

# Journal of the Senate

FIFTY-FIFTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, May 1, 2019, 10:00 a.m.

The Senate was called to order by Vice President Jeff Longbine.

The roll was called with 40 senators present.

Invocation by Reverend Cecil T. Washington:

Heavenly Father, we thank You for the times when we can break away; when we can get away from the steady grind of our labors. But caution us Lord and even convict us, when we take breaks and get away from You. You said in Philippians 4:6-7, that prayer is vital to getting the answers we need.

Larnell Harris wrote a song about being so busy that we bypass that spiritual place of spending time with You. Reflecting back on the times that You were there and we were not, he wrote these words. "There He was just waiting, in our old familiar place. An empty spot beside Him, where once I used to wait. To be filled with strength and wisdom, for the battles of the day. And I would have passed Him by again, but I clearly heard Him say I miss My time with you, those moments together. I need to be with you each day. And it hurt's Me when you say you're too busy, busy trying to serve Me. But how can you serve Me when your spirit's empty? There's a longing in My heart wanting more than just a part of you. It's true I miss My time with you."

And Lord, he heard You say, "What do I have to offer you? How can I truly care? My efforts have no meaning when your presence isn't there." So, our God will provide the power if we take time to pray. If we stay right there beside Him, we'll never have to hear Him say, "I miss My time with you. I miss My time with you." Deliver us Lord, from occasional, inconsistent prayer. In Jesus' Name, Amen.

The Pledge of Allegiance was led by Vice President Longbine.

## CHANGE OF CONFERENCE

The Vice President appointed Senators Suellentrop, Berger and Bollier to replace Senators Olson, Billinger and Ware as members of the conference committee on **SB 28**.

The Vice President appointed Senator Wagle to replace Senator Tyson as a member of the conference committee on **HB 2033**.

The Vice President appointed Senators McGinn and Hawk to replace Senators Olson and Ware as members of the conference committee on **HB 2203**.

The Vice President appointed Senators Wilborn, Rucker and Miller to replace Senators Petersen, Goddard and Pettey as members of the conference committee on **HB 2248**.

**MESSAGES FROM THE GOVERNOR**

**SB 16** approved on April 06, 2019

**SB 105** approved on April 08, 2019

**SB 60, SB 69, SB 71, SB 82, SB 97, SB 128, SB 199** approved on April 10, 2019

**SB 68** approved on April 11, 2019

**SB 77** approved on April 12, 2019

**SB 130** approved on April 15, 2019

**SB 15, SB 70, SB 78** approved on April 22, 2019

**MESSAGES FROM THE GOVERNOR**

April 4, 2019

*To the Senate of Kansas:*

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Laura Kelly  
*Governor*

*Commissioner, Kansas Corporation Commission, Susan Duffy, Topeka, (D) pursuant to the authority vested in me by the K.S.A. 74-601 and effective upon the date of confirmation by the Senate, to serve a term of four years, to succeed Jay Emler.*

April 9, 2019

Enclosed is Executive Order 19-06.

Laura Kelly  
*Governor*

April 23, 2019

Enclosed is Executive Order 19-07.

Laura Kelly  
*Governor*

The Vice President announced that these actions are on file in the office of the Secretary of the Senate and available for review at any time.

**REFERENCE OF APPOINTMENTS**

Under the authority of the President the following appointment made by the Governor and submitted to the Senate for confirmation, was referred to Committee as indicated:

*Member - I, State Corporation Commission:*

Susan Duffy, to serve Term ends March 15, 2023.  
Committee on Utilities

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senator Sykes introduced the following Senate resolution, which was read:

## SENATE RESOLUTION No. 1739—

A RESOLUTION honoring the 125<sup>th</sup> anniversary of Goodwill of Western Missouri and Eastern Kansas.

WHEREAS, In 1902, Goodwill Industries was founded in Boston, Massachusetts, by Edgar J. Helms; and

WHEREAS, To support its programs, Goodwill Industries initially collected used goods, and it trained employees with different abilities or disadvantages to repair items for resale to support its programs; and

WHEREAS, Goodwill Industries adopted the philosophy of offering "a hand up, not a hand out"; and

WHEREAS, Over the years, Goodwill Industries expanded its focus and became a training center for job seekers and began offering employment skills training and vocational rehabilitation for persons with disabilities; and

WHEREAS, In 1984, the Helping Hand Institute was founded in Kansas City, Missouri, to provide food, shelter, and a work-relief program for the homeless and without resources; and

WHEREAS, In 1978, in a joint effort to empower the local community to join and contribute to the workforce, Goodwill Industries and the Helping Hand Institute of Kansas City merged to form the Helping Hand of Goodwill Industries; and

WHEREAS, In 2010, the organization was renamed Goodwill of Western Missouri and Eastern Kansas to reflect the geographic area it serves; and

WHEREAS, Today, the Goodwill of Western Missouri and Eastern Kansas operates 14 retail stores, an outlet store and three donation centers, annually diverting more than 15 million pounds of material from going to area landfills; and

WHEREAS, Goodwill also empowers and trains hundreds of local job seekers with different abilities and disadvantages through individualized programs and services; and

WHEREAS, After 125 years, Goodwill continues to be a nonprofit leader that provides resources and services to individuals confronted by barriers to employment: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we honor the 125<sup>th</sup> anniversary of the Goodwill of Western Missouri and Eastern Kansas; and

*Be it further resolved:* That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Sykes.

On emergency motion of Senator Sykes **SR 1739** was adopted unanimously.

**VETO SUSTAINED**

The Governor's objection to **SB 22** is sustained as the 30<sup>th</sup> day to override has passed.

**GOVERNOR'S VETO MESSAGE**

April 22, 2019

**Senate Bill 67** will interfere with the relationship between patients and their physicians. This unwarranted legislation would create confusion, could be harmful to women's health, and would subject health professionals to criminal penalties for failing to follow a government mandate that is not adequately supported by medical science.

The practice of medicine should be left to licensed health professionals, not elected officials.

Therefore, under Article 2, Sections 14(a) of the Constitution, I hereby veto **Senate Bill 67**.

Laura Kelly  
*Governor*

#### **ACTION ON VETO MESSAGE**

President Wagle announced a veto message from the Governor having been received on April 22, 2019 and read, the time had arrived for consideration.

President Wagle moved **SB 67** be passed notwithstanding the Governor's veto.

**SB 67**, AN ACT concerning abortion; relating to medication abortions; notification requirements.

On roll call, the vote was: Yeas 27; Nays 13; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Denning, Doll, Estes, Givens, Goddard, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pilcher-Cook, Pyle, Rucker, Suellentrop, Taylor, Tyson, Wagle, Wilborn.

Nays: Bollier, Faust-Goudeau, Francisco, Haley, Hardy, Hawk, Hensley, Holland, Miller, Pettey, Skubal, Sykes, Ware.

A two-thirds constitutional majority having voted in favor of overriding the Governor's veto, the motion prevailed and the bill passed.

#### **EXPLANATION OF VOTE**

Mr. Vice President: I think that **SB 67** is probably a good bill that deserves consideration. I have enough reservations about this bill that I would feel better if this bill was considered in the 2020 Session. This body is known for its preference to pause and reflect on many bills, and I believe that this bill is in that category.—RANDALL HARDY

#### **ORIGINAL MOTION**

President Wagle announced the time had arrived to consider the motion submitted April 5, 2019 in writing by Senator Anthony Hensley, citing Rule 11(b), to withdraw **HB 2066** from the Committee on **Public Health and Welfare** and be placed on the calendar under the heading of **General Orders**.

**HB 2066**, AN ACT concerning the department of health and environment; establishing the KanCare bridge to a healthy Kansas program; amending K.S.A. 2018 Supp. 40-3213 and repealing the existing section.

On roll call, the vote was: Yeas 23; Nays 13; Present and Passing 4; Absent or Not Voting 0.

Yeas: Berger, Billinger, Bollier, Bowers, Doll, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Longbine, McGinn, Miller, Pettey, Rucker, Skubal, Sykes, Taylor, Ware.

Nays: Alley, Braun, Hilderbrand, Kerschen, Lynn, Masterson, Olson, Petersen, Pilcher-Cook, Pyle, Suellentrop, Tyson, Wagle.

Present and Passing: Baumgardner, Denning, Estes, Wilborn.  
Pursuant to Senate Rule 11(b) requiring majority vote of 24, the motion failed and **HB 2066** remains in committee.

