

SENATE BILL No. 268

By Committee on Financial Institutions and Insurance

1-10

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to expungement; requiring disclosure of certain records to the
3 commissioner of insurance or securities commissioner; amending
4 K.S.A. 2017 Supp. 12-4516 and 21-6614 and repealing the existing
5 sections; also repealing K.S.A. 2017 Supp. 12-4516f.
6

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

8 Section 1. K.S.A. 2017 Supp. 12-4516 is hereby amended to read as
9 follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d), (e)
10 and (f), any person who has been convicted of a violation of a city
11 ordinance of this state may petition the convicting court for the
12 expungement of such conviction and related arrest records if three or more
13 years have elapsed since the person:

14 (A) Satisfied the sentence imposed; or

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

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

22 (b) Any person convicted of a violation of any ordinance that is
23 prohibited by either K.S.A. 2017 Supp. 12-16,134(a) or (b), and
24 amendments thereto, and which was adopted prior to July 1, 2014, or who
25 entered into a diversion agreement in lieu of further criminal proceedings
26 for such violation, may petition the convicting court for the expungement
27 of such conviction or diversion agreement and related arrest records.

28 (c) Any person convicted of the violation of a city ordinance which
29 would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a
30 violation of K.S.A. 2017 Supp. 21-6419, and amendments thereto, or who
31 entered into a diversion agreement in lieu of further criminal proceedings
32 for such violation, may petition the convicting court for the expungement
33 of such conviction or diversion agreement and related arrest records if:

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

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

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

12 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
13 repeal, or K.S.A. 2017 Supp. 21-5406, and amendments thereto;

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

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

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

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 *K.S.A. 8-1602 or*
25 *8-1604*, and amendments thereto;

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

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

29 (e) (1) No person may petition for expungement until five or more
30 years have elapsed since the person satisfied the sentence imposed or the
31 terms of a diversion agreement or was discharged from probation, parole,
32 conditional release or a suspended sentence, if such person was convicted
33 of a first violation of a city ordinance which would also constitute a first
34 violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments
35 thereto.

36 (2) No person may petition for expungement until 10 or more years
37 have elapsed since the person satisfied the sentence imposed or was
38 discharged from probation, parole, conditional release or a suspended
39 sentence, if such person was convicted of a second or subsequent violation
40 of a city ordinance which would also constitute a second or subsequent
41 violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments
42 thereto.

43 (3) The provisions of this subsection shall apply to all violations

1 committed on or after July 1, 2006.

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

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

9 (A) Defendant's full name;

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

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

13 (D) crime for which the defendant was arrested, convicted or
14 diverted;

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

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

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

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

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

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

30 (2) the circumstances and behavior of the petitioner warrant the
31 expungement; and

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

33 (i) When the court has ordered an arrest record, conviction or
34 diversion expunged, the order of expungement shall state the information
35 required to be contained in the petition. The clerk of the court shall send a
36 certified copy of the order of expungement to the Kansas bureau of
37 investigation which shall notify the federal bureau of investigation, the
38 secretary of corrections and any other criminal justice agency which may
39 have a record of the arrest, conviction or diversion. If the case was
40 appealed from municipal court, the clerk of the district court shall send a
41 certified copy of the order of expungement to the municipal court. The
42 municipal court shall order the case expunged once the certified copy of
43 the order of expungement is received. After the order of expungement is

1 entered, the petitioner shall be treated as not having been arrested,
2 convicted or diverted of the crime, except that:

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

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

8 (A) In any application for licensure as a private detective, private
9 detective agency, certification as a firearms trainer pursuant to K.S.A.
10 2017 Supp. 75-7b21, and amendments thereto, or employment as a
11 detective with a private detective agency, as defined by K.S.A. 75-7b01,
12 and amendments thereto; as security personnel with a private patrol
13 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
14 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
15 the Kansas department for aging and disability services;

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

18 (C) to aid in determining the petitioner's qualifications for
19 employment with the Kansas lottery or for work in sensitive areas within
20 the Kansas lottery as deemed appropriate by the executive director of the
21 Kansas lottery;

22 (D) to aid in determining the petitioner's qualifications for executive
23 director of the Kansas racing and gaming commission, for employment
24 with the commission or for work in sensitive areas in parimutuel racing as
25 deemed appropriate by the executive director of the commission, or to aid
26 in determining qualifications for licensure or renewal of licensure by the
27 commission;

