

## HOUSE BILL No. 2426

By Committee on Appropriations

5-10

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1 AN ACT reconciling amendments to certain statutes; amending K.S.A.  
2 2016 Supp. 12-4117, 12-4516, 22-4903, 65-4202, as amended by  
3 section 22 of 2017 House Bill No. 2055 and 65-6111 and repealing the  
4 existing sections; also repealing K.S.A. 2016 Supp. 12-4112a, 12-  
5 4117b, 12-4516e, 22-4903a, 65-4202, as amended by section 3 of 2017  
6 House Bill No. 2025 and 65-6111a.  
7

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

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

15 One dollar to the local law enforcement training reimbursement fund  
16 established pursuant to K.S.A. 74-5620, and amendments thereto, \$11.50  
17 to the law enforcement training center fund established pursuant to K.S.A.  
18 74-5619, and amendments thereto, \$5 to the Kansas commission on peace  
19 officers' standards and training fund established by K.S.A. 74-5619, and  
20 amendments thereto, \$2 to the juvenile *alternatives to* detention-facilities  
21 fund established pursuant to K.S.A. 79-4803, and amendments thereto, to  
22 be expended for operational costs of facilities for the detention of  
23 juveniles, \$.50 to the protection from abuse fund established pursuant to  
24 K.S.A. 74-7325, and amendments thereto, \$.50 to the crime victims  
25 assistance fund established pursuant to K.S.A. 74-7334, and amendments  
26 thereto, \$1 to the trauma fund established pursuant to K.S.A. 2016 Supp.  
27 75-5670, and amendments thereto, and \$1 to the department of corrections  
28 forensic psychologist fund established pursuant to K.S.A. 2016 Supp. 75-  
29 52,151, and amendments thereto.

30 (b) The judge or clerk of the municipal court shall remit the  
31 appropriate assessments received pursuant to this section to the state  
32 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
33 amendments thereto. Upon receipt of each such remittance, the state  
34 treasurer shall deposit the entire amount in the state treasury to the credit  
35 of the local law enforcement training reimbursement fund, the law  
36 enforcement training center fund, the Kansas commission on peace

1 officers' standards and training fund, the juvenile *alternatives to detention*  
2 ~~facilities~~ fund, the crime victims assistance fund, the trauma fund and the  
3 department of corrections forensic psychologist fund as provided in this  
4 section.

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

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

- 15 (A) Satisfied the sentence imposed; or
  - 16 (B) was discharged from probation, parole or a suspended sentence.
- 17 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any  
18 person who has fulfilled the terms of a diversion agreement based on a  
19 violation of a city ordinance of this state may petition the court for the  
20 expungement of such diversion agreement and related arrest records if  
21 three or more years have elapsed since the terms of the diversion  
22 agreement were fulfilled.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (A) Defendant's full name;
- 2 (B) full name of the defendant at the time of arrest, conviction or  
3 diversion, if different than the defendant's current name;
- 4 (C) defendant's sex, race and date of birth;
- 5 (D) crime for which the defendant was arrested, convicted or  
6 diverted;
- 7 (E) date of the defendant's arrest, conviction or diversion; and
- 8 (F) identity of the convicting court, arresting law enforcement agency  
9 or diverting authority.

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

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

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

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

22 (2) the circumstances and behavior of the petitioner warrant the  
23 expungement; and

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

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

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

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

43 (A) In any application for licensure as a private detective, private

1 detective agency, certification as a firearms trainer pursuant to K.S.A.  
2 2016 Supp. 75-7b21, and amendments thereto, or employment as a  
3 detective with a private detective agency, as defined by K.S.A. 75-7b01,  
4 and amendments thereto; as security personnel with a private patrol  
5 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with  
6 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of  
7 the Kansas department for aging and disability services;

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

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

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

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

25 (F) upon application for a commercial driver's license under K.S.A.  
26 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

41 (L) *for applications received on and after July 1, 2016, to aid in*  
42 *determining the petitioner's qualifications for a license to act as a bail*  
43 *enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-*

1 *7e09 and K.S.A. 2016 Supp. 50-6,141, and amendments thereto;*

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

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

8 (j) Whenever a person is convicted of an ordinance violation, pleads  
 9 guilty and pays a fine for such a violation, is placed on parole or probation  
 10 or is granted a suspended sentence for such a violation, the person shall be  
 11 informed of the ability to expunge the arrest records or conviction.  
 12 Whenever a person enters into a diversion agreement, the person shall be  
 13 informed of the ability to expunge the diversion.