## EXPLANATION OF VOTE

Mr. Vice President: I am voting yes for the welfare mother who finally got a job only to discover that she was not eligible for KanCare, I am voting yes for the 45 year old woman who could not afford to see a physician about a lump on her breast which ultimately metastasized, I am voting yes for the asthmatic child whose parents cannot afford health insurance, I am voting yes for the pregnant woman who was abandoned by her husband and could not afford prenatal care and had a late term miscarriage depriving her of having that son that she wanted, I am voting yes for the millions of dollars of uncompensated care that are being paid for by all of us, I am voting yes for the small rural hospitals that need a life line and my constituents who are overwhelmingly supportive I vote "YES" for **HB 2066**—ED BERGER

Senators Billinger, Haley, Hawk, Pettey, Skubal and Taylor request the record to show they concur with the "Explanation of Vote" offered by Senator Berger on **HB 2066**.

Mr. Vice President: Kansans lost today...they lost on the issue of democracy. To be denied over and over the opportunity to hear, work, and ultimately vote on this bill to expand Medicaid is unconscionable. Over 21 Senators support Medicaid expansion, the number needed to pass this bill, yet the process denies us the ability to cast a vote. I find this decision to deny Kansas citizens health care abhorrent.—BARBARA BOLLIER

Senators Haley and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Bollier on **HB 2066**.

Mr. Vice President: I vote yes because I believe transparency and open debate are critical to our democratic process. While this issue deserves to be studied further, it also deserves a timely conversation. Waiting another year does nothing to move good policy forward. My local doctors and hospital experts indicate they are losing \$4.53 million in federal dollars each year - dollars that are intended to ensure our rural communities have access to a local hospital. I look forward to addressing this situation in a way that is effective and efficient for our rural communities.—ELAINE BOWERS

Mr. Vice President: During the break I did extensive research on this issue, and the fact that the most needy are put in line or can be put in line in back of those less needy able-bodied people has drawn me to the conclusion to look at this in the future and examine further what the options are but at this time that is the reason for my vote.—KEVIN BRAUN

Senators Kerschen, Lynn and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Braun on **HB 2066**.

Mr. Vice President: Today I vote "PASS." I'm not saying No; I'm saying this policy isn't ready. Since session started, I've been transparent with my district, the media, and the Governor's Office...it is not prudent for this Senate body to support Medicaid Expansion spending plan until we know how the Supreme Court rules on K-12 funding. This Expansion bill was a gut n' go passed by the house and sent to the Senate without

any proper committee hearings or testimony. I have committed to working on a Medicaid plan over the interim in a transparent manner and I believe a modernized present-day bill will be debated on Senate floor early next session. This body should not support policy based on political wins or losses, but rather good sound policy that benefits the State of Kansas and its constituents.—JIM DENNING

Senators Alley, Estes, Goddard, Kerschen, Lynn, Petersen and Wilborn request the record to show they concur with the "Explanation of Vote" offered by Senator Denning on **HB 2066**.

Mr. Vice President: I vote "YES" for **HB 2066** on behalf of Titus Tsimonjela, Isiah Tsimonjela, and Linda Williams.—OLETHA FAUST-GOUDEAU

Mr. Vice President: I vote "AYE" on the motion to withdraw **House Bill 2066** from committee so the full Senate can debate the issue of Medicaid expansion. I want to express my appreciation to my Senate colleagues for voting in favor of this motion. Their willingness to allow for a debate on Medicaid expansion shows they are listening to their constituents who also want that debate. I also express my appreciation to the thousands upon thousands of Kansans who have voiced their support for Medicaid expansion. I was especially moved when I drove into the Statehouse parking garage today to see the three dozen or so Kansans who held up signs in favor of Medicaid expansion. Despite being one vote short of withdrawing **House Bill 2066** from committee, this issue will not go away. We will continue to fight to insure that 130,000 uninsured Kansans will get the access to healthcare they deserve.—ANTHONY HENSLEY

Mr. Vice President: I vote "YES" and would like to explain my vote. This has been a very difficult discussion for me not because I do not believe in expansion but because of the difficult process we have had to go through just to advance expansion forward. Because of the overwhelming response I have received from my constituents from my district as well as the Newton and Wichita Chambers of Commerce. In addition to trying to listen to my constituents, I have fiduciary responsibility as a hospital board member to support policy that helps my rural hospital survive. Our state has lost over 3 billion federal dollars by not expanding. We need to bring our federal dollars back home. I have faith in our Health and Public Policy Chair that he will lead this process to work on policy so we will have a good product to debate next year.—CAROLYN MCGINN

Senator Goddard requests the record to show he concurs with the "Explanation of Vote" offered by Senator McGinn on **HB 2066**.

#### MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **HB 2167**.  
Announcing adoption of **SCR 1612**.

On motion of Senator Denning, the Senate recessed until 2:00 p.m.

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The Senate met pursuant to recess with Senator Longbine in the chair.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Lynn introduced the following Senate resolution, which was read:

## SENATE RESOLUTION No. 1740—

A RESOLUTION congratulating and commending the Olathe Northwest High School Raven Dance Team for winning the 2019 National Dance Alliance High School National Championship.

WHEREAS, On February 24, 2019, the Olathe Northwest High School Raven Dance Team was named Grand National Champions at the National Dance Alliance (NDA) High School Nationals held in Orlando, Florida. At the competition, the team competed against some of the most talented high school dance teams from across the country and around the world; and

WHEREAS, The team, for the first time in NDA National Championship history, made a clean sweep of the awards and brought home the gold in Team Performance, Pom, and Jazz. The team was crowned Grand National Champions for earning the highest average score of the competition; and

WHEREAS, With these new wins, the Raven Dance Team now has 15 National Championship titles; and

WHEREAS, The team's jazz performance was in honor of, and a beautiful tribute to, their classmate, Landon Daniel, who was killed in a tragic car accident last summer; and

WHEREAS, The Raven Dance Team consists of 27 varsity members and an active junior varsity team, led by Head Coach Shannon Summers and Assistant Coaches Alison Krumbiegel and McKenzie Mispagel. The dedicated and talented young dancers strive to represent Olathe Northwest High School in a positive and spirited manner; and

WHEREAS, Varsity members perform at various school and community events and practice five days a week, for up to two hours per day, to prepare for games and other performances; and

WHEREAS, During football season, the team doubles as a color guard, performing at halftime with the band. In addition to their tremendous dance skills, they have received top scores and awards for their performances as a color guard; and

WHEREAS, Each January, the varsity team competes in two regional competitions against other Midwest high school dance teams in various categories, including jazz, hip-hop, team performance, lyrical, novelty, and pom, in order to earn a spot at the national competition held in late February; and

WHEREAS, Members of the varsity team are: Mia Barkyoub, Avery Boland, Maleah Boyd, Samantha Clark, Ava Clayton, Mady Cole, Kennedy Dyro, Kirstyn Gaupp, Bailey Haines, Megan Kiebusch, Maddie Lowen, Claire Maddox, Brooke Mason, Sydney Morse, Alex Privat, Grace Rasmussen, Rose Rasmussen, Kaitlyn Rose, Maddy Samuelson, Lauren Sanford, Haley Scalabrin, Ellie Smajda, Layne Steffen, Emma Thelen, Olivia Thomas, Carley Uhl, and Olivia Whitenack; and

WHEREAS, The junior varsity team was established in 2010, and, similar to the varsity team, performs special guest routines at various school and community events and practices, four days per week, for up to two hours per day. The junior varsity team also competes in two regional competitions each January; and

WHEREAS, To prepare for their regional and national competitions, the teams sacrifice part of their winter break and weekends for extra practice. These teams work hard each year to maintain their tradition of success; and

WHEREAS, The team members' character, sportsmanship, and love shine through on

the stage as much as their technical execution and synchronization. Their experience on the team teaches powerful life lessons of hard work, dedication, and confidence: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Olathe Northwest High School Raven Dance Team, their coaches, parents and family members, administrators, faculty, and Olathe Northwest for the team's National Championship title win, and we wish them continued success; and

*Be it further resolved:* That the Secretary of the Senate shall send 30 enrolled copies of this resolution to Senator Lynn.

On emergency motion of Senator Lynn **SR 1740** was adopted unanimously.

### ORIGINAL MOTION

Senator Denning moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 18, SB 20, SB 63; HB 2290.**

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to SB 18 submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 1, in line 6 by inserting:

"WHEREAS, the provisions of K.S.A. 2018 Supp. 21-5405 and 21-5602, as amended by this act, shall be known as Mireya's law.

