after July 1, 2006, to aid in
9 determining the petitioner's qualifications for a license to carry a concealed
10 weapon pursuant to the personal and family protection act, K.S.A. 2012
11 Supp. 75-7c01 et seq., and amendments thereto;

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

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

17 (5) upon commitment to the custody of the secretary of corrections,
18 any previously expunged record in the possession of the secretary of
19 corrections may be reinstated and the expungement disregarded, and the
20 record continued for the purpose of the new commitment.

21 (i) Whenever a person is convicted of a crime, pleads guilty and pays
22 a fine for a crime, is placed on parole, postrelease supervision or
23 probation, is assigned to a community correctional services program, is
24 granted a suspended sentence or is released on conditional release, the
25 person shall be informed of the ability to expunge the arrest records or
26 conviction. Whenever a person enters into a diversion agreement, the
27 person shall be informed of the ability to expunge the diversion.

28 (j) Subject to the disclosures required pursuant to subsection (h), in
29 any application for employment, license or other civil right or privilege, or
30 any appearance as a witness, a person whose arrest records, conviction or
31 diversion of a crime has been expunged under this statute may state that
32 such person has never been arrested, convicted or diverted of such crime,
33 but the expungement of a felony conviction does not relieve an individual
34 of complying with any state or federal law relating to the use or possession
35 of firearms by persons convicted of a felony.

36 (k) Whenever the record of any arrest, conviction or diversion has
37 been expunged under the provisions of this section or under the provisions
38 of any other existing or former statute, the custodian of the records of
39 arrest, conviction, diversion and incarceration relating to that crime shall
40 not disclose the existence of such records, except when requested by:

41 (1) The person whose record was expunged;

42 (2) a private detective agency or a private patrol operator, and the
43 request is accompanied by a statement that the request is being made in

1 conjunction with an application for employment with such agency or
2 operator by the person whose record has been expunged;

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

5 (4) the secretary of social and rehabilitation services, or a designee of
6 the secretary, for the purpose of obtaining information relating to
7 employment in an institution, as defined in K.S.A. 76-12a01, and
8 amendments thereto, of the department of social and rehabilitation services
9 of any person whose record has been expunged;

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

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

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

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

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

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

40 (11) the Kansas sentencing commission;

41 (12) the state gaming agency, and the request is accompanied by a
42 statement that the request is being made to aid in determining
43 qualifications: (A) To be an employee of the state gaming agency; or (B)

1 to be an employee of a tribal gaming commission or to hold a license
2 issued pursuant to a tribal-gaming compact;

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

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

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

17 (16) the attorney general and the request is accompanied by a
18 statement that the request is being made to aid in determining
19 qualifications for a license to carry a concealed weapon pursuant to the
20 personal and family protection act; or

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

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

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

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

30 Sec. 7. K.S.A. 2012 Supp. 21-6618 is hereby amended to read as
31 follows: 21-6618. Upon conviction of a defendant of ~~capital~~ *aggravated*
32 murder and a finding that the defendant was less than 18 years of age at
33 the time of the commission thereof, the court shall sentence the defendant
34 as otherwise provided by law, and no sentence of ~~death~~ or life without the
35 possibility of parole shall be imposed ~~hereunder~~.

36 Sec. 8. K.S.A. 2012 Supp. 21-6620 is hereby amended to read as
37 follows: 21-6620. (a) Except as provided in K.S.A. 2012 Supp. 21-6618
38 and 21-6622, and amendments thereto, if a defendant is convicted of the
39 crime of ~~capital murder and a sentence of death is not imposed pursuant to~~
40 ~~subsection (c) of K.S.A. 2012 Supp. 21-6617, and amendments thereto, or~~
41 ~~requested pursuant to subsection (a) or (b) of K.S.A. 2012 Supp. 21-6617,~~
42 ~~and amendments thereto, aggravated murder, the defendant shall be~~
43 sentenced to life without the possibility of parole *pursuant to section 3,*

1 *and amendments thereto.*

2 (b) If a defendant is convicted of murder in the first degree based
3 upon the finding of premeditated murder, the court shall determine
4 whether the defendant shall be required to serve a mandatory term of
5 imprisonment of 40 years or for crimes committed on and after July 1,
6 1999, a mandatory term of imprisonment of 50 years or sentenced as
7 otherwise provided by law.

8 (c) In order to make such determination, the court may be presented
9 evidence concerning any matter that the court deems relevant to the
10 question of sentence and shall include matters relating to any of the
11 aggravating circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and
12 amendments thereto, and any mitigating circumstances. Any such evidence
13 which the court deems to have probative value may be received regardless
14 of its admissibility under the rules of evidence, provided that the defendant
15 is accorded a fair opportunity to rebut any hearsay statements. Only such
16 evidence of aggravating circumstances as the state has made known to the
17 defendant prior to the sentencing shall be admissible and no evidence
18 secured in violation of the constitution of the United States or of the state
19 of Kansas shall be admissible. No testimony by the defendant at the time
20 of sentencing shall be admissible against the defendant at any subsequent
21 criminal proceeding. At the conclusion of the evidentiary presentation, the
22 court shall allow the parties a reasonable period of time in which to present
23 oral argument.

24 (d) If the court finds that one or more of the aggravating
25 circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and
26 amendments thereto, exist and, further, that the existence of such
27 aggravating circumstances is not outweighed by any mitigating
28 circumstances which are found to exist, the defendant shall be sentenced
29 pursuant to K.S.A. 2012 Supp. 21-6623, and amendments thereto;
30 otherwise, the defendant shall be sentenced as provided by law. The court
31 shall designate, in writing, the statutory aggravating circumstances which
32 it found. ~~The court may make the findings required by this subsection for~~
33 ~~the purpose of determining whether to sentence a defendant pursuant to~~
34 ~~K.S.A. 2012 Supp. 21-6623, and amendments thereto, notwithstanding~~
35 ~~contrary findings made by the jury or court pursuant to subsection (c) of~~
36 ~~K.S.A. 2012 Supp. 21-6617, and amendments thereto, for the purpose of~~
37 ~~determining whether to sentence such defendant to death.~~

38 Sec. 9. K.S.A. 2012 Supp. 21-6622 is hereby amended to read as
39 follows: 21-6622. ~~(a) If, under K.S.A. 2012 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. 2012 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) (a) If a defendant is convicted of the crime of ~~capital murder and a~~
12 ~~sentence of death is not imposed~~ *aggravated murder*, or if a defendant is
13 convicted of the crime of murder in the first degree based upon the finding
14 of premeditated murder, the defendant's counsel or the warden of the
15 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. 2012 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 ~~2012 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)~~
43 *this 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. 2012 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 shall be imposed hereunder.

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

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

18 Sec. 10. K.S.A. 2012 Supp. 21-6626 is hereby amended to read as
19 follows: 21-6626. (a) An aggravated habitual sex offender shall be
20 sentenced to imprisonment for life without the possibility of parole. Such
21 offender shall spend the remainder of the offender's natural life
22 incarcerated and in the custody of the secretary of corrections. An offender
23 who is sentenced to imprisonment for life without the possibility of parole
24 shall not be eligible for *commutation of sentence*, parole, probation,
25 assignment to a community correctional services program, conditional
26 release, postrelease supervision, *functional incapacitation release*
27 *pursuant to K.S.A. 22-3728, and amendments thereto*, or suspension,
28 modification or reduction of sentence.

29 (b) Upon sentencing a defendant to imprisonment for life without the
30 possibility of parole, the court shall commit the defendant to the custody of
31 the secretary of corrections and the court shall state in the sentencing order
32 of the judgment form or journal entry, whichever is delivered with the
33 defendant to the correctional institution, that the defendant has been
34 sentenced to imprisonment for life without the possibility of parole.

35 (c) As used in this section:

36 (1) "Aggravated habitual sex offender" means a person who, on and
37 after July 1, 2006: (A) Has been convicted in this state of a sexually
38 violent crime, as described in subsection (c)(2)(A) through (c)(2)(H) or (c)
39 (2)(J); and (B) prior to the conviction of the felony under subparagraph
40 (A), has been convicted of two or more sexually violent crimes;

41 (2) "Sexually violent crime" means:

42 (A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
43 2012 Supp. 21-5503, and amendments thereto;

1 (B) indecent liberties with a child or aggravated indecent liberties
2 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
3 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

4 (C) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
5 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
6 2012 Supp. 21-5504, and amendments thereto;

7 (D) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
8 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;

9 (E) indecent solicitation of a child or aggravated indecent solicitation
10 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
11 or K.S.A. 2012 Supp. 21-5508, and amendments thereto;

12 (F) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
13 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

14 (G) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
15 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;

16 (H) aggravated incest, as defined in K.S.A. 21-3603, prior to its
17 repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;

18 (I) any federal or other state conviction for a felony offense that under
19 the laws of this state would be a sexually violent crime as defined in this
20 section;

21 (J) an attempt, conspiracy or criminal solicitation, as defined in
22 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
23 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
24 sexually violent crime as defined in this section; or

25 (K) any act which at the time of sentencing for the offense has been
26 determined beyond a reasonable doubt to have been sexually motivated.
27 As used in this subparagraph, "sexually motivated" means that one of the
28 purposes for which the defendant committed the crime was for the purpose
29 of the defendant's sexual gratification.

30 Sec. 11. K.S.A. 2012 Supp. 21-6628 is hereby amended to read as
31 follows: 21-6628. (a) In the event the term of imprisonment for life
32 without the possibility of parole or any provision of K.S.A. 2012 Supp. 21-
33 6626 or 21-6627, and amendments thereto, authorizing such term is held to
34 be unconstitutional by the supreme court of Kansas or the United States
35 supreme court, the court having jurisdiction over a person previously
36 sentenced shall cause such person to be brought before the court and shall
37 modify the sentence to require no term of imprisonment for life without
38 the possibility of parole and shall sentence the defendant to the maximum
39 term of imprisonment otherwise provided by law.

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

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

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

12 Sec. 12. K.S.A. 2012 Supp. 21-6629 is hereby amended to read as
13 follows: 21-6629. (a) The provisions of K.S.A. 21-4622 through 21-4630,
14 as they existed immediately prior to July 1, 1994, shall be applicable only
15 to persons convicted of crimes committed on or after July 1, 1990, and
16 before July 1, 1994.

17 (b) The provisions of K.S.A. 21-4622 through 21-4627 and 21-4629
18 and 21-4630, as amended on July 1, 1994, and prior to their repeal, and
19 K.S.A. 2012 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-
20 6625 and subsection (b) of 21-6628, ~~and amendments thereto as they~~
21 ~~existed immediately prior to July 1, 2013~~, shall be applicable only to
22 persons convicted of crimes committed on or after July 1, 1994, *and*
23 *before July 1, 2013*.

24 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.
25 2012 Supp. 21-6620 through 21-6625 and subsection (c) of 21-6628, ~~and~~
26 ~~amendments thereto as they existed immediately prior to July 1, 2013~~,
27 shall be applicable only to persons convicted of crimes committed on or
28 after July 1, 1994, *and before July 1, 2013*.