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

33 (F) upon application for a commercial driver's license under K.S.A.
34 8-2,125 through 8-2,142, and amendments thereto;

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

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

40 (I) in any application for registration as a broker-dealer, agent,
41 investment adviser or investment adviser representative, all as defined in
42 K.S.A. 17-12a102, and amendments thereto, *or as an agent as defined in*
43 *K.S.A. 2017 Supp. 40-4902, and amendments thereto;*

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

3 (K) for applications received on and after July 1, 2006, to aid in
4 determining the petitioner's qualifications for a license to carry a concealed
5 weapon pursuant to the personal and family protection act, K.S.A. 2017
6 Supp. 75-7c01 et seq., and amendments thereto; ~~or~~

7 (L) for applications received on and after July 1, 2016, to aid in
8 determining the petitioner's qualifications for a license to act as a bail
9 enforcement agent pursuant to K.S.A. 2017 Supp. 50-6,141 and 75-7e01
10 through 75-7e09 ~~and K.S.A. 2017 Supp. 50-6,141~~, and amendments
11 thereto; *or*

12 (M) *for applications received on and after July 1, 2018, to aid in*
13 *determining the petitioner's qualifications to be an employee of the*
14 *insurance department or office of the securities commissioner of Kansas;*

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

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

21 (j) Whenever a person is convicted of an ordinance violation, pleads
22 guilty and pays a fine for such a violation, is placed on parole or probation
23 or is granted a suspended sentence for such a violation, the person shall be
24 informed of the ability to expunge the arrest records or conviction.
25 Whenever a person enters into a diversion agreement, the person shall be
26 informed of the ability to expunge the diversion.

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

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

37 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

34 (A) Lottery gaming facility managers and prospective managers,
35 racetrack gaming facility managers and prospective managers, licensees
36 and certificate holders; and

37 (B) their officers, directors, employees, owners, agents and
38 contractors;

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

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

43 (B) to be an employee of a tribal gaming commission or to hold a

1 license issued pursuant to a tribal-state gaming compact;

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

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

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

13 (B) act as a bail enforcement agent pursuant to K.S.A. 2017 Supp.
14 *50-6,141 and 75-7e01 through 75-7e09* and ~~K.S.A. 2017 Supp. 50-6,141,~~
15 and amendments thereto;

16 (14) the Kansas sentencing commission;

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

21 (16) a law enforcement agency and the request is accompanied by a
22 statement that the request is being made to aid in determining eligibility
23 for employment as a law enforcement officer as defined by K.S.A. 22-
24 2202, and amendments thereto; *or*

25 *(17) the commissioner of insurance, or a designee of the*
26 *commissioner; and the request is accompanied by a statement that the*
27 *request is being made in conjunction with an application for employment*
28 *or for licensure as an agent by such agency and the application was*
29 *submitted by the person whose record has been expunged.*

30 Sec. 2. K.S.A. 2017 Supp. 21-6614 is hereby amended to read as
31 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
32 and (f), any person convicted in this state of a traffic infraction, cigarette
33 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
34 committed on or after July 1, 1993, any nongrid felony or felony ranked in
35 severity levels 6 through 10 of the nondrug grid, or for crimes committed
36 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
37 severity level 4 of the drug grid, or for crimes committed on or after July
38 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
39 the convicting court for the expungement of such conviction or related
40 arrest records if three or more years have elapsed since the person: (A)
41 Satisfied the sentence imposed; or (B) was discharged from probation, a
42 community correctional services program, parole, postrelease supervision,
43 conditional release or a suspended sentence.