Now, therefore:";

Also on page 1, in line 8, before "K.S.A" by inserting "On and after July 1, 2019,"; in line 30, before "K.S.A" by inserting "On and after July 1, 2019,";

On page 3, in line 33, before "K.S.A" by inserting "On and after July 1, 2019,";

On page 4, in line 1, before "K.S.A" by inserting "On and after July 1, 2019,";

On page 6, following line 36, by inserting:

"Sec. 5. On and after July 1, 2019, K.S.A. 2018 Supp. 21-5405 is hereby amended to read as follows: 21-5405. (a) Involuntary manslaughter is the killing of a human being committed:

(1) Recklessly;

(2) in the commission of, or attempt to commit, or flight from any felony, other than an inherently dangerous felony as defined in K.S.A. 2018 Supp. 21-5402, and amendments thereto, that is enacted for the protection of human life or safety or a misdemeanor that is enacted for the protection of human life or safety, including acts described in K.S.A. 8-1566 and 8-1568(a), and amendments thereto, but excluding the acts described in K.S.A. 8-1567, and amendments thereto;

(3) in the commission of, or attempt to commit, or flight from an act described in K.S.A. 8-1567, and amendments thereto;

(4) during the commission of a lawful act in an unlawful manner; or

(5) in the commission of, or attempt to commit, or flight from an act described in K.S.A. 8-1567, and amendments thereto, while:

(A) In violation of any restriction imposed on such person's driving privileges

pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(B) such person's driving privileges are suspended or revoked pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or

(C) such person has been deemed a habitual violator as defined in K.S.A. 8-285, and amendments thereto, including at least one violation of K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, any resolution of any county in this state or any law of another state, which ordinance, resolution or law declares to be unlawful the acts prohibited by that statute.

(b) Involuntary manslaughter as defined in:

(1) Subsection (a)(1), (a)(2) or (a)(4) is a:

(A) Severity level 5, person felony, except as provided in subsection (b)(1)(B); and

(B) severity level 3, person felony, if the victim is under the age of six years;

(2) subsection (a)(3) is a severity level 4, person felony; and

(3) subsection (a)(5) is a severity level 3, person felony.

Sec. 6. On and after July 1, 2019, K.S.A. 2018 Supp. 21-5602 is hereby amended to read as follows: 21-5602. (a) Abuse of a child is knowingly:

(1) Torturing or cruelly beating any child under the age of 18 years;

(2) shaking any child under the age of 18 years which results in great bodily harm to the child; or

(3) inflicting cruel and inhuman corporal punishment upon any child under the age of 18 years.

(b) Abuse of a child is a:

(1) Severity level 5, person felony, except as provided in subsection (b)(2); and

(2) severity level 4, person felony, if the victim is under the age of six years.

(c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

Sec. 7. On and after July 1, 2019, K.S.A. 2018 Supp. 21-6815 is hereby amended to read as follows: 21-6815. (a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines unless the judge finds substantial and compelling reasons to impose a departure sentence. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of K.S.A. 2018 Supp. 21-6817(b), and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of subsections (c)(3) and (e), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction, except that this factor shall not apply to a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, or electronic solicitation as defined in K.S.A. 2018 Supp. 21-5509, and amendments thereto, when: (i) The victim is less than 14 years of age and the offender is 18 or more years of age; or (ii) the offender hires any person by giving, or offering to or agreeing to give, anything of value

to the person to engage in an unlawful sex act.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor may be considered when it is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(F) The offender committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America. As used in this subsection, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A. 2018 Supp. 21-6630, and amendments thereto.

(2) Subject to the provisions of subsection (c)(3), the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.

(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to:

- (i) Commit any person felony;
- (ii) assist in avoiding detection or apprehension for commission of any person felony; or
- (iii) attempt, conspire or solicit, as defined in K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, to commit any person felony.

That the defendant did not know the age of the individual under 16 years of age shall not be a consideration.

(F) The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

- (i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization;

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age;

(d) aggravated human trafficking, as defined in K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age; or

(e) commercial sexual exploitation of a child, as defined in K.S.A. 2018 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

(G) The defendant was incarcerated during the commission of the offense.

(H) The crime involved two or more participants in the criminal conduct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor.

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(d) In determining aggravating or mitigating circumstances, the court shall consider:

(1) Any evidence received during the proceeding;

(2) the presentence report;

(3) written briefs and oral arguments of either the state or counsel for the defendant; and

(4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

(e) Upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court may consider such mitigation in

determining whether substantial and compelling reasons for a departure exist. In considering this mitigating factor, the court may consider the following:

(1) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the prosecutor's evaluation of the assistance rendered;

(2) the truthfulness, completeness and reliability of any information or testimony provided by the defendant;

(3) the nature and extent of the defendant's assistance;

(4) any injury suffered, or any danger or risk of injury to the defendant or the defendant's family resulting from such assistance; and

(5) the timeliness of the defendant's assistance.

Sec. 8. On and after July 1, 2019, K.S.A. 2018 Supp. 21-6604 is hereby amended to read as follows: 21-6604. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567 or 8-2,144, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 2018 Supp. 21-6609, and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by K.S.A. 2018 Supp. 21-6602(c), and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity ~~which that~~ materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A. 2018 Supp. 21-5911, and amendments thereto; repay expenses incurred by a fire district, fire department or fire

company responding to a fire ~~which that~~ has been determined to be arson or aggravated arson as defined in K.S.A. 2018 Supp. 21-5812, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation ~~which that~~ leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) if the defendant is convicted of a misdemeanor or convicted of a felony specified in K.S.A. 2018 Supp. 21-6804(i), and amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second or subsequent conviction of K.S.A. 8-1567, and amendments thereto, an offender placed into a work release program shall serve the total number of hours of confinement mandated by that section;

(12) order the defendant to pay the full amount of unpaid costs associated with the conditions of release of the appearance bond under K.S.A. 22-2802, and amendments thereto;

(13) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12); or

(14) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances ~~which that~~ would render a plan of restitution unworkable. In regard to a violation of K.S.A. 2018 Supp. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. In regard to a violation of K.S.A. 2018 Supp. 21-5801, 21-5807 or 21-5813, and amendments thereto, such damage or loss shall include the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the

defendant, which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by K.S.A. 2018 Supp. 21-6602(d), and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court ~~which that~~ sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2018 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed during a period of time ~~during which when~~ the defendant would have been on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony had the defendant not been granted release by the court pursuant to K.S.A. 2018 Supp. 21-6608(d), and amendments thereto, or the prisoner review board pursuant to K.S.A. 22-3717, and amendments thereto, the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(3) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2018 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(4) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed consecutively pursuant to the provisions of K.S.A. 2018 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2018 Supp. 21-6824, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2018 Supp. 21-6824, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendments thereto, or a community intermediate sanction center. Pursuant to this subsection the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or community intermediate sanction center and the defendant meets all of the conservation camp's or community intermediate sanction center's

placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or community intermediate sanction center.

(h) In committing a defendant to the custody of the secretary of corrections, the court shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court ~~which that~~ sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate:

(1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense ~~which that~~ is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, or for an offense ~~which that~~ is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and such offense does not meet the requirements of K.S.A. 2018 Supp. 21-6824, and amendments thereto; and

(2) otherwise meets admission criteria of the camp.

If the inmate successfully completes a conservation camp program, the secretary of

corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 2018 Supp. 21-6608, and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) (1) Except as provided by K.S.A. 2018 Supp. 21-6630 and 21-6805(f), and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 2018 Supp. 21-5706, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 2018 Supp. 21-6824, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2018 Supp. 75-52,144, and amendments thereto, including, but not limited to, an approved after-care plan. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(2) If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the defendant's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to sanction or revocation pursuant to the provisions of K.S.A. 22-3716, and amendments thereto. If the defendant's probation is revoked, the defendant shall serve the underlying prison sentence as established in K.S.A. 2018 Supp. 21-6805, and amendments thereto.

(A) Except as provided in subsection (n)(2)(B), for those offenders who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon completion of the underlying prison sentence, the offender shall not be subject to a period of postrelease supervision.