29 (d) *The provisions of K.S.A. 2012 Supp. 21-6618, 21-6620, 21-6622*
30 *and 21-6628, as amended on July 1, 2013, and K.S.A. 2012 Supp. 21-*
31 *6621, 21-6623, 21-6624 and 21-6625, and amendments thereto, shall be*
32 *applicable only to persons convicted of crimes committed on or after July*
33 *1, 2013.*

34 Sec. 13. K.S.A. 2012 Supp. 21-6806 is hereby amended to read as
35 follows: 21-6806. (a) Sentences of imprisonment shall represent the
36 time a person shall actually serve, subject to a reduction of the primary
37 sentence for good time as authorized by K.S.A. 2012 Supp. 21-6821, and
38 amendments thereto.

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

40 (c) Violations of K.S.A. 2012 Supp. ~~21-5401~~, 21-5402, 21-5421, 21-
41 5422 and 21-5901, and amendments thereto, are off-grid crimes for the
42 purpose of sentencing. Except as otherwise provided by K.S.A. 2012
43 Supp. ~~21-6617~~, 21-6618, ~~21-6619~~, 21-6622, 21-6624, 21-6625, 21-6628

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

4 (d) As identified in K.S.A. 2012 Supp. 21-5426, 21-5503, 21-5504,
5 21-5506, 21-5510 and 21-6420, and amendments thereto, if the offender is
6 18 years of age or older and the victim is under 14 years of age, such
7 violations are off-grid crimes for the purposes of sentencing. Except as
8 provided in K.S.A. 2012 Supp. 21-6626, and amendments thereto, the
9 sentence shall be imprisonment for life pursuant to K.S.A. 2012 Supp. 21-
10 6627, and amendments thereto.

11 (e) *Violation of section 2, and amendments thereto, is an off-grid*
12 *crime for the purposes of sentencing. Except as provided in K.S.A. 2012*
13 *Supp. 21-6618 and 21-6622, and amendments thereto, the sentence shall*
14 *be imprisonment for life without the possibility of parole pursuant to*
15 *section 3, and amendments thereto.*

16 Sec. 14. K.S.A. 22-3405 is hereby amended to read as follows: 22-
17 3405. (1) The defendant in a felony case shall be present at the
18 arraignment, at every stage of the trial including the impaneling of the jury
19 and the return of the verdict, and at the imposition of sentence, except as
20 otherwise provided by law. In prosecutions for crimes not punishable by
21 death *or life without the possibility of parole*, the defendant's voluntary
22 absence after the trial has been commenced in such person's presence shall
23 not prevent continuing the trial to and including the return of the verdict. A
24 corporation may appear by counsel for all purposes.

25 (2) The defendant must be present, either personally or by counsel, at
26 every stage of the trial of traffic infraction, cigarette or tobacco infraction
27 and misdemeanor cases.

28 Sec. 15. K.S.A. 22-3705 is hereby amended to read as follows: 22-
29 3705. (a) The governor may, when ~~he~~ *the governor* deems it proper or
30 advisable, commute a sentence in any criminal case by reducing the
31 penalty as follows:

32 ~~(a)~~ (1) If the sentence is death, to imprisonment for life ~~or for any~~
33 ~~term not less than ten years~~ *without the possibility of parole and not to any*
34 *lesser sentence;*

35 ~~(b)~~ (2) *except as provided in subsection (b), if the sentence is to*
36 *imprisonment, by reducing the duration of such imprisonment;*

37 ~~(c)~~ (3) if the sentence is a fine, by reducing the amount thereof;

38 ~~(d)~~ (4) if the sentence is both imprisonment and fine, by reducing
39 either or both.

40 (b) *The governor shall not commute a sentence of life without the*
41 *possibility of parole.*

42 Sec. 16. K.S.A. 2012 Supp. 22-3717 is hereby amended to read as
43 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.

1 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
2 21-4638 and 21-4642, prior to their repeal; ~~K.S.A. 21-4624, prior to its~~
3 ~~repeal; K.S.A. 21-4642, prior to its repeal; K.S.A. 2012 Supp. 21-6617,~~
4 ~~prior to its repeal; K.S.A. 2012 Supp. 21-6617,~~ 21-6620, 21-6623, 21-
5 6624, 21-6625 and 21-6626, and amendments thereto; *section 3, and*
6 *amendments thereto;* and K.S.A. 8-1567, and amendments thereto; an
7 inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, prior
8 to its repeal, or K.S.A. 2012 Supp. 21-6707, and amendments thereto, shall
9 be eligible for parole after serving the entire minimum sentence imposed
10 by the court, less good time credits.

11 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior
12 to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-
13 6625, and amendments thereto, an inmate sentenced to imprisonment for
14 the crime of capital murder, or an inmate sentenced for the crime of
15 murder in the first degree based upon a finding of premeditated murder,
16 committed on or after July 1, 1994, shall be eligible for parole after
17 serving 25 years of confinement, without deduction of any good time
18 credits.

19 (2) Except as provided by subsection (b)(1) ~~or~~, (b)(4) and (b)(6),
20 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
21 21-4638, prior to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623,
22 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to
23 imprisonment for an off-grid offense committed on or after July 1, 1993,
24 but prior to July 1, 1999, shall be eligible for parole after serving 15 years
25 of confinement, without deduction of any good time credits and an inmate
26 sentenced to imprisonment for an off-grid offense committed on or after
27 July 1, 1999, shall be eligible for parole after serving 20 years of
28 confinement without deduction of any good time credits.

29 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
30 repeal, an inmate sentenced for a class A felony committed before July 1,
31 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
32 its repeal, or K.S.A. 2012 Supp. 21-6707, and amendments thereto, shall
33 be eligible for parole after serving 15 years of confinement, without
34 deduction of any good time credits.

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

40 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
41 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
42 thereto, committed on or after July 1, 2006, shall be eligible for parole
43 after serving the mandatory term of imprisonment without deduction of

1 any good time credits.

2 (6) *An inmate sentenced to imprisonment for life without the*
3 *possibility of parole pursuant to section 3, and amendments thereto, shall*
4 *not be eligible for parole.*

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

9 (A) The aggregate minimum sentences, as determined pursuant to
10 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2012 Supp. 21-6606, and
11 amendments thereto, less good time credits for those crimes which are not
12 class A felonies; and

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

15 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
16 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
17 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
18 eligible for parole after serving the mandatory term of imprisonment.

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

24 (A) Except as provided in subparagraphs (D) and (E), persons
25 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
26 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
27 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
28 July 1, 2012, must serve 36 months, plus the amount of good time and
29 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
30 repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto, on
31 postrelease supervision.

32 (B) Except as provided in subparagraphs (D) and (E), persons
33 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
34 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
35 drug severity level 4 crimes committed on or after July 1, 2012, must serve
36 24 months, plus the amount of good time and program credit earned and
37 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012
38 Supp. 21-6821, and amendments thereto, on postrelease supervision.

39 (C) Except as provided in subparagraphs (D) and (E), persons
40 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
41 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
42 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
43 must serve 12 months, plus the amount of good time and program credit

1 earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or
2 K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease
3 supervision.

4 (D) (i) The sentencing judge shall impose the postrelease supervision
5 period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless
6 the judge finds substantial and compelling reasons to impose a departure
7 based upon a finding that the current crime of conviction was sexually
8 motivated. In that event, departure may be imposed to extend the
9 postrelease supervision to a period of up to 60 months.

10 (ii) If the sentencing judge departs from the presumptive postrelease
11 supervision period, the judge shall state on the record at the time of
12 sentencing the substantial and compelling reasons for the departure.
13 Departures in this section are subject to appeal pursuant to K.S.A. 21-
14 4721, prior to its repeal, or K.S.A. 2012 Supp. 21-6820, and amendments
15 thereto.

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

18 (a) Written briefs or oral arguments submitted by either the defendant
19 or the state;

20 (b) any evidence received during the proceeding;

21 (c) the presentence report, the victim's impact statement and any
22 psychological evaluation as ordered by the court pursuant to subsection (e)
23 of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2012
24 Supp. 21-6813, and amendments thereto; and

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

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

30 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
31 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2012 Supp. 21-
32 6817, and amendments thereto.

33 (vi) Upon petition, the prisoner review board may provide for early
34 discharge from the postrelease supervision period upon completion of
35 court ordered programs and completion of the presumptive postrelease
36 supervision period, as determined by the crime of conviction, pursuant to
37 subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
38 postrelease supervision is at the discretion of the board.

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

42 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
43 repeal, or K.S.A. 2012 Supp. 21-5508, and amendments thereto, shall be

1 required to participate in a treatment program for sex offenders during the
2 postrelease supervision period.

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

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

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

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

20 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp.
21 21-5503, and amendments thereto;

22 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
23 or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

24 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
25 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and
26 amendments thereto;

27 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
28 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2012 Supp. 21-
29 5504, and amendments thereto;

30 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
31 or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

32 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
33 or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

34 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
35 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and
36 amendments thereto;

37 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
38 or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

39 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
40 subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

41 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
42 subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto; or

43 (K) an attempt, conspiracy or criminal solicitation, as defined in

1 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
2 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
3 sexually violent crime as defined in this section.

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

14 (f) If a person is sentenced to prison for a crime committed on or after
15 July 1, 1993, while on probation, parole, conditional release or in a
16 community corrections program, for a crime committed prior to July 1,
17 1993, and the person is not eligible for retroactive application of the
18 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
19 4724, prior to its repeal, the new sentence shall not be aggregated with the
20 old sentence, but shall begin when the person is paroled or reaches the
21 conditional release date on the old sentence. If the offender was past the
22 offender's conditional release date at the time the new offense was
23 committed, the new sentence shall not be aggregated with the old sentence
24 but shall begin when the person is ordered released by the prisoner review
25 board or reaches the maximum sentence expiration date on the old
26 sentence, whichever is earlier. The new sentence shall then be served as
27 otherwise provided by law. The period of postrelease supervision shall be
28 based on the new sentence, except that those offenders whose old sentence
29 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
30 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
31 term of life imprisonment, for which there is no conditional release or
32 maximum sentence expiration date, shall remain on postrelease
33 supervision for life or until discharged from supervision by the prisoner
34 review board.

35 (g) Subject to the provisions of this section, the prisoner review board
36 may release on parole those persons confined in institutions who are
37 eligible for parole when: (1) The board believes that the inmate should be
38 released for hospitalization, deportation or to answer the warrant or other
39 process of a court and is of the opinion that there is reasonable probability
40 that the inmate can be released without detriment to the community or to
41 the inmate; or (2) the secretary of corrections has reported to the board in
42 writing that the inmate has satisfactorily completed the programs required
43 by any agreement entered under K.S.A. 75-5210a, and amendments

1 thereto, or any revision of such agreement, and the board believes that the
2 inmate is able and willing to fulfill the obligations of a law abiding citizen
3 and is of the opinion that there is reasonable probability that the inmate
4 can be released without detriment to the community or to the inmate.
5 Parole shall not be granted as an award of clemency and shall not be
6 considered a reduction of sentence or a pardon.