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

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

- 24 (1) The person whose record was expunged;
- 25 (2) a private detective agency or a private patrol operator, and the  
 26 request is accompanied by a statement that the request is being made in  
 27 conjunction with an application for employment with such agency or  
 28 operator by the person whose record has been expunged;
- 29 (3) a court, upon a showing of a subsequent conviction of the person  
 30 whose record has been expunged;
- 31 (4) the secretary for aging and disability services, or a designee of the  
 32 secretary, for the purpose of obtaining information relating to employment  
 33 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,  
 34 of the Kansas department for aging and disability services of any person  
 35 whose record has been expunged;
- 36 (5) a person entitled to such information pursuant to the terms of the  
 37 expungement order;
- 38 (6) a prosecuting attorney, and such request is accompanied by a  
 39 statement that the request is being made in conjunction with a prosecution  
 40 of an offense that requires a prior conviction as one of the elements of such  
 41 offense;
- 42 (7) the supreme court, the clerk or disciplinary administrator thereof,  
 43 the state board for admission of attorneys or the state board for discipline

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

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

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

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

21 (A) Lottery gaming facility managers and prospective managers,  
22 racetrack gaming facility managers and prospective managers, licensees  
23 and certificate holders; and

24 (B) their officers, directors, employees, owners, agents and  
25 contractors;

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

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

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

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

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

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

43 (B) *act as a bail enforcement agent pursuant to K.S.A. 2016 Supp.*

1 *75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, and*  
 2 *amendments thereto;*

3 (14) the Kansas sentencing commission;

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

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

12 Sec. 3. K.S.A. 2016 Supp. 22-4903 is hereby amended to read as  
 13 follows: 22-4903. (a) Violation of the Kansas offender registration act is  
 14 the failure by an offender, as defined in K.S.A. 22-4902, and amendments  
 15 thereto, to comply with any and all provisions of such act, including any  
 16 and all duties set forth in K.S.A. 22-4905 through 22-4907, and  
 17 amendments thereto. Any violation of the Kansas offender registration act  
 18 which continues for more than 30 consecutive days shall, upon the 31<sup>st</sup>  
 19 consecutive day, constitute a new and separate offense, and shall continue  
 20 to constitute a new and separate offense every 30 days thereafter for as  
 21 long as the violation continues.

22 (b) Aggravated violation of the Kansas offender registration act is  
 23 violation of the Kansas offender registration act which continues for more  
 24 than 180 consecutive days. Any aggravated violation of the Kansas  
 25 offender registration act which continues for more than 180 consecutive  
 26 days shall, upon the 181<sup>st</sup> consecutive day, constitute a new and separate  
 27 offense, and shall continue to constitute a new and separate violation of the  
 28 Kansas offender registration act every 30 days thereafter, or a new and  
 29 separate aggravated violation of the Kansas offender registration act every  
 30 180 days thereafter, for as long as the violation continues.

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

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

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

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

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

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



1 Such violation shall be designated as a person or nonperson crime in  
 2 accordance with the designation assigned to the underlying crime for  
 3 which the offender is required to be registered under the Kansas offender  
 4 registration act. If the offender is required to be registered under both a  
 5 person and nonperson underlying crime, the violation shall be designated  
 6 as a person crime.

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

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

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

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

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

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

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

27 (3) in any county in which the offender is located during which time  
 28 the offender is not in compliance with the Kansas offender registration act;  
 29 or

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

33 Sec. 4. K.S.A. 2016 Supp. 65-4202, as amended by section 22 of  
 34 2017 House Bill No. 2055, is hereby amended to read as follows: 65-4202.  
 35 As used in this act: (a) "Board" means the board of nursing.

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

42 (1) ~~Involve responsible nursing participation and provision of input~~  
 43 *into the development of person-centered treatment plans and therapeutic*

1 procedures for ~~patients with mental illness or intellectual disability~~  
2 *individuals or groups of individuals specified in subsection (b)* requiring  
3 interpersonal and technical skills in the observations and recognition of  
4 symptoms and reactions of such ~~patients~~ *individuals*, the accurate  
5 recording of such symptoms and reactions and the carrying out of  
6 treatments and medications as prescribed by a licensed physician or a mid-  
7 level practitioner as defined in K.S.A. 65-1626, and amendments thereto;

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

11 (3) require the performance of duties that are necessary to facilitate  
12 *habitation and* rehabilitation of the ~~patient~~ *individual* or are necessary in  
13 the physical, therapeutic and psychiatric care of the ~~patient~~ *individual* and  
14 require close work with persons licensed to practice medicine and surgery,  
15 psychiatrists, psychologists, rehabilitation therapists, social workers,  
16 registered nurses, and other professional personnel.