(B) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation is revoked pursuant to K.S.A. 22-3716(c), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to K.S.A. 22-3716(c)(1)(~~C~~) or (~~e~~)(1)(~~D~~), and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 2018 Supp. 21-5706, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor

vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order ~~which~~ that places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license, which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" mean the same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

(p) In addition to any of the above, for any criminal offense that includes the domestic violence designation pursuant to K.S.A. 2018 Supp. 22-4616, and amendments thereto, the court shall require the defendant to: (1) Undergo a domestic violence offender assessment conducted by a certified batterer intervention program; and (2) follow all recommendations made by such program, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence offender assessment to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required to pay for the assessment and, unless otherwise ordered by the court or the department

of corrections, for completion of all recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed by the later of one year after the fine is imposed or one year after release from imprisonment or jail, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order of the court, unless: ~~(1) The court has specifically withheld this authority in its sentencing order; or~~

~~(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses to waive such right.~~

(t) Whenever the court has assigned the defendant to a community correctional services program pursuant to subsection (a)(4), the defendant's community corrections officer, with the concurrence of the community corrections director, may impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order of the court unless:

~~(1) The court has specifically withheld this authority in its sentencing order; or~~

~~(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses to waive such right.~~

(u) In addition to any of the above, the court shall authorize an additional 18 days of confinement in a county jail to be reserved for sanctions as set forth in K.S.A. 22-3716(b)(3)(B), (b)(4) or (c)(1)(B), and amendments thereto.

Sec. 9. On and after July 1, 2019, K.S.A. 2018 Supp. 21-6824 is hereby amended to read as follows: 21-6824. (a) There is hereby established a nonprison sanction of

certified drug abuse treatment programs for certain offenders who are sentenced on or after November 1, 2003. Placement of offenders in certified drug abuse treatment programs by the court shall be limited to placement of adult offenders, convicted of a felony violation of K.S.A. 2018 Supp. 21-5705 or 21-5706, and amendments thereto, whose offense is classified in grid blocks:

(1) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2018 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction; or

(2) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes, such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2018 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction, if the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes, and the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program.

(b) As a part of the presentence investigation pursuant to K.S.A. 2018 Supp. 21-6813, and amendments thereto, offenders who meet the requirements of subsection (a), unless otherwise specifically ordered by the court, shall be subject to:

(1) A drug abuse assessment which shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the offender; and

(2) a criminal risk-need assessment. The criminal risk-need assessment shall assign a high or low risk status to the offender.

(c) If the offender is assigned a high risk status as determined by the drug abuse assessment performed pursuant to subsection (b)(1) and a moderate or high risk status as determined by the criminal risk-need assessment performed pursuant to subsection (b)(2), the sentencing court shall commit the offender to treatment in a drug abuse treatment program until the court determines the offender is suitable for discharge by the court. The term of treatment shall not exceed 18 months. The court may extend the term of probation, pursuant to K.S.A. 2018 Supp. 21-6608(c)(3), and amendments thereto. The term of treatment may not exceed the term of probation.

(d)(1) Offenders who are committed to a drug abuse treatment program pursuant to subsection (c) shall be supervised by community correctional services.

(2) Offenders who are not committed to a drug abuse treatment program pursuant to subsection (c) shall be supervised by community correctional services or court services based on the result of the criminal risk assessment.

(e) Placement of offenders under subsection (a)(2) shall be subject to the departure sentencing statutes of the revised Kansas sentencing guidelines act.

(f)(1) Offenders in drug abuse treatment programs shall be discharged from such program if the offender:

(A) Is convicted of a new felony; or

(B) has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding.

(2) Offenders who are discharged from such program shall be subject to the revocation provisions of K.S.A. 2018 Supp. 21-6604(n), and amendments thereto.

(g) As used in this section, "mental health professional" includes licensed social workers, persons licensed to practice medicine and surgery, licensed psychologists, licensed professional counselors or registered alcohol and other drug abuse counselors licensed or certified as addiction counselors who have been certified by the secretary of corrections to treat offenders pursuant to K.S.A. 2018 Supp. 75-52,144, and amendments thereto.

(h) (1) Offenders who meet the requirements of subsection (a) shall not be subject to the provisions of this section and shall be sentenced as otherwise provided by law, if such offenders:

(A) Are residents of another state and are returning to such state pursuant to the interstate corrections compact or the interstate compact for adult offender supervision; or

(B) are not lawfully present in the United States and being detained for deportation; or

(C) do not meet the risk assessment levels provided in subsection (c).

(2) Such sentence shall not be considered a departure and shall not be subject to appeal.

(i) The court may order an offender who otherwise does not meet the requirements of subsection (c) to undergo one additional drug abuse assessment while such offender is on probation. Such offender may be ordered to undergo drug abuse treatment pursuant to subsection (a) if such offender is determined to meet the requirements of subsection (c). The cost of such assessment shall be paid by such offender.

Sec. 10. On and after July 1, 2019, K.S.A. 2018 Supp. 22-3716 is hereby amended to read as follows: 22-3716. (a) At any time during probation, assignment to a community correctional services program, suspension of sentence or pursuant to subsection (e) for defendants who committed a crime prior to July 1, 1993, and at any time ~~during which~~ when a defendant is serving a nonprison sanction for a crime committed on or after July 1, 1993, or pursuant to subsection (e), the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of release or assignment, a notice to appear to answer to a charge of violation or a violation of the defendant's nonprison sanction. The notice shall be personally served upon the defendant. The warrant shall authorize all officers named in the warrant to return the defendant to the custody of the court or to any certified detention facility designated by the court. Any court services officer or community correctional services officer may arrest the defendant without a warrant or may deputize any other officer with power of arrest to do so by giving the officer a written or verbal statement setting forth that the defendant has, in the judgment of the court services officer or community correctional services officer, violated the conditions of the defendant's release or a nonprison sanction. A written statement delivered to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the defendant. After making an arrest, the court services officer or community correctional services officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be

applicable to defendants arrested under these provisions.

(b) (1) Upon arrest and detention pursuant to subsection (a), the court services officer or community correctional services officer shall immediately notify the court and shall submit in writing a report showing in what manner the defendant has violated the conditions of release or assignment or a nonprison sanction.

(2) Unless the defendant, after being apprised of the right to a hearing by the supervising court services or community correctional services officer, waives such hearing, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charged. The hearing shall be in open court and the state shall have the burden of establishing the violation. The defendant shall have the right to be represented by counsel and shall be informed by the judge that, if the defendant is financially unable to obtain counsel, an attorney will be appointed to represent the defendant. The defendant shall have the right to present the testimony of witnesses and other evidence on the defendant's behalf. Relevant written statements made under oath may be admitted and considered by the court along with other evidence presented at the hearing.

(3) (A) Except as otherwise provided, if the original crime of conviction was a felony, other than a felony specified in K.S.A. 2018 Supp. 21-6804(i), and amendments thereto, and a violation is established, the court may impose the violation sanctions as provided in subsection (c)(1).

(B) Except as otherwise provided, if the original crime of conviction was a misdemeanor or a felony specified in K.S.A. 2018 Supp. 21-6804(i), and amendments thereto, and a violation is established, the court may:

(i) Continue or modify the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and impose confinement in a county jail not to exceed 60 days. If an offender is serving multiple probation terms concurrently, any confinement periods imposed shall be imposed concurrently;

(ii) impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and ~~subsections (b)(4)(A) and (b)(4)(B)~~ subsection (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of supervision, except as provided in subsection (h); or

(iii) revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and require the defendant to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence ~~which that~~ might originally have been imposed.

(4) Except as otherwise provided, if the defendant waives the right to a hearing ~~and the sentencing court has not specifically withheld the authority from court services or community correctional services to impose sanctions~~, the following sanctions may be imposed without further order of the court:

(A) If the defendant was on probation at the time of the violation, the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not exceed 18 total days during the term of supervision, except as provided in subsection

(h); and

(B) if the defendant was assigned to a community correctional services program at the time of the violation, the defendant's community corrections officer, with the concurrence of the community corrections director, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (c)(1)(B) shall not exceed 18 total days during the term of supervision, except as provided in subsection (h).

(c) (1) Except as otherwise provided, if the original crime of conviction was a felony, other than a felony specified in K.S.A. 2018 Supp. 21-6804(i), and amendments thereto, and a violation is established, the court may impose the following sanctions:

(A) Continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction;

(B) continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and an intermediate sanction of confinement in a county jail to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and ~~subsections~~ subsection (b)(4)(A) and (b)(4) ~~(B)~~ shall not exceed 18 total days during the term of supervision, except as provided in subsection (h); or

~~(C) if the violator already had at least one intermediate sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B) or (c)(1)(B) related to the crime for which the original supervision was imposed, continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and remanding the defendant to the custody of the secretary of corrections for a period of 120 days, subject to a reduction of up to 60 days in the discretion of the secretary. This sanction shall not be imposed more than once during the term of supervision. The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7);~~

~~(D) if the violator already had a sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B), (c)(1)(B) or (c)(1)(C) related to the crime for which the original supervision was imposed, continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and remanding the defendant to the custody of the secretary of corrections for a period of 180 days, subject to a reduction of up to 90 days in the discretion of the secretary. This sanction shall not be imposed more than once during the term of supervision. The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7); or~~

~~(E) if the violator already had a sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D) (c)(1)(B) related to the crime for which the original supervision was imposed, revocation of the probation, assignment to a community corrections services program, suspension of sentence or nonprison sanction and requiring such violator to serve the sentence imposed, or any lesser sentence and, if imposition of sentence was suspended, imposition of any sentence ~~which that~~ might originally have been imposed.~~

(2) Except as otherwise provided in subsections (c)(3), ~~(e)(8)~~ and ~~(c)(9)(7)~~, no offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section shall be required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections for such violation, unless such person has already had at least one prior assignment to a community correctional services program related to the crime for which the original sentence was imposed.