7 (h) The prisoner review board shall hold a parole hearing at least the
8 month prior to the month an inmate will be eligible for parole under
9 subsections (a), (b) and (c). At least one month preceding the parole
10 hearing, the county or district attorney of the county where the inmate was
11 convicted shall give written notice of the time and place of the public
12 comment sessions for the inmate to any victim of the inmate's crime who
13 is alive and whose address is known to the county or district attorney or, if
14 the victim is deceased, to the victim's family if the family's address is
15 known to the county or district attorney. Except as otherwise provided,
16 failure to notify pursuant to this section shall not be a reason to postpone a
17 parole hearing. In the case of any inmate convicted of an off-grid felony or
18 a class A felony, the secretary of corrections shall give written notice of the
19 time and place of the public comment session for such inmate at least one
20 month preceding the public comment session to any victim of such
21 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
22 amendments thereto. If notification is not given to such victim or such
23 victim's family in the case of any inmate convicted of an off-grid felony or
24 a class A felony, the board shall postpone a decision on parole of the
25 inmate to a time at least 30 days after notification is given as provided in
26 this section. Nothing in this section shall create a cause of action against
27 the state or an employee of the state acting within the scope of the
28 employee's employment as a result of the failure to notify pursuant to this
29 section. If granted parole, the inmate may be released on parole on the date
30 specified by the board, but not earlier than the date the inmate is eligible
31 for parole under subsections (a), (b) and (c). At each parole hearing and, if
32 parole is not granted, at such intervals thereafter as it determines
33 appropriate, the board shall consider: (1) Whether the inmate has
34 satisfactorily completed the programs required by any agreement entered
35 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
36 agreement; and (2) all pertinent information regarding such inmate,
37 including, but not limited to, the circumstances of the offense of the
38 inmate; the presentence report; the previous social history and criminal
39 record of the inmate; the conduct, employment, and attitude of the inmate
40 in prison; the reports of such physical and mental examinations as have
41 been made, including, but not limited to, risk factors revealed by any risk
42 assessment of the inmate; comments of the victim and the victim's family
43 including in person comments, contemporaneous comments and

1 prerecorded comments made by any technological means; comments of
2 the public; official comments; any recommendation by the staff of the
3 facility where the inmate is incarcerated; proportionality of the time the
4 inmate has served to the sentence a person would receive under the Kansas
5 sentencing guidelines for the conduct that resulted in the inmate's
6 incarceration; and capacity of state correctional institutions.

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

17 (j) (1) Before ordering the parole of any inmate, the prisoner review
18 board shall have the inmate appear either in person or via a video
19 conferencing format and shall interview the inmate unless impractical
20 because of the inmate's physical or mental condition or absence from the
21 institution. Every inmate while on parole shall remain in the legal custody
22 of the secretary of corrections and is subject to the orders of the secretary.
23 Whenever the board formally considers placing an inmate on parole and
24 no agreement has been entered into with the inmate under K.S.A. 75-
25 5210a, and amendments thereto, the board shall notify the inmate in
26 writing of the reasons for not granting parole. If an agreement has been
27 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
28 has not satisfactorily completed the programs specified in the agreement,
29 or any revision of such agreement, the board shall notify the inmate in
30 writing of the specific programs the inmate must satisfactorily complete
31 before parole will be granted. If parole is not granted only because of a
32 failure to satisfactorily complete such programs, the board shall grant
33 parole upon the secretary's certification that the inmate has successfully
34 completed such programs. If an agreement has been entered under K.S.A.
35 75-5210a, and amendments thereto, and the secretary of corrections has
36 reported to the board in writing that the inmate has satisfactorily
37 completed the programs required by such agreement, or any revision
38 thereof, the board shall not require further program participation.
39 However, if the board determines that other pertinent information
40 regarding the inmate warrants the inmate's not being released on parole,
41 the board shall state in writing the reasons for not granting the parole. If
42 parole is denied for an inmate sentenced for a crime other than a class A or
43 class B felony or an off-grid felony, the board shall hold another parole

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

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

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

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

32 (3) Parolees and persons on postrelease supervision are, and shall
33 agree in writing to be, subject to search or seizure by any law enforcement
34 officer based on reasonable suspicion of the person violating conditions of
35 parole or postrelease supervision or reasonable suspicion of criminal
36 activity. Any law enforcement officer who conducts such a search shall
37 submit a written report to the appropriate parole officer no later than the
38 close of the next business day after such search. The written report shall
39 include the facts leading to such search, the scope of such search and any
40 findings resulting from such search.

41 (1) The prisoner review board shall promulgate rules and regulations
42 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not
43 inconsistent with the law and as it may deem proper or necessary, with

1 respect to the conduct of parole hearings, postrelease supervision reviews,
2 revocation hearings, orders of restitution, reimbursement of expenditures
3 by the state board of indigents' defense services and other conditions to be
4 imposed upon parolees or releasees. Whenever an order for parole or
5 postrelease supervision is issued it shall recite the conditions thereof.

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

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

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

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

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

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

43 (6) shall order that the parolee or person on postrelease supervision

1 agree in writing to be subject to search or seizure by a parole officer or a
2 department of corrections enforcement, apprehension and investigation
3 officer, at any time of the day or night, with or without a search warrant
4 and with or without cause. Nothing in this subsection shall be construed to
5 authorize such officers to conduct arbitrary or capricious searches or
6 searches for the sole purpose of harassment; and

7 (7) shall order that the parolee or person on postrelease supervision
8 agree in writing to be subject to search or seizure by any law enforcement
9 officer based on reasonable suspicion of the person violating conditions of
10 parole or postrelease supervision or reasonable suspicion of criminal
11 activity.

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

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

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

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

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

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

40 (t) For offenders sentenced prior to May 25, 2000, who are eligible
41 for modification of their postrelease supervision obligation, the department
42 of corrections shall modify the period of postrelease supervision as
43 provided for by this section for offenders convicted of severity levels 9 and

1 10 crimes on the sentencing guidelines grid for nondrug crimes and
2 severity level 4 crimes on the sentencing guidelines grid for drug crimes
3 on or before September 1, 2000; for offenders convicted of severity levels
4 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or
5 before November 1, 2000; and for offenders convicted of severity levels 5
6 and 6 crimes on the sentencing guidelines grid for nondrug crimes and
7 severity level 3 crimes on the sentencing guidelines grid for drug crimes
8 on or before January 1, 2001.

9 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
10 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
11 thereto, for crimes committed on or after July 1, 2006, shall be placed on
12 parole for life and shall not be discharged from supervision by the prisoner
13 review board. When the board orders the parole of an inmate pursuant to
14 this subsection, the board shall order as a condition of parole that the
15 inmate be electronically monitored for the duration of the inmate's natural
16 life.

17 (v) Whenever the prisoner review board orders a person to be
18 electronically monitored pursuant to this section, or the court orders a
19 person to be electronically monitored pursuant to subsection (r) of K.S.A.
20 2012 Supp. 21-6604, and amendments thereto, the board shall order the
21 person to reimburse the state for all or part of the cost of such monitoring.
22 In determining the amount and method of payment of such sum, the board
23 shall take account of the financial resources of the person and the nature of
24 the burden that the payment of such sum will impose.

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

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

34 (B) As used in this subsection, all other terms have the meanings
35 provided by K.S.A. 2012 Supp. 21-5510, and amendments thereto.

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

41 Sec. 17. K.S.A. 2012 Supp. 22-3728 is hereby amended to read as
42 follows: 22-3728. (a) (1) Upon application of the secretary of corrections,
43 the prisoner review board may grant release to any person deemed to be

1 functionally incapacitated, upon such terms and conditions as prescribed in
2 the order granting such release.

3 (2) The secretary of corrections shall adopt rules and regulations
4 governing the prisoner review board's procedure for initiating, processing,
5 reviewing and establishing criteria for review of applications filed on
6 behalf of persons deemed to be functionally incapacitated. Such rules and
7 regulations shall include criteria and guidelines for determining whether
8 the functional incapacitation precludes the person from posing a threat to
9 the public.

10 (3) Subject to the provisions of subsections (a)(4) and (a)(5), a
11 functional incapacitation release shall not be granted until at least 30 days
12 after written notice of the application has been given to: (A) The
13 prosecuting attorney and the judge of the court in which the person was
14 convicted; and (B) any victim of the person's crime or the victim's family.
15 Notice of such application shall be given by the secretary of corrections to
16 the victim who is alive and whose address is known to the secretary, or if
17 the victim is deceased, to the victim's family if the family's address is
18 known to the secretary. Subject to the provisions of subsection (a)(4), if
19 there is no known address for the victim, if alive, or the victim's family, if
20 deceased, the board shall not grant or deny such application until at least
21 30 days after notification is given by publication in the county of
22 conviction. Publication costs shall be paid by the department of
23 corrections.

24 (4) All applications for functional incapacitation release shall be
25 referred to the board. The board shall examine each case and may approve
26 such application and grant a release. An application for release shall not be
27 approved unless the board determines that the person is functionally
28 incapacitated and does not represent a future risk to public safety. The
29 board shall determine whether a hearing is necessary on the application.
30 The board may request additional information or evidence it deems
31 necessary from a medical or mental health practitioner.

32 (5) The board shall establish any conditions related to the release of
33 the person. The release shall be conditional, and be subject to revocation
34 pursuant to K.S.A. 75-5217, and amendments thereto, if the person's
35 functional incapacity significantly diminishes, if the person fails to comply
36 with any condition of release, or if the board otherwise concludes that the
37 person presents a threat or risk to public safety. The person shall remain on
38 release supervision until the release is revoked, expiration of the maximum
39 sentence, or discharged by the board. Subject to the provisions of
40 subsection (f) of K.S.A. 75-5217, and amendments thereto, the person
41 shall receive credit for the time during which the person is on functional
42 incapacitation release supervision towards service of the prison and
43 postrelease supervision obligations of determinate sentences or

1 indeterminate sentences.

2 (6) The secretary of corrections shall cause the person to be
3 supervised upon release, and shall have the authority to initiate revocation
4 of the person at any time for the reasons indicated in subsection (a)(5).

5 (7) The decision of the board on the application or any revocation
6 shall be final and not subject to review by any administrative agency or
7 court.

8 (8) In determining whether a person is functionally incapacitated, the
9 board shall consider the following: (A) The person's current condition as
10 confirmed by medical or mental health care providers, including whether
11 the condition is terminal;

12 (B) the person's age and personal history;

13 (C) the person's criminal history;

14 (D) the person's length of sentence and time the person has served;

15 (E) the nature and circumstances of the current offense;

16 (F) the risk or threat to the community if released;

17 (G) whether an appropriate release plan has been established; and

18 (H) any other factors deemed relevant by the board.

19 (b) Nothing in this section shall be construed to limit or preclude
20 submission of an application for pardon or commutation of sentence
21 pursuant to K.S.A. 22-3701, and amendments thereto.

22 (c) Nothing in this section shall apply to the release of people with
23 terminal medical conditions as described in K.S.A. 2012 Supp. 22-3729,
24 and amendments thereto.

25 (d) This section does not apply to any person sentenced to
26 imprisonment for an off-grid offense.