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

19 (d) An "approved course in mental health technology" means a  
20 program of training and study including a basic curriculum ~~which that~~  
21 shall be prescribed and approved by the board in accordance with the  
22 standards prescribed herein, the successful completion of which shall be  
23 required before licensure as a mental health technician, except as  
24 hereinafter provided.

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

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

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

31 (3) conduct hearings for all regulatory matters concerning ambulance  
32 services, attendants, instructor-coordinators, training officers and ~~providers~~  
33 ~~of training~~ *sponsoring organizations*;

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

35 (5) develop a state plan for the delivery of emergency medical  
36 services;

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

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

42 (8) approve all training programs for attendants, instructor-  
43 coordinators and training officers and prescribe certification application

1 fees by rules and regulations;

2 (9) approve methods of examination for certification of attendants,  
 3 training officers and instructor-coordinators and prescribe examination  
 4 fees by rules and regulations;

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

12 (11) approve ~~providers of training~~ *sponsoring organizations* by  
 13 prescribing standards and requirements by rules and regulations and  
 14 withdraw or modify such approval in accordance with the Kansas  
 15 administrative ~~procedures~~ *procedure* act and the rules and regulations of  
 16 the board.

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

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

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

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

33 (2) All fines assessed and collected under this section shall be  
 34 remitted to the state treasurer in accordance with the provisions of K.S.A.  
 35 75-4215, and amendments thereto. Upon receipt of each such remittance,  
 36 the state treasurer shall deposit the entire amount in the state treasury to  
 37 the credit of the state general fund.

38 (d) (1) In connection with any investigation by the board, the board or  
 39 its duly authorized agents or employees shall at all reasonable times have  
 40 access to, for the purpose of examination and the right to copy any  
 41 document, report, record or other physical evidence of any person being  
 42 investigated, or any document, report, record or other evidence maintained  
 43 by and in possession of any clinic, laboratory, pharmacy, medical care

1 facility or other public or private agency, if such document, report, record  
2 or evidence relates to professional competence, unprofessional conduct or  
3 the mental or physical ability of the person to perform activities the person  
4 is authorized to perform.

5 (2) For the purpose of all investigations and proceedings conducted  
6 by the board:

7 (A) The board may issue subpoenas compelling the attendance and  
8 testimony of witnesses or the production for examination or copying of  
9 documents or any other physical evidence if such evidence relates to  
10 professional competence, unprofessional conduct or the mental or physical  
11 ability of a person being investigated to perform activities the person is  
12 authorized to perform. Within five days after the service of the subpoena  
13 on any person requiring the production of any evidence in the person's  
14 possession or under the person's control, such person may petition the  
15 board to revoke, limit or modify the subpoena. The board shall revoke,  
16 limit or modify such subpoena if in its opinion the evidence required does  
17 not relate to practices which may be grounds for disciplinary action, is not  
18 relevant to the charge which is the subject matter of the proceeding or  
19 investigation, or does not describe with sufficient particularity the physical  
20 evidence which is required to be produced. Any member of the board, or  
21 any agent designated by the board, may administer oaths or affirmations,  
22 examine witnesses and receive such evidence.

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

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

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

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

35 (3) Disclosure or use of any such information received by the board  
36 or of any record containing such information, for any purpose other than  
37 that provided by this subsection is a class A misdemeanor and shall  
38 constitute grounds for removal from office, termination of employment or  
39 denial, revocation or suspension of any certificate or permit issued under  
40 article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments  
41 thereto. Nothing in this subsection shall be construed to make unlawful the  
42 disclosure of any such information by the board in a hearing held pursuant  
43 to this act.

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

8 (5) Nothing in this subsection or any other provision of law making  
9 communications between a physician and the physician's patient a  
10 privileged communication shall apply to investigations or proceedings  
11 conducted pursuant to this subsection. The board and its employees, agents  
12 and representatives shall keep in confidence the names of any patients  
13 whose records are reviewed during the course of investigations and  
14 proceedings pursuant to this subsection.

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

21 Sec. 6. K.S.A. 2016 Supp. 12-4112a, 12-4117, 12-4117b, 12-4516,  
22 12-4516e, 22-4903, 22-4903a, 65-4202, as amended by section 3 of 2017  
23 House Bill No. 2025, 65-4202, as amended by section 22 of 2017 House  
24 Bill No. 2055, 65-6111 and 65-6111a are hereby repealed.

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