(3) The provisions of subsection (c)(2) shall not apply to adult felony offenders as described in K.S.A. 75-5291(a)(3), and amendments thereto.

(4) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(5) When a new felony is committed while the offender is on probation or assignment to a community correctional services program, the new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2018 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

~~(6) Except as provided in subsection (f), upon completion of a violation sanction imposed pursuant to subsection (e)(1)(C) or (e)(1)(D) such offender shall return to community correctional services supervision. The sheriff shall not be responsible for the return of the offender to the county where the community correctional services supervision is assigned.~~

~~(7) A violation sanction imposed pursuant to subsection (c)(1)(B), (e)(1)(C) or (e)(1)(D) shall not be longer than the amount of time remaining on the offender's underlying prison sentence.~~

~~(8) (A) If the offender commits a new felony or misdemeanor while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (e)(1)(E) without having previously imposed a sanction pursuant to subsection (e)(1)(B), (e)(1)(C) or (e)(1)(D);~~

~~(B) If the offender absconds from supervision while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may: (i) Revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (e)(1)(E) without having previously imposed a sanction pursuant to subsection (e)(1)(B), (e)(1)(C) or (e)(1)(D); or~~

~~(ii) sanction the offender under subsection (e)(1)(A), (e)(1)(C) or (e)(1)(D) without imposing a sanction under (e)(1)(B).~~

~~(9)(7) The court may revoke the probation, assignment to a community correctional~~

services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1)(E) without having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D) if:

(A) The court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the offender will not be served by such sanction; or

(B) the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction was originally granted as the result of a dispositional departure granted by the sentencing court pursuant to K.S.A. 2018 Supp. 21-6815, and amendments thereto;

(C) the offender commits a new felony or misdemeanor while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction; or

(D) the offender absconds from supervision while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction.

~~(10)(8)~~ If an offender is serving multiple probation terms concurrently, any violation sanctions imposed pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D), or any sanction imposed pursuant to subsection (c)(1)(9), shall be imposed concurrently.

~~(11)(9)~~ If the original crime of conviction was a felony, except for violations of K.S.A. 8-1567 or 8-2,144, and amendments thereto, and the court makes a finding that the offender has committed one or more violations of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may impose confinement in a county jail not to exceed 60 days upon each such finding. Such confinement is separate and distinct from the violation sanctions provided in subsection (c)(1)(B), (c)(1)(C), (c)(1)(D) and (c)(1)(E) and shall not be imposed at the same time as any such violation sanction.

~~(12)(10)~~ The violation sanctions provided in this subsection shall apply to any violation of conditions of release or assignment or a nonprison sanction occurring on and after July 1, 2013, regardless of when the offender was sentenced for the original crime or committed the original crime for which sentenced.

(d) A defendant who is on probation, assigned to a community correctional services program, under suspension of sentence or serving a nonprison sanction and for whose return a warrant has been issued by the court shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it appears that the defendant has violated the provisions of the defendant's release or assignment or a nonprison sanction, the court shall determine whether the time from the issuing of the warrant to the date of the defendant's arrest, or any part of it, shall be counted as time served on probation, assignment to a community correctional services program, suspended sentence or pursuant to a nonprison sanction.

(e) The court shall have 30 days following the date probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction was to end to issue a warrant for the arrest or notice to appear for the defendant to answer a charge of a violation of the conditions of probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction.

(f) For crimes committed on and after July 1, 2013, a felony offender whose

nonprison sanction is revoked pursuant to subsection (c) or whose underlying prison term expires while serving a sanction pursuant to subsection (c)(1)~~(C)~~ or ~~(e)(1)(D)~~ shall serve a period of postrelease supervision upon the completion of the prison portion of the underlying sentence.

(g) Offenders who have been sentenced pursuant to K.S.A. 2018 Supp. 21-6824, and amendments thereto, and who subsequently violate a condition of the drug and alcohol abuse treatment program shall be subject to an additional nonprison sanction for any such subsequent violation. Such nonprison sanctions shall include, but not be limited to, up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.

(h) If the court continues or modifies the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, pursuant to subsection (b) or (c), the court shall authorize an additional 18 days of sanction time in a county jail to be reserved for sanctions as set forth in subsection (b)(3), (b)(4) or (c)(1).

Sec. 11. On and after July 1, 2019, K.S.A. 2018 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through 21-4638 and 21-4642, prior to their repeal; K.S.A. 2018 Supp. 21-6617, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2018 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) An inmate sentenced to imprisonment for life without the possibility of parole pursuant to K.S.A. 2018 Supp. 21-6617, and amendments thereto, shall not be eligible for parole.

(2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2018 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of: (A) Capital murder committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; (B) murder in the first degree based upon a finding of premeditated murder committed on or after July 1, 1994, but prior to July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; and (C) murder in the first degree as described in K.S.A. 2018 Supp. 21-5402(a)(2), and amendments thereto, committed on or after July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(3) Except as provided by subsections (b)(1), (b)(2) and (b)(5), K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2018 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2018 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

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

(6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

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

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608, prior to its repeal, or K.S.A. 2018 Supp. 21-6606, and amendments thereto, less good time credits for those crimes which are not class A felonies; and

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

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

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

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

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

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

(D) Persons sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, committed on or after July 1, 1993, but prior to July 1, 2006, a sexually motivated crime in which the offender has been ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its

repeal, or K.S.A. 2018 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2018 Supp. 21-5512, and amendments thereto, shall serve the period of postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C), plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2018 Supp. 21-6821, and amendments thereto, on postrelease supervision.

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

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, prior to its repeal, or K.S.A. 2018 Supp. 21-6820, and amendments thereto.

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

- (a) Written briefs or oral arguments submitted by either the defendant or the state;
- (b) any evidence received during the proceeding;
- (c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to K.S.A. 21-4714(e), prior to its repeal, or K.S.A. 2018 Supp. 21-6813(e), and amendments thereto; and
- (d) any other evidence the court finds trustworthy and reliable.

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

(v) In carrying out the provisions of subsection (d)(1)(D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2018 Supp. 21-6817, and amendments thereto.

(vi) Upon petition and payment of any restitution ordered pursuant to K.S.A. 2018 Supp. 21-6604, and amendments thereto, the prisoner review board may provide for early discharge from the postrelease supervision period imposed pursuant to subsection (d)(1)(D)(i) upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the board.

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

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2018 Supp. 21-5508, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on

postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

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

(G) (i) Except as provided in subsection (u), persons sentenced to imprisonment for a sexually violent crime committed on or after July 1, 2006, when the offender was 18 years of age or older, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(ii) Persons sentenced to imprisonment for a sexually violent crime committed on or after the effective date of this act, when the offender was under 18 years of age, and who are released from prison, shall be released to a mandatory period of postrelease supervision for 60 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2018 Supp. 21-6821, and amendments thereto.

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

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

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

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

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and amendments thereto;

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

(E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;

(K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(L) internet trading in child pornography, as defined in K.S.A. 2018 Supp. 21-5514(a), and amendments thereto;

(M) aggravated internet trading in child pornography, as defined in K.S.A. 2018 Supp. 21-5514(b), and amendments thereto;

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

(O) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

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

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

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

(g) Subject to the provisions of this section, the prisoner review board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the

community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the prisoner review board will review the inmate's proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they

deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) (1) Before ordering the parole of any inmate, the prisoner review board shall have the inmate appear either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to 10 years, but any such deferral shall require the board to state the basis for its findings.