27 (e) *This section does not apply to any person under sentence of death
28 or life without the possibility of parole.*

29 Sec. 18. K.S.A. 22-4210 is hereby amended to read as follows: 22-
30 4210. If a person confined in a penal institution in any other state may be a
31 material witness in a criminal action pending in a court of record or in a
32 grand jury investigation in this state, a judge of the court may certify (1)
33 that there is a criminal proceeding or investigation by a grand jury or a
34 criminal action pending in the court, (2) that a person who is confined in a
35 penal institution in the other state may be a material witness in the
36 proceeding, investigation, or action, and (3) that ~~his~~*such person's* presence
37 will be required during a specified time. The certificate shall be presented
38 to a judge of a court of record in the other state having jurisdiction over the
39 prisoner confined, and a notice shall be given to the attorney general of the
40 state in which the prisoner is confined.

41 This act does not apply to any person in this state confined as mentally
42 ill, in need of mental treatment, or under sentence of death *or life without
43 the possibility of parole.*

1 Sec. 19. K.S.A. 2012 Supp. 22-4902 is hereby amended to read as
2 follows: 22-4902. As used in the Kansas offender registration act, unless
3 the context otherwise requires:

4 (a) "Offender" means:

5 (1) A sex offender;

6 (2) a violent offender;

7 (3) a drug offender;

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

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

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

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

15 (2) on or after April 14, 1994, is adjudicated as a juvenile offender for
16 an act which if committed by an adult would constitute the commission of
17 a sexually violent crime, unless the court, on the record, finds that the act
18 involved non-forcible sexual conduct, the victim was at least 14 years of
19 age and the offender was not more than four years older than the victim;

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

21 (4) on or after May 29, 1997, is convicted of any of the following
22 crimes when one of the parties involved is less than 18 years of age:

23 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
24 K.S.A. 2012 Supp. 21-5511, and amendments thereto;

25 (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
26 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012
27 Supp. 21-5504, and amendments thereto;

28 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
29 repeal, or K.S.A. 2012 Supp. 21-6420, and amendments thereto;

30 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
31 repeal, or K.S.A. 2012 Supp. 21-6421, and amendments thereto; or

32 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
33 to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto;

34 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
35 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and
36 amendments thereto;

37 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
38 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
39 K.S.A. 2012 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
40 of an offense defined in this subsection; or

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

- 1 (c) "Sexually violent crime" means:
- 2 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
3 2012 Supp. 21-5503, and amendments thereto;
- 4 (2) indecent liberties with a child as defined in K.S.A. 21-3503, prior
5 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and
6 amendments thereto;
- 7 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-
8 3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506,
9 and amendments thereto;
- 10 (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of
11 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
12 2012 Supp. 21-5504, and amendments thereto;
- 13 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
14 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
15 amendments thereto;
- 16 (6) indecent solicitation of a child as defined in K.S.A. 21-3510, prior
17 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and
18 amendments thereto;
- 19 (7) aggravated indecent solicitation of a child as defined in K.S.A.
20 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
21 5508, and amendments thereto;
- 22 (8) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
23 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;
- 24 (9) aggravated sexual battery as defined in K.S.A. 21-3518, prior to
25 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and
26 amendments thereto;
- 27 (10) aggravated incest as defined in K.S.A. 21-3603, prior to its
28 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5605, and amendments
29 thereto;
- 30 (11) electronic solicitation as defined in K.S.A. 21-3523, prior to its
31 repeal, and K.S.A. 2012 Supp. 21-5509, and amendments thereto,
32 committed on or after April 17, 2008;
- 33 (12) unlawful sexual relations as defined in K.S.A. 21-3520, prior to
34 its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;
- 35 (13) 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 (14) 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. 2012
41 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
42 violent crime, as defined in this subsection; or
- 43 (15) any act which 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 May 29, 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. 2012 Supp. 21-5401, ~~and amendments thereto prior to its repeal;~~

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

17 ~~(C)~~ (C) murder in the first degree, as defined in K.S.A. 21-3401, prior
18 to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

19 ~~(D)~~ (D) murder in the second degree, as defined in K.S.A. 21-3402,
20 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
21 thereto;

22 ~~(E)~~ (E) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
23 to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

24 ~~(F)~~ (F) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
25 to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

26 ~~(G)~~ (G) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,
27 or subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

28 ~~(H)~~ (H) aggravated kidnapping, as defined in K.S.A. 21-3421, prior
29 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and
30 amendments thereto;

31 ~~(I)~~ (I) criminal restraint, as defined in K.S.A. 21-3424, prior to its
32 repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by
33 a parent, and only when the victim is less than 18 years of age; or

34 ~~(J)~~ (J) aggravated human trafficking, as defined in K.S.A. 21-3447,
35 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and
36 amendments thereto;

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

40 (3) has been convicted of an offense that is comparable to any crime
41 defined in this subsection, any out of state conviction for an offense that
42 under the laws of this state would be an offense defined in this subsection;
43 or

1 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
2 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
3 K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments
4 thereto, of an offense defined in this subsection.

5 (f) "Drug offender" means any person who has been convicted of:

6 (1) Unlawful manufacture or attempting such of any controlled
7 substance or controlled substance analog as defined in K.S.A. 65-4159,
8 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
9 K.S.A. 2012 Supp. 21-5703, and amendments thereto;

10 (2) possession of ephedrine, pseudoephedrine, red phosphorus,
11 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
12 ammonia or phenylpropanolamine, or their salts, isomers or salts of
13 isomers with intent to use the product to manufacture a controlled
14 substance as defined in subsection (a) of K.S.A. 65-7006, prior to its
15 repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer,
16 or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;

17 (3) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A.
18 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A.
19 2012 Supp. 21-5705, and amendments thereto. The provisions of this
20 paragraph shall not apply to violations of subsections (a)(2) through (a)(6)
21 or (b) of K.S.A. 2010 Supp. 21-36a05 which occurred on or after July 1,
22 2009, through April 15, 2010;

23 (4) an offense that is comparable to any crime defined in this
24 subsection, any out of state conviction for an offense that under the laws of
25 this state would be an offense defined in this subsection; or

26 (5) an attempt, conspiracy or criminal solicitation, as defined in
27 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
28 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
29 offense defined in this subsection.

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

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

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

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

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

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

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

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

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

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

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

36 (r) "Out of state" means: the District of Columbia; any federal,
37 military or tribal jurisdiction, including those within this state; any foreign
38 jurisdiction; or any state or territory within the United States, other than
39 this state.

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

42 Sec. 20. K.S.A. 2012 Supp. 22-4906 is hereby amended to read as
43 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted

1 of any of the following offenses, an offender's duration of registration shall
 2 be, if confined, 15 years after the date of parole, discharge or release,
 3 whichever date is most recent, or, if not confined, 15 years from the date of
 4 conviction:

5 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
 6 or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

7 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
 8 K.S.A. 2012 Supp. 21-5511, and amendments thereto, when one of the
 9 parties involved is less than 18 years of age;

10 (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
 11 repeal, or K.S.A. 2012 Supp. 21-6421, and amendments thereto, when one
 12 of the parties involved is less than 18 years of age;

13 (D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
 14 to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto,
 15 when one of the parties involved is less than 18 years of age;

16 (E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
 17 or K.S.A. 2012 Supp. 21-5401, ~~and amendments thereto prior to its repeal~~;

18 (F) *aggravated murder, as defined in section 2, and amendments*
 19 *thereto*;

20 ~~(F)~~ (G) murder in the first degree, as defined in K.S.A. 21-3401, prior
 21 to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

22 ~~(G)~~ (H) murder in the second degree, as defined in K.S.A. 21-3402,
 23 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
 24 thereto;

25 ~~(H)~~ (I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
 26 to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

27 ~~(I)~~ (J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
 28 to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

29 ~~(J)~~ (K) criminal restraint, as defined in K.S.A. 21-3424, prior to its
 30 repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by
 31 a parent, and only when the victim is less than 18 years of age;

32 ~~(K)~~ (L) any act which has been determined beyond a reasonable
 33 doubt to have been sexually motivated, unless the court, on the record,
 34 finds that the act involved non-forcible sexual conduct, the victim was at
 35 least 14 years of age and the offender was not more than four years older
 36 than the victim;

37 ~~(L)~~ (M) conviction of any person required by court order to register
 38 for an offense not otherwise required as provided in the Kansas offender
 39 registration act;

40 ~~(M)~~ (N) conviction of any person felony and the court makes a
 41 finding on the record that a deadly weapon was used in the commission of
 42 such person felony;

43 ~~(N)~~ (O) unlawful manufacture or attempting such of any controlled

1 substance or controlled substance analog as defined in K.S.A. 65-4159,
2 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
3 K.S.A. 2012 Supp. 21-5703, and amendments thereto;

4 ~~(P)~~ (P) possession of ephedrine, pseudoephedrine, red phosphorus,
5 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
6 ammonia or phenylpropanolamine, or their salts, isomers or salts of
7 isomers with intent to use the product to manufacture a controlled
8 substance as defined by subsection (a) of K.S.A. 65-7006, prior to its
9 repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer,
10 or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;

11 ~~(Q)~~ (Q) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of
12 K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of
13 K.S.A. 2012 Supp. 21-5705, and amendments thereto; or

14 ~~(R)~~ (R) any attempt, conspiracy or criminal solicitation, as defined in
15 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
16 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
17 offense defined in this subsection.

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

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

30 (A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
31 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012
32 Supp. 21-5504, and amendments thereto, when one of the parties involved
33 is less than 18 years of age;

34 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
35 prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and
36 amendments thereto;

37 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
38 repeal, or K.S.A. 2012 Supp. 21-5509, and amendments thereto;

39 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
40 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments
41 thereto;

42 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
43 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and

1 amendments thereto;

2 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
3 its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;

4 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
5 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if
6 the victim is 14 or more years of age but less than 18 years of age;

7 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
8 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and
9 amendments thereto;

10 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
11 repeal, or K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the
12 prostitute is 14 or more years of age but less than 18 years of age; or

13 (J) any attempt, conspiracy or criminal solicitation, as defined in
14 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
15 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
16 offense defined in this subsection.

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

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

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

30 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
31 2012 Supp. 21-5503, and amendments thereto;

32 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
33 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
34 5508, and amendments thereto;

35 (3) aggravated indecent liberties with a child, as defined in K.S.A.
36 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
37 5506, and amendments thereto;

38 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
39 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
40 2012 Supp. 21-5504, and amendments thereto;

41 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
42 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
43 amendments thereto;

1 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
2 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and
3 amendments thereto;

4 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
5 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if
6 the victim is less than 14 years of age;

7 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
8 repeal, or K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the
9 prostitute is less than 14 years of age;

10 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
11 subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

12 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
13 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments
14 thereto; or

15 (11) any attempt, conspiracy or criminal solicitation, as defined in
16 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
17 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
18 offense defined in this subsection.

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

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

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

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

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

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

4 (g) Notwithstanding any other provisions of this section, for an
5 offender 14 years of age or more who is adjudicated as a juvenile offender
6 for an act which if committed by an adult would constitute a sexually
7 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
8 amendments thereto, and such crime is not an off-grid felony or a felony
9 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
10 4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments
11 thereto, the court shall:

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

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

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

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

32 (h) Notwithstanding any other provisions of this section, an offender
33 14 years of age or more who is adjudicated as a juvenile offender for an
34 act which if committed by an adult would constitute a sexually violent
35 crime set forth in subsection (c) of K.S.A. 22-4902, and amendments
36 thereto, and such crime is an off-grid felony or a felony ranked in severity
37 level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its
38 repeal, or K.S.A. 2012 Supp. 21-6804, and amendments thereto, shall be
39 required to register for such offender's lifetime.