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

6 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
7 3512, prior to its repeal, convicted of a violation of K.S.A. 2017 Supp. 21-
8 6419, and amendments thereto, or who entered into a diversion agreement
9 in lieu of further criminal proceedings for such violation, may petition the
10 convicting court for the expungement of such conviction or diversion
11 agreement and related arrest records if:

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

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

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

34 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
35 repeal, or K.S.A. 2017 Supp. 21-5406, and amendments thereto, or as
36 prohibited by any law of another state which is in substantial conformity
37 with that statute;

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

43 (3) perjury resulting from a violation of K.S.A. 8-261a, and

1 amendments thereto, or resulting from the violation of a law of another
2 state which is in substantial conformity with that statute;

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

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

8 (6) failing to stop at the scene of an accident and perform the duties
9 required by K.S.A. ~~8-1602~~, 8-1603, prior to its repeal, or *8-1602* or 8-
10 1604, and amendments thereto, or required by a law of another state which
11 is in substantial conformity with those statutes;

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

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

15 (d) (1) No person may petition for expungement until five or more
16 years have elapsed since the person satisfied the sentence imposed or the
17 terms of a diversion agreement or was discharged from probation, a
18 community correctional services program, parole, postrelease supervision,
19 conditional release or a suspended sentence, if such person was convicted
20 of a first violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and
21 amendments thereto, including any diversion for such violation.

22 (2) No person may petition for expungement until 10 or more years
23 have elapsed since the person satisfied the sentence imposed or was
24 discharged from probation, a community correctional services program,
25 parole, postrelease supervision, conditional release or a suspended
26 sentence, if such person was convicted of a second or subsequent violation
27 of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto.

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

32 (e) There shall be no expungement of convictions for the following
33 offenses or of convictions for an attempt to commit any of the following
34 offenses:

35 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
36 2017 Supp. 21-5503, and amendments thereto;

37 (2) indecent liberties with a child or aggravated indecent liberties
38 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
39 or K.S.A. 2017 Supp. 21-5506, and amendments thereto;

40 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
41 prior to its repeal, or K.S.A. 2017 Supp. 21-5504(a)(3) or (a)(4), and
42 amendments thereto;

43 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior

1 to its repeal, or K.S.A. 2017 Supp. 21-5504, and amendments thereto;

2 (5) indecent solicitation of a child or aggravated indecent solicitation
3 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
4 or K.S.A. 2017 Supp. 21-5508, and amendments thereto;

5 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
6 to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto;

7 (7) internet trading in child pornography or aggravated internet
8 trading in child pornography, as defined in K.S.A. 2017 Supp. 21-5514,
9 and amendments thereto;

10 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
11 repeal, or K.S.A. 2017 Supp. 21-5604, and amendments thereto;

12 (9) endangering a child or aggravated endangering a child, as defined
13 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2017 Supp.
14 21-5601, and amendments thereto;

15 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
16 or K.S.A. 2017 Supp. 21-5602, and amendments thereto;

17 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
18 or K.S.A. 2017 Supp. 21-5401, and amendments thereto;

19 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to
20 its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto;

21 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior
22 to its repeal, or K.S.A. 2017 Supp. 21-5403, and amendments thereto;

23 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
24 its repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto;

25 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
26 its repeal, or K.S.A. 2017 Supp. 21-5405, and amendments thereto;

27 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
28 or K.S.A. 2017 Supp. 21-5505, and amendments thereto, when the victim
29 was less than 18 years of age at the time the crime was committed;

30 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
31 its repeal, or K.S.A. 2017 Supp. 21-5505, and amendments thereto;

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

34 (19) any conviction for any offense in effect at any time prior to July
35 1, 2011, that is comparable to any offense as provided in this subsection.

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

42 (g) (1) When a petition for expungement is filed, the court shall set a
43 date for a hearing of such petition and shall cause notice of such hearing to

1 be given to the prosecutor and the arresting law enforcement agency. The
2 petition shall state the:

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

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

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

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

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

31 (2) the circumstances and behavior of the petitioner warrant the
32 expungement; and

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

34 (i) When the court has ordered an arrest record, conviction or
35 diversion expunged, the order of expungement shall state the information
36 required to be contained in the petition. The clerk of the court shall send a
37 certified copy of the order of expungement to the Kansas bureau of
38 investigation which shall notify the federal bureau of investigation, the
39 secretary of corrections and any other criminal justice agency which may
40 have a record of the arrest, conviction or diversion. If the case was
41 appealed from municipal court, the clerk of the district court shall send a
42 certified copy of the order of expungement to the municipal court. The
43 municipal court shall order the case expunged once the certified copy of

1 the order of expungement is received. After the order of expungement is
2 entered, the petitioner shall be treated as not having been arrested,
3 convicted or diverted of the crime, except that:

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

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

9 (A) In any application for licensure as a private detective, private
10 detective agency, certification as a firearms trainer pursuant to K.S.A.
11 2017 Supp. 75-7b21, and amendments thereto, or employment as a
12 detective with a private detective agency, as defined by K.S.A. 75-7b01,
13 and amendments thereto; as security personnel with a private patrol
14 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
15 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
16 the Kansas department for aging and disability services;

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

19 (C) to aid in determining the petitioner's qualifications for
20 employment with the Kansas lottery or for work in sensitive areas within
21 the Kansas lottery as deemed appropriate by the executive director of the
22 Kansas lottery;

23 (D) to aid in determining the petitioner's qualifications for executive
24 director of the Kansas racing and gaming commission, for employment
25 with the commission or for work in sensitive areas in parimutuel racing as
26 deemed appropriate by the executive director of the commission, or to aid
27 in determining qualifications for licensure or renewal of licensure by the
28 commission;

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

34 (F) upon application for a commercial driver's license under K.S.A.
35 8-2,125 through 8-2,142, and amendments thereto;

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

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

41 (I) in any application for registration as a broker-dealer, agent,
42 investment adviser or investment adviser representative, all as defined in
43 K.S.A. 17-12a102, and amendments thereto, *or as an agent as defined in*

1 *K.S.A. 2017 Supp. 40-4902, and amendments thereto;*

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

4 (K) for applications received on and after July 1, 2006, to aid in
5 determining the petitioner's qualifications for a license to carry a concealed
6 weapon pursuant to the personal and family protection act, K.S.A. 2017
7 Supp. 75-7c01 et seq., and amendments thereto; ~~or~~

8 (L) for applications received on and after July 1, 2017, to aid in
9 determining the petitioner's qualifications for a license to act as a bail
10 enforcement agent pursuant to K.S.A. 2017 Supp. 50-6,141 and 75-7e01
11 through 75-7e09 ~~and K.S.A. 2017 Supp. 50-6,141~~, and amendments
12 thereto; *or*

13 *(M) for applications received on and after July 1, 2018, to aid in*
14 *determining the petitioner's qualifications to be an employee of the*
15 *insurance department or office of the securities commissioner of Kansas;*

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

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

21 (5) upon commitment to the custody of the secretary of corrections,
22 any previously expunged record in the possession of the secretary of
23 corrections may be reinstated and the expungement disregarded, and the
24 record continued for the purpose of the new commitment.

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

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

37 (2) Notwithstanding the provisions of subsection (k)(1), and except as
38 provided in K.S.A. 2017 Supp. 21-6304(a)(3)(A), and amendments
39 thereto, the expungement of a prior felony conviction does not relieve the
40 individual of complying with any state or federal law relating to the use,
41 shipment, transportation, receipt or possession of firearms by persons
42 previously convicted of a felony.

43 (l) Whenever the record of any arrest, conviction or diversion has

1 been expunged under the provisions of this section or under the provisions
2 of any other existing or former statute, the custodian of the records of
3 arrest, conviction, diversion and incarceration relating to that crime shall
4 not disclose the existence of such records, except when requested by:

5 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

1 managers and prospective managers, racetrack gaming facility managers
2 and prospective managers, licensees and certificate holders; and (B) their
3 officers, directors, employees, owners, agents and contractors;

4 (11) the Kansas sentencing commission;

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

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

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

20 (15) a law enforcement agency and the request is accompanied by a
21 statement that the request is being made to aid in determining eligibility
22 for employment as a law enforcement officer as defined by K.S.A. 22-
23 2202, and amendments thereto;

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

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

29 (B) act as a bail enforcement agent pursuant to K.S.A. 2017 Supp.
30 50-6,141 and 75-7e01 through 75-7e09 ~~and K.S.A. 2017 Supp. 50-6,141,~~
31 and amendments thereto; ~~or~~

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

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

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

40 (18) *the commissioner of insurance, or a designee of the*
41 *commissioner, and the request is accompanied by a statement that the*
42 *request is being made in conjunction with an application for employment*
43 *or for licensure as an agent by such agency and the application was*

1 *submitted by the person whose record has been expunged.*

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

4 Sec. 3. K.S.A. 2017 Supp. 12-4516, 12-4516f and 21-6614 are hereby
5 repealed.

6 Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.