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

(k) (1) Parolees and persons on postrelease supervision shall be assigned, upon

release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

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

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

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

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

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

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

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

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

(5) unless it finds compelling circumstances ~~which that~~ would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision

reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the prisoner review board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services;

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

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

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

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

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

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

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

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

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

- (1) On or before September 1, 2013, for offenders convicted of:
  - (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes;
  - (B) severity level 4 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and
  - (C) severity level 5 crimes on the sentencing guidelines grid for drug crimes committed on and after July 1, 2012;
- (2) on or before November 1, 2013, for offenders convicted of:
  - (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes;
  - (B) level 3 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and
  - (C) level 4 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012; and
- (3) on or before January 1, 2014, for offenders convicted of:
  - (A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing guidelines grid for nondrug crimes;
  - (B) severity levels 1 and 2 crimes on the sentencing guidelines grid for drug crimes committed at any time; and
  - (C) severity level 3 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012.
- (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the prisoner review board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.
- (v) Whenever the prisoner review board orders a person to be electronically monitored pursuant to this section, or the court orders a person to be electronically monitored pursuant to K.S.A. 2018 Supp. 21-6604(r), and amendments thereto, the board shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.
- (w) (1) On and after July 1, 2012, for any inmate who is a sex offender, as defined in K.S.A. 22-4902, and amendments thereto, whenever the prisoner review board orders the parole of such inmate or establishes conditions for such inmate placed on postrelease supervision, such inmate shall agree in writing to not possess pornographic materials.
  - (A) As used in this subsection, "pornographic materials" means any obscene material or performance depicting sexual conduct, sexual contact or a sexual performance; and any visual depiction of sexually explicit conduct.
  - (B) As used in this subsection, all other terms have the meanings provided by K.S.A. 2018 Supp. 21-5510, and amendments thereto.
- (2) The provisions of this subsection shall be applied retroactively to every sex offender, as defined in K.S.A. 22-4902, and amendments thereto, who is on parole or postrelease supervision on July 1, 2012. The prisoner review board shall obtain the

written agreement required by this subsection from such offenders as soon as practicable.

Sec. 12. On and after July 1, 2019, K.S.A. 2018 Supp. 22-2307 is hereby amended to read as follows: 22-2307. (a) All law enforcement agencies in this state shall adopt written policies regarding domestic violence calls as provided in ~~subsection~~ subsections (b) and (c). These policies shall be made available to all officers of such agency.

(b) Such written policies shall include, but not be limited to, the following:

(1) A statement directing that when a law enforcement officer determines that there is probable cause to believe that a crime or offense involving domestic violence, as defined in K.S.A. 2018 Supp. 21-5111, and amendments thereto, has been committed, the officer shall, without undue delay, arrest the person for which the officer has probable cause to believe committed the crime or offense if such person's actions were not an act of defense of a person or property as provided in K.S.A. 2018 Supp. 21-5222, 21-5223, 21-5225, 21-5230 or 21-5231, and amendments thereto;

(2) a statement that nothing shall be construed to require a law enforcement officer to:

(A) Arrest either party involved in an alleged act of domestic violence when the law enforcement officer determines there is no probable cause to believe that a crime or offense has been committed; or

(B) arrest both parties involved in an alleged act of domestic violence when both claim to have been victims of such domestic violence;

(3) a statement directing that if a law enforcement officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if there is probable cause that each accused person committed a crime or offense and their actions were not an act of defense of a person or property as provided in K.S.A. 2018 Supp. 21-5222, 21-5223, 21-5225, 21-5230 or 21-5231, and amendments thereto;

(4) a statement defining domestic violence in accordance with K.S.A. 2018 Supp. 21-5111, and amendments thereto;

(5) a statement describing the dispatchers' responsibilities;

(6) a statement describing the responding officers' responsibilities and procedures to follow when responding to a domestic violence call and the suspect is at the scene;

(7) a statement regarding procedures when the suspect has left the scene of the crime;

(8) procedures for both misdemeanor and felony cases;

(9) procedures for law enforcement officers to follow when handling domestic violence calls involving court orders, including protection from abuse orders, restraining orders and a protective order issued by a court of any state or Indian tribe;

(10) a statement that the law enforcement agency shall provide the following information to victims, in writing:

(A) Availability of emergency and medical telephone numbers, if needed;

(B) the law enforcement agency's report number;

(C) the address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A. 74-7333 and 74-7335, and amendments thereto;

(D) the name and address of the crime victims' compensation board and information about possible compensation benefits;

- (E) advise the victim that the details of the crime may be made public;
- (F) advise the victim of such victims' rights under K.S.A. 74-7333 and 74-7335, and amendments thereto; and
- (G) advise the victim of known available resources which may assist the victim; and
- (11) whether an arrest is made or not, a standard offense report shall be completed on all such incidents and sent to the Kansas bureau of investigation.

(c) Such written policies shall provide that when an arrest is made for a domestic violence offense as defined in K.S.A. 2018 Supp. 21-5111, and amendments thereto, including an arrest for violation of a protection order as defined in K.S.A. 2018 Supp. 21-5924, and amendments thereto, the officer shall provide the victim information related to:

(A) The fact that in some cases the person arrested can be released from custody in a short amount of time;

(B) the fact that in some cases a bond condition may be imposed on the person arrested that prohibits contact with the victim for 72 hours, and that if the person arrested contacts the victim during that time, the victim should notify law enforcement immediately; and

(C) any available services within the jurisdiction to monitor custody changes of the person being arrested, including, but not limited to, the Kansas victim information and notification everyday service if available in such jurisdiction.

(d) All law enforcement agencies shall provide training to law enforcement officers about the policies adopted pursuant to this section.

Sec. 13. K.S.A. 2018 Supp. 21-6811 is hereby amended to read as follows: 21-6811. In addition to the provisions of K.S.A. 2018 Supp. 21-6810, and amendments thereto, the following shall apply in determining an offender's criminal history classification as contained in the presumptive sentencing guidelines grids:

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender's criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined in K.S.A. 21-3408, prior to its repeal, or K.S.A. 2018 Supp. 21-5412(a), and amendments thereto, occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes.

(b) A conviction of criminal possession of a firearm as defined in K.S.A. 21-4204(a)(1) or (a)(5), prior to its repeal, criminal use of weapons as defined in K.S.A. 2018 Supp. 21-6301(a)(10) or (a)(11), and amendments thereto, or unlawful possession of a firearm as in effect on June 30, 2005, and as defined in K.S.A. 21-4218, prior to its repeal, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for K.S.A. 21-3404(b), as in effect on June 30, 1996, involuntary manslaughter in the commission of driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567, and amendments thereto, shall count as one person

felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for a violation of K.S.A. 2018 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A) Any act described in K.S.A. 8-2,144 or 8-1567, and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(3) If the current crime of conviction is for a violation of K.S.A. 2018 Supp. 21-5413(b)(3) or (b)(4), and amendments thereto:

(A) The first prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one nonperson felony for criminal history purposes: (i) Any act described in K.S.A. 8-2,144 or 8-1567, and amendments thereto; or (ii) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567, and amendments thereto; and

(B) each second or subsequent prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one person felony for criminal history purposes: (i) Any act described in K.S.A. 8-2,144 or 8-1567, and amendments thereto; or (ii) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567, and amendments thereto.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A. 21-3715(a), prior to its repeal, or K.S.A. 2018 Supp. 21-5807(a)(1), and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A. 21-3715(b) or (c), prior to its repeal, or K.S.A. 2018 Supp. 21-5807(a)(2) or (a)(3), and amendments thereto.

The facts required to classify prior burglary adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(e) (1) Out-of-state convictions and juvenile adjudications shall be used in classifying the offender's criminal history.

(2) An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction.

(A) If a crime is a felony in the convicting jurisdiction, it will be counted as a felony in Kansas.

(B) If a crime is a misdemeanor in the convicting jurisdiction, the state of Kansas shall refer to the comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed to classify the out-of-state crime as a class A, B or C misdemeanor. If the comparable offense in the state of Kansas is a felony, the out-of-state crime shall be classified as a class A misdemeanor. If the state of Kansas does not have a comparable offense in effect on the date the current crime of conviction was committed, the out-of-state crime shall not be used in classifying the offender's criminal history.

(C) If a crime is not classified as either a felony or a misdemeanor in the convicting jurisdiction, the state of Kansas shall refer to the comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed to classify the out-of-state crime as either a felony or a misdemeanor. If the state of Kansas does not have a comparable offense in effect on the date the current crime of conviction was committed, the out-of-state crime shall not be used in classifying the offender's criminal history.

(3) The state of Kansas shall classify the crime as person or nonperson.

(A) In designating a ~~crime misdemeanor~~ as person or nonperson, comparable offenses under the Kansas criminal code in effect on the date the current crime of conviction was committed shall be referred to. If the state of Kansas does not have a comparable person offense in effect on the date the current crime of conviction was committed, the out-of-state crime shall be classified as a nonperson crime.