40 (i) Notwithstanding any other provision of law, if a diversionary
41 agreement or probation order, either adult or juvenile, or a juvenile
42 offender sentencing order, requires registration under the Kansas offender
43 registration act for an offense that would not otherwise require registration

1 as provided in subsection (a)(5) of K.S.A 22-4902, and amendments
2 thereto, then all provisions of the Kansas offender registration act shall
3 apply, except that the duration of registration shall be controlled by such
4 diversionary agreement, probation order or juvenile offender sentencing
5 order.

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

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

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

27 Sec. 21. K.S.A. 2012 Supp. 38-2255 is hereby amended to read as
28 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
29 disposition, the court shall give consideration to:

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

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

- 41 (1) Supervision of the child and the parent by a court services officer;
- 42 (2) participation by the child and the parent in available programs
43 operated by an appropriate individual or agency; and

1 (3) any special treatment or care which the child needs for the child's
2 physical, mental or emotional health and safety.

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

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

10 (C) immediate placement of the child is in the best interest of the
11 child; and

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

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

18 (d) *Custody of a child removed from the custody of a parent.* If the
19 court has made the findings required by subsection (c), the court shall
20 enter an order awarding custody to a relative of the child or to a person
21 with whom the child has close emotional ties who shall not be required to
22 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
23 and amendments thereto, to any other suitable person, to a shelter facility,
24 to a youth residential facility or, if the child is 15 years of age or younger,
25 or 16 or 17 years of age if the child has no identifiable parental or family
26 resources or shows signs of physical, mental, emotional or sexual abuse, to
27 the secretary. Custody awarded under this subsection shall continue until
28 further order of the court.

29 (1) When custody is awarded to the secretary, the secretary shall
30 consider any placement recommendation by the court and notify the court
31 of the placement or proposed placement of the child within 10 days of the
32 order awarding custody. After providing the parties or interested parties
33 notice and opportunity to be heard, the court may determine whether the
34 secretary's placement or proposed placement is contrary to the welfare or
35 in the best interests of the child. In making that determination the court
36 shall consider the health and safety needs of the child and the resources
37 available to meet the needs of children in the custody of the secretary. If
38 the court determines that the placement or proposed placement is contrary
39 to the welfare or not in the best interests of the child, the court shall notify
40 the secretary, who shall then make an alternative placement.

41 (2) The custodian designated under this subsection shall notify the
42 court in writing at least 10 days prior to any planned placement with a
43 parent. The written notice shall state the basis for the custodian's belief that

1 placement with a parent is no longer contrary to the welfare or best interest
2 of the child. Upon reviewing the notice, the court may allow the custodian
3 to proceed with the planned placement or may set the date for a hearing to
4 determine if the child shall be allowed to return home. If the court sets a
5 hearing on the matter, the custodian shall not return the child home without
6 written consent of the court.

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

10 (4) The court may enter an order restraining any alleged perpetrator
11 of physical, mental or emotional abuse or sexual abuse of the child from
12 residing in the child's home; visiting, contacting, harassing or intimidating
13 the child, other family member or witness; or attempting to visit, contact,
14 harass or intimidate the child, other family member or witness. Such
15 restraining order shall be served by personal service pursuant to subsection
16 (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on any
17 alleged perpetrator to whom the order is directed.

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

21 (e) *Further determinations regarding a child removed from the home.*
22 If custody has been awarded under subsection (d) to a person other than a
23 parent, a permanency plan shall be provided or prepared pursuant to
24 K.S.A. 2012 Supp. 38-2264, and amendments thereto. If a permanency
25 plan is provided at the dispositional hearing, the court may determine
26 whether reintegration is a viable alternative or, if reintegration is not a
27 viable alternative, whether the child should be placed for adoption or a
28 permanent custodian appointed. In determining whether reintegration is a
29 viable alternative, the court shall consider:

30 (1) Whether a parent has been found by a court to have committed
31 one of the following crimes or to have violated the law of another state
32 prohibiting such crimes or to have aided and abetted, attempted, conspired
33 or solicited the commission of one of these crimes: (A) *Capital murder,*
34 *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, prior to*
35 *its repeal; (B) aggravated murder, section 2, and amendments thereto; (A)*
36 *(C) murder in the first degree, K.S.A. 21-3401, prior to its repeal, or*
37 *K.S.A. 2012 Supp. 21-5402, and amendments thereto; (B) (D) murder in*
38 *the second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012*
39 *Supp. 21-5403, and amendments thereto; (C) capital murder, K.S.A. 21-*
40 *3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments*
41 *thereto; (D) (E) voluntary manslaughter, K.S.A. 21-3403, prior to its*
42 *repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto; or (E) (F)*
43 *a felony battery that resulted in bodily injury;*

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

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

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

7 (5) whether the parents have failed to work diligently toward
8 reintegration;

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

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

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

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

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

34 (2) If the court has reason to believe that a child is before the court
35 due, in whole or in part, to the use or misuse of alcohol or a violation of
36 K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto, by
37 the child, a parent of the child, or another person responsible for the care
38 of the child, the court may order the child, parent of the child or other
39 person responsible for the care of the child to submit to and complete an
40 alcohol and drug evaluation by a qualified person or agency and comply
41 with any recommendations. If the evaluation is performed by a
42 community-based alcohol and drug safety program certified pursuant to
43 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or

1 other person responsible for the care of the child shall pay a fee not to
2 exceed the fee established by that statute. If the court finds that the child
3 and those legally liable for the child's support are indigent, the fee may be
4 waived. In no event shall the fee be assessed against the secretary.

5 (3) If child support has been requested and the parent or parents have
6 a duty to support the child, the court may order one or both parents to pay
7 child support and, when custody is awarded to the secretary, the court shall
8 order one or both parents to pay child support. The court shall determine,
9 for each parent separately, whether the parent is already subject to an order
10 to pay support for the child. If the parent is not presently ordered to pay
11 support for any child who is subject to the jurisdiction of the court and the
12 court has personal jurisdiction over the parent, the court shall order the
13 parent to pay child support in an amount determined under K.S.A. 2012
14 Supp. 38-2277, and amendments thereto. Except for good cause shown,
15 the court shall issue an immediate income withholding order pursuant to
16 K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto, for each
17 parent ordered to pay support under this subsection, regardless of whether
18 a payor has been identified for the parent. A parent ordered to pay child
19 support under this subsection shall be notified, at the hearing or otherwise,
20 that the child support order may be registered pursuant to K.S.A. 2012
21 Supp. 38-2279, and amendments thereto. The parent shall also be informed
22 that, after registration, the income withholding order may be served on the
23 parent's employer without further notice to the parent and the child support
24 order may be enforced by any method allowed by law. Failure to provide
25 this notice shall not affect the validity of the child support order.

26 Sec. 22. K.S.A. 2012 Supp. 38-2271 is hereby amended to read as
27 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-
28 414, and amendments thereto, that a parent is unfit by reason of conduct or
29 condition which renders the parent unable to fully care for a child, if the
30 state establishes, by clear and convincing evidence, that:

31 (1) A parent has previously been found to be an unfit parent in
32 proceedings under K.S.A. 2012 Supp. 38-2266 et seq., and amendments
33 thereto, or comparable proceedings under the laws of another jurisdiction;

34 (2) a parent has twice before been convicted of a crime specified in
35 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
36 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
37 Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
38 through 21-6421, and amendments thereto, or comparable offenses under
39 the laws of another jurisdiction, or an attempt or attempts to commit such
40 crimes and the victim was under the age of 18 years;

41 (3) on two or more prior occasions a child in the physical custody of
42 the parent has been adjudicated a child in need of care as defined by
43 subsection (d)(1), (d)(3), (d)(5) or (d)(11) of K.S.A. 2012 Supp. 38-2202,

1 and amendments thereto, or comparable proceedings under the laws of
2 another jurisdiction;

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

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

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

16 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
17 prior to its repeal, or K.S.A. 2012 Supp. 21-5401, *prior to its repeal*,
18 *aggravated murder, section 2*, and amendments thereto, murder in the first
19 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402,
20 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
21 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
22 thereto, or voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or
23 K.S.A. 2012 Supp. 21-5404, and amendments thereto, or comparable
24 proceedings under the laws of another jurisdiction or, has been adjudicated
25 a juvenile offender because of an act which if committed by an adult
26 would be an offense as provided in this subsection, and the victim of such
27 murder was the other parent of the child;

28 (8) a parent abandoned or neglected the child after having knowledge
29 of the child's birth or either parent has been granted immunity from
30 prosecution for abandonment of the child under subsection (b) of K.S.A.
31 21-3604, prior to its repeal, or subsection (d) of K.S.A. 2012 Supp. 21-
32 5605, and amendments thereto; or

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

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

38 (11) a father abandoned the mother after having knowledge of the
39 pregnancy;

40 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
41 repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto, or
42 comparable proceedings under the laws of another jurisdiction resulting in
43 the conception of the child; or

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

5 (b) The burden of proof is on the parent to rebut the presumption of
6 unfitness by a preponderance of the evidence. In the absence of proof that
7 the parent is presently fit and able to care for the child or that the parent
8 will be fit and able to care for the child in the foreseeable future, the court
9 shall terminate parental rights in proceedings pursuant to K.S.A. 2012
10 Supp. 38-2266 et seq., and amendments thereto.

11 Sec. 23. K.S.A. 2012 Supp. 38-2312 is hereby amended to read as
12 follows: 38-2312. (a) Except as provided in subsection (b) and (c), any
13 records or files specified in this code concerning a juvenile may be
14 expunged upon application to a judge of the court of the county in which
15 the records or files are maintained. The application for expungement may
16 be made by the juvenile, if 18 years of age or older or, if the juvenile is
17 less than 18 years of age, by the juvenile's parent or next friend.

18 (b) There shall be no expungement of records or files concerning acts
19 committed by a juvenile which, if committed by an adult, would constitute
20 a violation of *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-*
21 *5401, and amendments thereto, capital murder; section 2, and*
22 *amendments thereto, aggravated murder; K.S.A. 21-3401, prior to its*
23 *repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto, murder in*
24 *the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp.*
25 *21-5403, and amendments thereto, murder in the second degree; K.S.A.*
26 *21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and*
27 *amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its*
28 *repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto,*
29 *involuntary manslaughter; ~~K.S.A. 21-3439, prior to its repeal, or K.S.A.~~*
30 *~~2012 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 21-~~*
31 *3442, prior to its repeal, or subsection (a)(3) of K.S.A. 2012 Supp. 21-*
32 *5405, and amendments thereto, involuntary manslaughter while driving*
33 *under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal,*
34 *or K.S.A. 2012 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-*
35 *3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506,*
36 *and amendments thereto, indecent liberties with a child; K.S.A. 21-3504,*
37 *prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and*
38 *amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-*
39 *3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504,*
40 *and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510,*
41 *prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and*
42 *amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior*
43 *to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and*

1 amendments thereto, aggravated indecent solicitation of a child; K.S.A.
2 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and
3 amendments thereto, sexual exploitation; K.S.A. 21-3603, prior to its
4 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments
5 thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or
6 subsection (a) of K.S.A. 2012 Supp. 21-5601, and amendments thereto,
7 endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2012
8 Supp. 21-5602, and amendments thereto, abuse of a child; or which would
9 constitute an attempt to commit a violation of any of the offenses specified
10 in this subsection.

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

17 (d) When a petition for expungement is filed, the court shall set a date
18 for a hearing on the petition and shall give notice thereof to the county or
19 district attorney. The petition shall state: (1) The juvenile's full name; (2)
20 the full name of the juvenile as reflected in the court record, if different
21 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
22 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
23 of the trial court. Except as otherwise provided by law, a petition for
24 expungement shall be accompanied by a docket fee in the amount of \$100.
25 On and after the effective date of this act through June 30, 2013, the
26 supreme court may impose a charge, not to exceed \$19 per case, to fund
27 the costs of non-judicial personnel. All petitions for expungement shall be
28 docketed in the original action. Any person who may have relevant
29 information about the petitioner may testify at the hearing. The court may
30 inquire into the background of the petitioner.

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

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

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

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

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

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

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

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

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

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

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

31 (1) The person whose record was expunged;

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

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

38 (4) the secretary of social and rehabilitation services, or a designee of
39 the secretary, for the purpose of obtaining information relating to
40 employment in an institution, as defined in K.S.A. 76-12a01, and
41 amendments thereto, of the department of social and rehabilitation services
42 of any person whose record has been expunged;

43 (5) a person entitled to such information pursuant to the terms of the

1 expungement order;

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

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

14 (8) the Kansas sentencing commission; or

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

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

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

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

24 Sec. 24. K.S.A. 2012 Supp. 38-2365 is hereby amended to read as
25 follows: 38-2365. (a) When a juvenile offender has been placed in the
26 custody of the commissioner, the commissioner shall have a reasonable
27 time to make a placement. If the juvenile offender has not been placed, any
28 party who believes that the amount of time elapsed without placement has
29 exceeded a reasonable time may file a motion for review with the court. In
30 determining what is a reasonable amount of time, matters considered by
31 the court shall include, but not be limited to, the nature of the underlying
32 offense, efforts made for placement of the juvenile offender and the
33 availability of a suitable placement. The commissioner shall notify the
34 court, the juvenile's attorney of record and the juvenile's parent, in writing,
35 of the initial placement and any subsequent change of placement as soon
36 as the placement has been accomplished. The notice to the juvenile
37 offender's parent shall be sent to such parent's last known address or
38 addresses. The court shall have no power to direct a specific placement by
39 the commissioner, but may make recommendations to the commissioner.
40 The commissioner may place the juvenile offender in an institution
41 operated by the commissioner, a youth residential facility or any other
42 appropriate placement. If the court has recommended an out-of-home
43 placement, the commissioner may not return the juvenile offender to the

1 home from which removed without first notifying the court of the plan.

2 (b) If a juvenile is in the custody of the commissioner, the
3 commissioner shall prepare and present a permanency plan at sentencing
4 or within 30 days thereafter. If a permanency plan is already in place under
5 a child in need of care proceeding, the court may adopt the plan under the
6 present proceeding. The written permanency plan shall provide for
7 reintegration of the juvenile into such juvenile's family or, if reintegration
8 is not a viable alternative, for other permanent placement of the juvenile.
9 Reintegration may not be a viable alternative when: (1) The parent has
10 been found by a court to have committed *capital murder, K.S.A. 21-3439,*
11 *prior to its repeal, or K.S.A. 2012 Supp. 21-5401, prior to its repeal,*
12 *aggravated murder, section 2, and amendments thereto,* murder in the first
13 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402,
14 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
15 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
16 thereto, ~~capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012~~
17 ~~Supp. 21-5401, and amendments thereto,~~ voluntary manslaughter, K.S.A.
18 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and
19 amendments thereto, of a child or violated a law of another state which
20 prohibits such murder or manslaughter of a child;

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

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

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

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

31 (6) the juvenile has been in extended out-of-home placement as
32 defined in K.S.A. 2012 Supp. 38-2202, and amendments thereto.

33 (c) If the juvenile is placed in the custody of the commissioner, the
34 plan shall be prepared and submitted by the commissioner. If the juvenile
35 is placed in the custody of a facility or person other than the commissioner,
36 the plan shall be prepared and submitted by a court services officer. If the
37 permanency goal is reintegration into the family, the permanency plan
38 shall include measurable objectives and time schedules for reintegration.

39 (d) During the time a juvenile remains in the custody of the
40 commissioner, the commissioner shall submit to the court, at least every
41 six months, a written report of the progress being made toward the goals of
42 the permanency plan submitted pursuant to subsections (b) and (c) and the
43 specific actions taken to achieve the goals of the permanency plan. If the

1 juvenile is placed in foster care, the court may request the foster parent to
2 submit to the court, at least every six months, a report in regard to the
3 juvenile's adjustment, progress and condition. Such report shall be made a
4 part of the juvenile's court social file. The court shall review the plan
5 submitted by the commissioner and the report, if any, submitted by the
6 foster parent and determine whether reasonable efforts and progress have
7 been made to achieve the goals of the permanency plan. If the court
8 determines that progress is inadequate or that the permanency plan is no
9 longer viable, the court shall hold a hearing pursuant to subsection (e).

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

20 (f) Whenever a hearing is required under subsection (e), the court
21 shall notify all interested parties of the hearing date, the commissioner,
22 foster parent and preadoptive parent or relatives providing care for the
23 juvenile and hold a hearing. Individuals receiving notice pursuant to this
24 subsection shall not be made a party to the action solely on the basis of this
25 notice and opportunity to be heard. After providing the persons receiving
26 notice an opportunity to be heard, the court shall determine whether the
27 juvenile's needs are being adequately met; whether services set out in the
28 permanency plan necessary for the safe return of the juvenile have been
29 made available to the parent with whom reintegration is planned; and
30 whether reasonable efforts and progress have been made to achieve the
31 goals of the permanency plan.

32 (g) If the court finds reintegration continues to be a viable alternative,
33 the court shall determine whether and, if applicable, when the juvenile will
34 be returned to the parent. The court may rescind any of its prior
35 dispositional orders and enter any dispositional order authorized by this
36 code or may order that a new plan for the reintegration be prepared and
37 submitted to the court. If reintegration cannot be accomplished as
38 approved by the court, the court shall be informed and shall schedule a
39 hearing pursuant to subsection (h). No such hearing is required when the
40 parent voluntarily relinquishes parental rights or agrees to appointment of
41 a permanent guardian.

42 (h) When the court finds any of the following conditions exist, the
43 county or district attorney or the county or district attorney's designee shall

1 file a petition alleging the juvenile to be a child in need of care and
2 requesting termination of parental rights pursuant to the Kansas code for
3 care of children: (1) The court determines that reintegration is not a viable
4 alternative and either adoption or permanent guardianship might be in the
5 best interests of the juvenile;

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

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

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

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

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

20 (3) there are one or more documented reasons why such filing would
21 not be in the best interests of the juvenile. Documented reasons may
22 include, but are not limited to: The juvenile has close emotional bonds
23 with a parent which should not be broken; the juvenile is 14 years of age
24 or older and, after advice and counsel, refuses to be adopted; insufficient
25 grounds exist for termination of parental rights; the juvenile is an
26 unaccompanied refugee minor; or there are international legal or
27 compelling foreign policy reasons precluding termination of parental
28 rights.

29 Sec. 25. K.S.A. 2012 Supp. 39-970 is hereby amended to read as
30 follows: 39-970. (a) (1) No person shall knowingly operate an adult care
31 home if, in the adult care home, there works any person who has been
32 convicted of or has been adjudicated a juvenile offender because of having
33 committed an act which if done by an adult would constitute the
34 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
35 repeal, or K.S.A. 2012 Supp. 21-5401, *prior to its repeal, aggravated*
36 *murder, pursuant to section 2*, and amendments thereto, first degree
37 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012
38 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
39 to subsection (a) of K.S.A. 21-3402, prior to its repeal, or subsection (a) of
40 K.S.A. 2012 Supp. 21-5403, and amendments thereto, voluntary
41 manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A.
42 2012 Supp. 21-5404, and amendments thereto, assisting suicide pursuant
43 to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 Supp. 21-5407, and

1 amendments thereto, mistreatment of a dependent adult, pursuant to
2 K.S.A. 21-3437, prior to its repeal, or K.S.A. 2012 Supp. 21-5417, and
3 amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal,
4 or K.S.A. 2012 Supp. 21-5503, and amendments thereto, indecent liberties
5 with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or subsection
6 (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, aggravated
7 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
8 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments
9 thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to
10 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
11 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
12 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-
13 5508, and amendments thereto, aggravated indecent solicitation of a child,
14 pursuant to K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A.
15 2012 Supp. 21-5508, and amendments thereto, sexual exploitation of a
16 child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp.
17 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-
18 3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505,
19 and amendments thereto, or aggravated sexual battery, pursuant to K.S.A.
20 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
21 5505, and amendments thereto, an attempt to commit any of the crimes
22 listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its
23 repeal, or K.S.A. 2012 Supp. 21-5301, and amendments thereto, a
24 conspiracy to commit any of the crimes listed in this subsection (a)(1),
25 pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp. 21-
26 5302, and amendments thereto, or criminal solicitation of any of the
27 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, prior to
28 its repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto, or
29 similar statutes of other states or the federal government. The provisions of
30 subsection (a)(2)(C) shall not apply to any person who is employed by an
31 adult care home on July 1, 2010, and while continuously employed by the
32 same adult care home.

33 (2) A person operating an adult care home may employ an applicant
34 who has been convicted of any of the following if five or more years have
35 elapsed since the applicant satisfied the sentence imposed or was
36 discharged from probation, a community correctional services program,
37 parole, postrelease supervision, conditional release or a suspended
38 sentence; or if five or more years have elapsed since the applicant has been
39 finally discharged from the custody of the commissioner of juvenile justice
40 or from probation or has been adjudicated a juvenile offender, whichever
41 time is longer: A felony conviction for a crime which is described in: (A)
42 Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their
43 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or

1 K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
2 amendments thereto, except those crimes listed in subsection (a)(1); (B)
3 articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to
4 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
5 Annotated, or K.S.A. 2012 Supp. 21-6419 through 21-6421, and
6 amendments thereto, except those crimes listed in subsection (a)(1) and
7 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2012 Supp. 21-5606, and
8 amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
9 2012 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
10 any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-
11 3301, prior to its repeal, or K.S.A. 2012 Supp. 21-5301, and amendments
12 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
13 (a)(2) pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp.
14 21-5302, and amendments thereto; (F) criminal solicitation of any of the
15 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, prior to its
16 repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto; or (G)
17 similar statutes of other states or the federal government.