(B) In designating a felony crime as person or nonperson, the felony crime shall be classified as follows:

(i) An out-of-state conviction or adjudication for the commission of a felony offense, or an attempt, conspiracy or criminal solicitation to commit a felony offense, shall be classified as a person felony if one or more of the following circumstances is present as defined by the convicting jurisdiction in the elements of the out-of-state offense:

(a) Death or killing of any human being;

(b) threatening or causing fear of bodily or physical harm or violence, causing terror, physically intimidating or harassing any person;

(c) bodily harm or injury, physical neglect or abuse, restraint, confinement or touching of any person, without regard to degree;

(d) the presence of a person, other than the defendant, a charged accomplice or another person with whom the defendant is engaged in the sale, distribution or transfer of a controlled substance or non-controlled substance;

(e) possessing, viewing, depicting, distributing, recording or transmitting an image of any person;

(f) lewd fondling or touching, sexual intercourse or sodomy with or by any person or an unlawful sexual act involving a child under the age of consent;

(g) being armed with, using, displaying or brandishing a firearm or other weapon, excluding crimes of mere unlawful possession; or

(h) entering or remaining within any residence, dwelling or habitation.

(ii) An out-of-state conviction or adjudication for the commission of a felony offense, or an attempt, conspiracy or criminal solicitation to commit a felony offense, shall be classified as a person felony if the elements of the out-of-state felony offense that resulted in the conviction or adjudication necessarily prove that a person was present during the commission of the offense. For purposes of this clause, the person present must be someone other than the defendant, a charged accomplice or another person with whom the defendant is engaged in the sale, distribution or transfer of a controlled substance or non-controlled substance. The presence of a person includes physical presence and presence by electronic or telephonic communication.

(iii) An out-of-state conviction or adjudication for the commission of a felony offense, or an attempt, conspiracy or criminal solicitation to commit a felony offense, shall be classified as a nonperson felony if the elements of the offense do not require

proof of any of the circumstances in subparagraph (B)(i) or (ii).

(4) Convictions or adjudications occurring within the federal system, other state systems, the District of Columbia, foreign, tribal or military courts are considered out-of-state convictions or adjudications.

(5) The facts required to classify out-of-state adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(f) Except as provided in K.S.A. 21-4710(d)(4), (d)(5) and (d)(6), prior to its repeal, or K.S.A. 2018 Supp. 21-6810(d)(3)(B), (d)(3)(C), (d)(3)(D), (d)(4) and (d)(5), and amendments thereto, juvenile adjudications will be applied in the same manner as adult convictions. Out-of-state juvenile adjudications will be treated as juvenile adjudications in Kansas.

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, to commit a crime shall be treated as a person or nonperson crime in accordance with the designation assigned to the underlying crime.

(h) Drug crimes are designated as nonperson crimes for criminal history scoring.

(i) If the current crime of conviction is for a violation of K.S.A. 8-1602(b)(3) through (b)(5), and amendments thereto, each of the following prior convictions for offenses committed on or after July 1, 2011, shall count as a person felony for criminal history purposes: K.S.A. 8-235, 8-262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605 and 40-3104, and amendments thereto, and K.S.A. 2018 Supp. 21-5405(a)(3) or (a)(5) and 21-5406, and amendments thereto, or a violation of a city ordinance or law of another state which would also constitute a violation of such sections.

(j) The amendments made to this section by chapter 5 of the 2015 Session Laws of Kansas are procedural in nature and shall be construed and applied retroactively.

Sec. 14. K.S.A. 2018 Supp. 21-6820 is hereby amended to read as follows: 21-6820. (a) A departure sentence is subject to appeal by the defendant or the state. The appeal shall be to the appellate courts in accordance with rules adopted by the supreme court.

(b) Pending review of the sentence, the sentencing court or the appellate court may order the defendant confined or placed on conditional release, including bond.

(c) On appeal from a judgment ~~of~~ of conviction entered for a felony committed on or after July 1, 1993, the appellate court shall not review:

(1) Any sentence that is within the presumptive sentence for the crime; or

(2) any sentence resulting from an agreement between the state and the defendant which the sentencing court approves on the record.

(d) In any appeal from a judgment of conviction imposing a sentence that departs from the presumptive sentence prescribed by the sentencing grid for a crime, sentence review shall be limited to whether the sentencing court's findings of fact and reasons justifying a departure:

(1) Are supported by the evidence in the record; and

(2) constitute substantial and compelling reasons for departure.

(e) In any appeal from a judgment of conviction, the appellate court may review a claim that:

(1) A sentence that departs from the presumptive sentence resulted from partiality, prejudice, oppression or corrupt motive;

(2) the sentencing court erred in either including or excluding recognition of a prior conviction or juvenile adjudication for criminal history scoring purposes; or

(3) the sentencing court erred in ranking the crime severity level of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.

(f) The appellate court may reverse or affirm the sentence. If the appellate court concludes that the trial court's factual findings are not supported by evidence in the record or do not establish substantial and compelling reasons for a departure, it shall remand the case to the trial court for resentencing.

(g) The appellate court shall issue a written opinion whenever the judgment of the sentencing court is reversed. The court may issue a written opinion in any other case when it is believed that a written opinion will provide guidance to sentencing judges and others in implementing the sentencing guidelines adopted by the Kansas sentencing commission. The appellate courts may provide by rule for summary disposition of cases arising under this section when no substantial question is presented by the appeal.

(h) A review under summary disposition shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required unless ordered by the appellate court and the review and decision shall be made in an expedited manner according to rules adopted by the supreme court.

(i) The sentencing court shall retain authority irrespective of any notice of appeal for 90 days after entry of judgment of conviction to modify its judgment and sentence to correct any arithmetic or clerical errors.

(j) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

Sec. 15. K.S.A. 2018 Supp. 22-3504 is hereby amended to read as follows: 22-3504. ~~(+)~~ (a) The court may correct an illegal sentence at any time while the defendant is serving such sentence. The defendant shall receive full credit for time spent in custody under the sentence prior to correction. Unless the motion and the files and records of the case conclusively show that the defendant is entitled to no relief, the defendant shall have a right to a hearing, after reasonable notice to be fixed by the court, to be personally present and to have the assistance of counsel in any proceeding for the correction of an illegal sentence.

~~(2)~~ (b) Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

~~(3)~~ (c) For the purposes of this section:

(1) "Illegal sentence" means a sentence: Imposed by a court without jurisdiction; that does not conform to the applicable statutory provision, either in character or punishment; or that is ambiguous with respect to the time and manner in which it is to be served at the time it is pronounced. A sentence is not an "illegal sentence" because of a change in the law that occurs after the sentence is pronounced.

(2) "Change in the law" means a statutory change or an opinion by an appellate court of the state of Kansas, unless the opinion is issued while the sentence is pending an appeal from the judgment of conviction.

(d) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

New Sec. 16. If the amendments made to K.S.A. 2018 Supp. 21-6811, 21-6820 and

22-3504 are, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the amendments made to K.S.A. 2018 Supp. 21-6811, 21-6820 and 22-3504 that can be given effect without the invalid provision or provisions or application, and to this end the amendments made to K.S.A. 2018 Supp. 21-6811, 21-6820 and 22-3504 are severable.

Sec. 17. K.S.A. 2018 Supp. 21-6811, 21-6811c, 21-6820 and 22-3504 are hereby repealed.";

Also on page 6, in line 37, before the first "K.S.A." by inserting "On and after July 1, 2019,"; also in line 37, after "Supp." by inserting "21-5405, 21-5602,"; also in line 37, after the comma by inserting "21-6604,"; also in line 37, after "21-6813" by inserting ", 21-6815,"; in line 38, by striking "and" and inserting "21-6824, 22-2307,"; also in line 38, after "22-2909" by inserting ", 22-3716 and 22-3717"; in line 40, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "to" by inserting "involuntary manslaughter; abuse of a child,"; also in line 2, after the second semicolon by inserting "conditions of probation; sanctions for violation; determination of offender's criminal history classification; comparable offense; appeal of sentence; correction of sentence; departure sentence; mitigating factors; certified drug abuse treatment program; requiring law enforcement to provide information to victims when an arrest is made for a domestic violence offense,"; in line 4, after "Supp." by inserting "21-5405, 21-5602,"; also in line 4, after the comma by inserting "21-6604, 21-6811,"; also in line 4, after "21-6813" by inserting ", 21-6815,"; in line 5, by striking the first "and" and inserting "21-6820, 21-6824, 22-2307,"; also in line 5, after "22-2909" by inserting ", 22-3504, 22-3716 and 22-3717"; also in line 5, after "sections" by inserting "; also repealing K.S.A. 2018 Supp. 21-6811c";

And your committee on conference recommends the adoption of this report.