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

23 (c) The secretary of health and environment shall have access to any
24 criminal history record information in the possession of the Kansas bureau
25 of investigation regarding any criminal history information, convictions
26 under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or
27 K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and
28 amendments thereto, adjudications of a juvenile offender which if
29 committed by an adult would have been a felony conviction, and
30 adjudications of a juvenile offender for an offense described in K.S.A. 21-
31 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
32 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
33 concerning persons working in an adult care home. The secretary shall
34 have access to these records for the purpose of determining whether or not
35 the adult care home meets the requirements of this section. The Kansas
36 bureau of investigation may charge to the department of health and
37 environment a reasonable fee for providing criminal history record
38 information under this subsection.

39 (d) For the purpose of complying with this section, the operator of an
40 adult care home shall request from the department of health and
41 environment information regarding any criminal history information,
42 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
43 repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-

1 5801, and amendments thereto, adjudications of a juvenile offender which
2 if committed by an adult would have been a felony conviction, and
3 adjudications of a juvenile offender for an offense described in K.S.A. 21-
4 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
5 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
6 and which relates to a person who works in the adult care home, or is
7 being considered for employment by the adult care home, for the purpose
8 of determining whether such person is subject to the provision of this
9 section. For the purpose of complying with this section, the operator of an
10 adult care home shall receive from any employment agency which
11 provides employees to work in the adult care home written certification
12 that such employees are not prohibited from working in the adult care
13 home under this section. For the purpose of complying with this section,
14 information relating to convictions and adjudications by the federal
15 government or to convictions and adjudications in states other than Kansas
16 shall not be required until such time as the secretary of health and
17 environment determines the search for such information could reasonably
18 be performed and the information obtained within a two-week period. For
19 the purpose of complying with this section, a person who operates an adult
20 care home may hire an applicant for employment on a conditional basis
21 pending the results from the department of health and environment of a
22 request for information under this subsection. No adult care home, the
23 operator or employees of an adult care home or an employment agency, or
24 the operator or employees of an employment agency, shall be liable for
25 civil damages resulting from any decision to employ, to refuse to employ
26 or to discharge from employment any person based on such adult care
27 home's compliance with the provisions of this section if such adult care
28 home or employment agency acts in good faith to comply with this
29 section.

30 (e) The secretary of health and environment shall charge each person
31 requesting information under this section a fee equal to cost, not to exceed
32 \$10, for each name about which an information request has been submitted
33 to the department under this section.

34 (f) (1) The secretary of health and environment shall provide each
35 operator requesting information under this section with the criminal
36 history record information concerning any criminal history information
37 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
38 repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-
39 5801, and amendments thereto, in writing and within three working days
40 of receipt of such information from the Kansas bureau of investigation.
41 The criminal history record information shall be provided regardless of
42 whether the information discloses that the subject of the request has been
43 convicted of an offense enumerated in subsection (a).

1 (2) When an offense enumerated in subsection (a) exists in the
2 criminal history record information, and when further confirmation
3 regarding criminal history record information is required from the
4 appropriate court of jurisdiction or Kansas department of corrections, the
5 secretary shall notify each operator that requests information under this
6 section in writing and within three working days of receipt from the
7 Kansas bureau of investigation that further confirmation is required. The
8 secretary shall provide to the operator requesting information under this
9 section information in writing and within three working days of receipt of
10 such information from the appropriate court of jurisdiction or Kansas
11 department of corrections regarding confirmation regarding the criminal
12 history record information.

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

18 (4) The secretary of health and environment shall not provide each
19 operator requesting information under this section with the juvenile
20 criminal history record information which relates to a person subject to a
21 background check as is provided by K.S.A. 2012 Supp. 38-2326, and
22 amendments thereto, except for adjudications of a juvenile offender for an
23 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2012
24 Supp. 21-5801, and amendments thereto. The secretary shall notify the
25 operator that requested the information, in writing and within three
26 working days of receipt of such information from the Kansas bureau of
27 investigation, whether juvenile criminal history record information
28 received pursuant to this section reveals that the operator would or would
29 not be prohibited by this section from employing the subject of the request
30 for information and whether such information contains adjudications of a
31 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
32 repeal, or K.S.A. 2012 Supp. 21-5801, and amendments thereto.

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

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

43 (h) A person who volunteers in an adult care home shall not be

1 subject to the provisions of this section because of such volunteer activity.

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

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

8 (k) The operator of an adult care home shall not be required under
9 this section to conduct a background check on an applicant for
10 employment with the adult care home if the applicant has been the subject
11 of a background check under this act within one year prior to the
12 application for employment with the adult care home. The operator of an
13 adult care home where the applicant was the subject of such background
14 check may release a copy of such background check to the operator of an
15 adult care home where the applicant is currently applying.

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

21 (m) For purposes of this section, the Kansas bureau of investigation
22 shall report any criminal history information, convictions under K.S.A. 21-
23 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
24 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
25 adjudications of a juvenile offender which if committed by an adult would
26 have been a felony conviction, and adjudications of a juvenile offender for
27 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
28 their repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and
29 21-5801, and amendments thereto, to the secretary of health and
30 environment when a background check is requested.

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

33 Sec. 26. K.S.A. 2012 Supp. 65-5117 is hereby amended to read as
34 follows: 65-5117. (a) (1) No person shall knowingly operate a home health
35 agency if, for the home health agency, there works any person who has
36 been convicted of or has been adjudicated a juvenile offender because of
37 having committed an act which if done by an adult would constitute the
38 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
39 repeal, or K.S.A. 2012 Supp. 21-5401, *prior to its repeal, aggravated*
40 *murder, pursuant to section 2*, and amendments thereto, first degree
41 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012
42 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
43 to subsection (a) of K.S.A. 21-3402, prior to its repeal, or subsection (a) of

1 K.S.A. 2012 Supp. 21-5403, and amendments thereto, voluntary
2 manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A.
3 2012 Supp. 21-5404, and amendments thereto, assisting suicide, pursuant
4 to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 Supp. 21-5407, and
5 amendments thereto, mistreatment of a dependent adult, pursuant to
6 K.S.A. 21-3437, prior to its repeal, or K.S.A. 2012 Supp. 21-5417, and
7 amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal,
8 or K.S.A. 2012 Supp. 21-5503, and amendments thereto, indecent liberties
9 with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or subsection
10 (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, aggravated
11 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
12 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments
13 thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to
14 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
15 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
16 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-
17 5508, and amendments thereto, aggravated indecent solicitation of a child,
18 pursuant to K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A.
19 2012 Supp. 21-5508, and amendments thereto, sexual exploitation of a
20 child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp.
21 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-
22 3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505,
23 and amendments thereto, or aggravated sexual battery, pursuant to K.S.A.
24 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
25 5505, and amendments thereto, an attempt to commit any of the crimes
26 listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its
27 repeal, or K.S.A. 2012 Supp. 21-5301, and amendments thereto, a
28 conspiracy to commit any of the crimes listed in this subsection (a)(1),
29 pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp. 21-
30 5302, and amendments thereto, or criminal solicitation of any of the
31 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, prior to
32 its repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto, or
33 similar statutes of other states or the federal government. The provisions of
34 subsection (a)(2)(C) shall not apply to any person who is employed by a
35 home health agency on July 1, 2010, and while continuously employed by
36 the same home health agency.

37 (2) A person operating a home health agency may employ an
38 applicant who has been convicted of any of the following if five or more
39 years have elapsed since the applicant satisfied the sentence imposed or
40 was discharged from probation, a community correctional services
41 program, parole, postrelease supervision, conditional release or a
42 suspended sentence; or if five or more years have elapsed since the
43 applicant has been finally discharged from the custody of the

1 commissioner of juvenile justice or from probation or has been adjudicated
2 a juvenile offender, whichever time is longer: A felony conviction for a
3 crime which is described in: (A) Article 34 of chapter 21 of the Kansas
4 Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the
5 Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-
6 6326 or 21-6418, and amendments thereto, except those crimes listed in
7 subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
8 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
9 Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6419 through 21-
10 6421, and amendments thereto, except those crimes listed in subsection (a)
11 (1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2012 Supp. 21-5606,
12 and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
13 2012 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
14 any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-
15 3301, prior to its repeal, or K.S.A. 2012 Supp. 21-5301, and amendments
16 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
17 (a)(2) pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp.
18 21-5302, and amendments thereto; (F) criminal solicitation of any of the
19 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, prior to its
20 repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto; or (G)
21 similar statutes of other states or the federal government.

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

27 (c) The secretary of health and environment shall have access to any
28 criminal history record information in the possession of the Kansas bureau
29 of investigation regarding any criminal history information, convictions
30 under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or
31 K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and
32 amendments thereto, adjudications of a juvenile offender which if
33 committed by an adult would have been a felony conviction, and
34 adjudications of a juvenile offender for an offense described in K.S.A. 21-
35 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
36 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
37 concerning persons working for a home health agency. The secretary shall
38 have access to these records for the purpose of determining whether or not
39 the home health agency meets the requirements of this section. The Kansas
40 bureau of investigation may charge to the department of health and
41 environment a reasonable fee for providing criminal history record
42 information under this subsection.

43 (d) For the purpose of complying with this section, the operator of a

1 home health agency shall request from the department of health and
2 environment information regarding any criminal history information,
3 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
4 repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-
5 5801, and amendments thereto, adjudications of a juvenile offender which
6 if committed by an adult would have been a felony conviction, and
7 adjudications of a juvenile offender for an offense described in K.S.A. 21-
8 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
9 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
10 and which relates to a person who works for the home health agency or is
11 being considered for employment by the home health agency, for the
12 purpose of determining whether such person is subject to the provisions of
13 this section. For the purpose of complying with this section, information
14 relating to convictions and adjudications by the federal government or to
15 convictions and adjudications in states other than Kansas shall not be
16 required until such time as the secretary of health and environment
17 determines the search for such information could reasonably be performed
18 and the information obtained within a two-week period. For the purpose of
19 complying with this section, the operator of a home health agency shall
20 receive from any employment agency which provides employees to work
21 for the home health agency written certification that such employees are
22 not prohibited from working for the home health agency under this
23 section. For the purpose of complying with this section, a person who
24 operates a home health agency may hire an applicant for employment on a
25 conditional basis pending the results from the department of health and
26 environment of a request for information under this subsection. No home
27 health agency, the operator or employees of a home health agency or an
28 employment agency, or the operator or employees of an employment
29 agency, which provides employees to work for the home health agency
30 shall be liable for civil damages resulting from any decision to employ, to
31 refuse to employ or to discharge from employment any person based on
32 such home health agency's compliance with the provisions of this section
33 if such home health agency or employment agency acts in good faith to
34 comply with this section.

35 (e) The secretary of health and environment shall charge each person
36 requesting information under this section a fee equal to cost, not to exceed
37 \$10, for each name about which an information request has been submitted
38 under this section.

39 (f) (1) The secretary of health and environment shall provide each
40 operator requesting information under this section with the criminal
41 history record information concerning any criminal history information
42 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
43 repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-

1 5801, and amendments thereto, in writing and within three working days
2 of receipt of such information from the Kansas bureau of investigation.
3 The criminal history record information shall be provided regardless of
4 whether the information discloses that the subject of the request has been
5 convicted of an offense enumerated in subsection (a).

6 (2) When an offense enumerated in subsection (a) exists in the
7 criminal history record information, and when further confirmation
8 regarding criminal history record information is required from the
9 appropriate court of jurisdiction or Kansas department of corrections, the
10 secretary shall notify each operator that requests information under this
11 section in writing and within three working days of receipt from the
12 Kansas bureau of investigation that further confirmation is required. The
13 secretary shall provide to the operator requesting information under this
14 section information in writing and within three working days of receipt of
15 such information from the appropriate court of jurisdiction or Kansas
16 department of corrections regarding confirmation regarding the criminal
17 history record information.

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

23 (4) The secretary of health and environment shall not provide each
24 operator requesting information under this section with the juvenile
25 criminal history record information which relates to a person subject to a
26 background check as is provided by K.S.A. 2012 Supp. 38-2326, and
27 amendments thereto, except for adjudications of a juvenile offender for an
28 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2012
29 Supp. 21-5801, and amendments thereto. The secretary shall notify the
30 operator that requested the information, in writing and within three
31 working days of receipt of such information from the Kansas bureau of
32 investigation, whether juvenile criminal history record information
33 received pursuant to this section reveals that the operator would or would
34 not be prohibited by this section from employing the subject of the request
35 for information and whether such information contains adjudications of a
36 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
37 repeal, or K.S.A. 2012 Supp. 21-5801, and amendments thereto.

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

43 (g) No person who works for a home health agency and who is

1 currently licensed or registered by an agency of this state to provide
2 professional services in this state and who provides such services as part of
3 the work which such person performs for the home health agency shall be
4 subject to the provisions of this section.

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

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

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

14 (k) The operator of a home health agency shall not be required under
15 this section to conduct a background check on an applicant for
16 employment with the home health agency if the applicant has been the
17 subject of a background check under this act within one year prior to the
18 application for employment with the home health agency. The operator of
19 a home health agency where the applicant was the subject of such
20 background check may release a copy of such background check to the
21 operator of a home health agency where the applicant is currently
22 applying.

23 (l) For purposes of this section, the Kansas bureau of investigation
24 shall only report felony convictions, convictions under K.S.A. 21-3437,
25 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-5417,
26 subsection (a) of 21-5505 and 21-5801, and amendments thereto,
27 adjudications of a juvenile offender which if committed by an adult would
28 have been a felony conviction, and adjudications of a juvenile offender for
29 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
30 their repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and
31 21-5801, and amendments thereto, to the secretary of health and
32 environment when a background check is requested.

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

36 Sec. 27. K.S.A. 2012 Supp. 72-1397 is hereby amended to read as
37 follows: 72-1397. (a) The state board of education shall not knowingly
38 issue a license to or renew the license of any person who has been
39 convicted of:

40 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
41 2012 Supp. 21-5503, and amendments thereto;

42 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
43 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and

1 amendments thereto;

2 (3) aggravated indecent liberties with a child, as defined in K.S.A.
3 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
4 5506, and amendments thereto;

5 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
6 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
7 2012 Supp. 21-5504, and amendments thereto;

8 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
9 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
10 amendments thereto;

11 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
12 prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and
13 amendments thereto;

14 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
15 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
16 5508, and amendments thereto;

17 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
18 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

19 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
20 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments
21 thereto;

22 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
23 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5601, and
24 amendments thereto;

25 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
26 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;

27 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
28 or K.S.A. 2012 Supp. 21-5401, ~~and amendments thereto prior to its repeal;~~

29 *(13) aggravated murder, as defined in section 2, and amendments*
30 *thereto;*

31 ~~(13)~~ (14) murder in the first degree, as defined in K.S.A. 21-3401,
32 prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments
33 thereto;

34 ~~(14)~~ (15) murder in the second degree, as defined in K.S.A. 21-3402,
35 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
36 thereto;

37 ~~(15)~~ (16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
38 to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

39 ~~(16)~~ (17) involuntary manslaughter, as defined in K.S.A. 21-3404,
40 prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments
41 thereto;

42 ~~(17)~~ (18) involuntary manslaughter while driving under the influence
43 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;

1 ~~(18)~~ (19) sexual battery, as defined in K.S.A. 21-3517, prior to its
2 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments
3 thereto, when, at the time the crime was committed, the victim was less
4 than 18 years of age or a student of the person committing such crime;

5 ~~(19)~~ (20) aggravated sexual battery, as defined in K.S.A. 21-3518,
6 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and
7 amendments thereto;

8 ~~(20)~~ (21) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
9 2012 Supp. 21-5301, and amendments thereto, to commit any act specified
10 in this subsection;

11 ~~(21)~~ (22) conspiracy under K.S.A. 21-3302, prior to its repeal, or
12 K.S.A. 2012 Supp. 21-5302, and amendments thereto, to commit any act
13 specified in this subsection;

14 ~~(22)~~ (23) an act in another state or by the federal government that is
15 comparable to any act described in this subsection; or

16 ~~(23)~~ (24) an offense in effect at any time prior to the effective date of
17 this act that is comparable to an offense as provided in this subsection.

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

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

26 (2) a felony described in any section of article 34 of chapter 21 of the
27 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
28 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325,
29 21-6326 or 21-6418, and amendments thereto, other than an act specified
30 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
31 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5413, and amendments
32 thereto, or domestic battery, as described in K.S.A. 21-3412a, prior to its
33 repeal, or K.S.A. 2012 Supp. 21-5414, and amendments thereto, if the
34 victim is a minor or student;

35 (3) a felony described in any section of article 35 of chapter 21 of the
36 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
37 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6419 through
38 21-6421, and amendments thereto, other than an act specified in
39 subsection (a);

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

1 (5) a felony described in article 37 of chapter 21 of the Kansas
2 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
3 Kansas Statutes Annotated, or subsection (a)(6) of K.S.A. 2012 Supp. 21-
4 6412, and amendments thereto;

5 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
6 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-6401, and amendments
7 thereto, promoting obscenity to minors, as described in K.S.A. 21-4301a,
8 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-6401, and
9 amendments thereto, or promoting to minors obscenity harmful to minors,
10 as described in K.S.A. 21-4301c, prior to its repeal, or K.S.A. 2012 Supp.
11 21-6402, and amendments thereto;

12 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
13 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5601, and amendments
14 thereto;

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

18 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2012
19 Supp. 21-5301, and amendments thereto, to commit any act specified in
20 this subsection;

21 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
22 2012 Supp. 21-5302, and amendments thereto, to commit any act specified
23 in this subsection; or

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

27 (c) The state board of education may issue a license to or renew the
28 license of a person who has been convicted of committing an offense or
29 act described in subsection (b) or who has entered into a criminal diversion
30 agreement after having been charged with an offense or act described in
31 subsection (b) if the state board determines, following a hearing, that the
32 person has been rehabilitated for a period of at least five years from the
33 date of conviction of the offense or commission of the act or, in the case of
34 a person who has entered into a criminal diversion agreement, that the
35 person has satisfied the terms and conditions of the agreement. The state
36 board of education may consider factors including, but not limited to, the
37 following in determining whether to grant a license:

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

39 (2) the conduct of the person subsequent to commission of the
40 offense or act;

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

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

43 (5) whether the offense or act was an isolated or recurring incident;

1 and

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

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

7 (e) The county or district attorney shall file a report with the state
8 board of education indicating the name, address and social security
9 number of any person who has been determined to have committed any
10 offense or act specified in subsection (a) or (b) or to have entered into a
11 criminal diversion agreement after having been charged with any offense
12 or act specified in subsection (b). Such report shall be filed within 30 days
13 of the date of the determination that the person has committed any such act
14 or entered into any such diversion agreement.

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

18 Sec. 28. K.S.A. 2012 Supp. 75-52,148 is hereby amended to read as
19 follows: 75-52,148. (a) The department of corrections shall be required to
20 review and report on the following serious offenses committed by sex
21 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while
22 such offenders are in the custody of the secretary of corrections:

23 (1) Murder in the first degree, as defined in K.S.A. 2012 Supp. 21-
24 5402, and amendments thereto;

25 (2) murder in the second degree, as defined in K.S.A. 2012 Supp. 21-
26 5403, and amendments thereto;

27 ~~(3) capital murder, as defined in K.S.A. 2012 Supp. 21-5401~~
28 *aggravated murder, as defined in section 2*, and amendments thereto;

29 (4) rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments
30 thereto;

31 (5) aggravated criminal sodomy, as defined in subsection (b) of
32 K.S.A. 2012 Supp. 21-5504, and amendments thereto;

33 (6) sexual exploitation of a child, as defined in K.S.A. 2012 Supp. 21-
34 5510, and amendments thereto;

35 (7) kidnapping as defined in subsection (a) of K.S.A. 2012 Supp. 21-
36 5408, and amendments thereto;

37 (8) aggravated kidnapping, as defined in subsection (b) of K.S.A.
38 2012 Supp. 21-5408, and amendments thereto;

39 (9) criminal restraint, as defined in K.S.A. 2012 Supp. 21-5411, and
40 amendments thereto;

41 (10) indecent solicitation of a child, as defined in subsection (a) of
42 K.S.A. 2012 Supp. 21-5508, and amendments thereto;

43 (11) aggravated indecent solicitation of a child, as defined in

- 1 subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;
2 (12) indecent liberties with a child, as defined in subsection (a) of
3 K.S.A. 2012 Supp. 21-5506, and amendments thereto;
4 (13) aggravated indecent liberties with a child, as defined in
5 subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;
6 (14) criminal sodomy, as defined in subsection (a) of K.S.A. 2012
7 Supp. 21-5504, and amendments thereto;
8 (15) child abuse, as defined in K.S.A. 2012 Supp. 21-5602, and
9 amendments thereto;
10 (16) aggravated robbery, as defined in subsection (b) of K.S.A. 2012
11 Supp. 21-5420, and amendments thereto;
12 (17) burglary, as defined in subsection (a) of K.S.A. 2012 Supp. 21-
13 5807, and amendments thereto;
14 (18) aggravated burglary, as defined in subsection (b) of K.S.A. 2012
15 Supp. 21-5807, and amendments thereto;
16 (19) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments
17 thereto;
18 (20) vehicular homicide, as defined in K.S.A. 2012 Supp. 21-5406,
19 and amendments thereto;
20 (21) involuntary manslaughter while driving under the influence, as
21 defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-5405, and
22 amendments thereto; or
23 (22) stalking, as defined in K.S.A. 2012 Supp. 21-5427, and
24 amendments thereto.
25 (b) The secretary of corrections shall submit such report to the
26 speaker of the house of representatives and the president of the senate
27 annually, beginning January 1, 2007.
28 Sec. 29. K.S.A. 22-3405, 22-3705 and 22-4210 and K.S.A. 2012
29 Supp. 21-5401, 21-5419, 21-6614, 21-6617, 21-6618, 21-6619, 21-6620,
30 21-6622, 21-6626, 21-6628, 21-6629, 21-6806, 22-3717, 22-3728, 22-
31 4902, 22-4906, 38-2255, 38-2271, 38-2312, 38-2365, 39-970, 65-5117,
32 72-1397 and 75-52,148 are hereby repealed.
33 Sec. 30. This act shall take effect and be in force from and after its
34 publication in the statute book.