FRED PATTON  
BRAD RALPH  
JOHN CARMICHAEL

*Conferees on part of House*

RICK WILBORN  
ERIC RUCKER  
VIC MILLER

*Conferees on part of Senate*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **SB 18**.

On roll call, the vote was: Yeas 37; Nays 3; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Rucker, Skubal, Suellentrop, Sykes, Taylor, Wagle, Ware, Wilborn.

Nays: Pilcher-Cook, Pyle, Tyson.

The Conference Committee Report was adopted.

**CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to SB 20 submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 1, in line 18, after "(c)" by inserting "Any person filing a tribal court judgment shall pay to the clerk of the district court a docket fee as prescribed by K.S.A. 60-2001, and amendments thereto. Any additional fees or charges not specifically covered by the docket fee shall be assessed as additional court costs in the same manner and to the same extent as if the action had been originally commenced in the court where the tribal court judgment is filed.

(d) ";

On page 4, in line 26, by striking "2023" and inserting "2025";

On page 7, in line 29, by striking "2023" and inserting "2025";

On page 8, in line 9, by striking "2023" and inserting "2025"; following line 14, by inserting:

"Sec. 5. K.S.A. 2018 Supp. 21-6412 is hereby amended to read as follows: 21-6412. (a) Cruelty to animals is:

(1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;

(2) knowingly abandoning any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(5) knowingly but not maliciously killing or injuring any animal; or

(6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The person

convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal that is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an animal shelter, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such shelter;
- (6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) the killing of any animal by any person at any time that may be found outside of the owned or rented property of the owner or custodian of such animal and that is found injuring or posing a threat to any person, farm animal or property;
- (8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) laying an equine down for medical or identification purposes;
- (10) normal or accepted practices of pest control, as defined in K.S.A. 2-2438a(x), and amendments thereto; or
- (11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, that clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of an animal shelter or licensed veterinarian for treatment, boarding or other care or, if an officer of such animal shelter or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. The owner or custodian, if known or reasonably ascertainable, shall be notified in writing. If the owner or custodian is charged with a violation of this section, the law enforcement agency, district attorney's

office, county prosecutor, veterinarian or animal shelter may petition the district court in the county in which the animal was taken into custody to transfer ownership of the animal at any time after 21 days after the owner or custodian is notified ~~or, unless the owner or custodian of the animal files and maintains a renewable cash or performance bond with the county clerk of the county in which the animal was taken into custody in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Such cash or performance bond shall be maintained and renewed every 30 days as necessary to cover the cost of care and treatment of such animal until disposition of the animal by the court.~~ If the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, ~~unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days the law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court in the county in which the animal was taken into custody to transfer ownership of the animal.~~ Upon receiving such petition, the court shall determine whether the animal may be transferred.

(f) The owner or custodian of an animal transferred pursuant to subsection (e) shall not be entitled to recover damages for the transfer of such animal unless the owner proves that such transfer was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime. Any costs collected by the court or through the cash or performance bond described in subsection (e) shall be transferred to the entity responsible for paying the cost of the care, treatment or boarding of the animal.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to an animal shelter or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Animal shelter" means the same as such term is defined in K.S.A. 47-1701, and amendments thereto;

(2) "equine" means a horse, pony, mule, jenny, donkey or hinny; and

(3) "maliciously" means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.";

On page 12, in line 1, by striking "2023" and inserting "2025";

On page 17, in line 23, by striking "2023" and inserting "2025";

On page 20, in line 20, by striking "2023" and inserting "2025";

On page 21, in line 22, by striking "2023" and inserting "2025";

On page 23, in line 4, by striking "2023" and inserting "2025"; in line 16, by striking "2023" and inserting "2025";

On page 24, in line 15, by striking "2023" and inserting "2025";

On page 25, in line 18, by striking "2023" and inserting "2025";

On page 27, in line 3, by striking "2023" and inserting "2025"; in line 15, by striking "2023" and inserting "2025";

On page 29, in line 22, by striking "2023" and inserting "2025";

On page 31, in line 43, by striking "2023" and inserting "2025";  
 On page 33, in line 20, by striking "2023" and inserting "2025";  
 On page 34, in line 15, by striking "2023" and inserting "2025"; in line 31, by striking "2023" and inserting "2025";  
 On page 36, in line 34, by striking "2023" and inserting "2025";  
 On page 37, in line 36, by striking "2023" and inserting "2025";  
 On page 38, in line 11, by striking "2023" and inserting "2025"; in line 26, by striking "2023" and inserting "2025"; in line 30, after the first comma by inserting "21-6412,";  
 And by renumbering sections accordingly;  
 On page 1, in the title, in line 2, after the third semicolon by inserting "procedures relating to criminal violations of cruelty to animals;"; in line 4, after the first comma by inserting "21-6412,";  
 And your committee on conference recommends the adoption of this report.

FRED PATTON  
 BRAD RALPH  
 JOHN CARMICHAEL  
*Conferees on part of House*

RICK WILBORN  
 ERIC RUCKER  
 VIC MILLER  
*Conferees on part of Senate*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **SB 20**.

On roll call, the vote was: Yeas 35; Nays 5; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Petersen, Pettey, Rucker, Skubal, Suellentrop, Sykes, Taylor, Wagle, Ware, Wilborn.

Nays: Hilderbrand, Olson, Pilcher-Cook, Pyle, Tyson.

The Conference Committee Report was adopted.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to SB 63 submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 2, following line 37, by inserting:

"Sec. 4. K.S.A. 2018 Supp. 8-1749a is hereby amended to read as follows: 8-1749a.  
 (a) No motor vehicle required to be registered in this state and ~~which that~~ is operated on the highways of this state shall be equipped with one-way glass or any sun screening device, as defined in K.S.A. 8-1749b, and amendments thereto, and used in conjunction with windshields, side wings, side windows or rear windows that do not meet the following requirements:

(1) A sun screening device when used in conjunction with the windshield shall be nonreflective and shall not be red, yellow or amber in color. A sun screening device shall be used only along the top of the windshield and shall not extend downward beyond the AS1 line, which is clearly defined and marked;

(2) a sun screening device when used in conjunction with the side wings or side windows located at the immediate right and left of the driver, the side windows behind the driver and the rear most window shall be nonreflective; and

(3) the total light transmission shall not be less than 35% when a sun screening device is used in conjunction with other existing sun screening devices.

(b) Subsection (a)(3) shall not apply to a window of a law enforcement motor vehicle ~~that is clearly identified as such by words or other symbols on the outside of the vehicle.~~

(c) The provisions of subsection (a) shall not apply to the installation, affixation or application of a clear, colorless and transparent material that may be installed, affixed or applied to the windshields, side wings, side windows or rear windows of a motor vehicle if the following conditions are met:

(1) The material has a minimum visible light transmittance of 78%;

(2) the window glazing with the material applied meets all requirements of federal motor vehicle safety standard no. 205, including the specified minimum light transmittance of 70% and the abrasion resistance of AS-14 glazing, as specified in that federal standard;

(3) the material is designed and manufactured to enhance the ability of the existing window glass to block the sun's harmful ultraviolet A or B rays;

(4) the driver or occupant of the vehicle possesses a signed statement from a licensed physician or licensed optometrist that:

(A) Identifies with reasonable specificity the driver or occupant of the vehicle; and

(B) states that, in the physician's or optometrist's professional opinion, the equipping of the vehicle with the material is necessary to safeguard the health of the driver or occupant of the vehicle; and

(5) if the material described in this subsection tears or bubbles, or is otherwise worn to prohibit clear vision, it shall be removed or replaced.

(d) Any driver who is issued a citation for failure to possess a signed statement pursuant to subsection (c)(4) shall have 60 days to either produce in court a signed statement or remove the material described in subsection (c). If such driver produces the signed statement or submits proof to the satisfaction of the court that the material described in subsection (c) has been removed, then the court shall dismiss the citation.

(e) The superintendent of the highway patrol may adopt such rules and regulations necessary to carry out the provisions of this section.

~~(f)~~ (f) This section shall not prohibit labels, stickers or other informational signs that are required or permitted by state law.

~~(g)~~ (g) No motor vehicle required to be registered in this state ~~which that~~ is operated on the highways of this state shall be equipped with head lamps ~~which that~~ are covered with any sun screening device, adhesive film or other glaze or application, which, when such lamps are not in operation, is highly reflective or otherwise nontransparent.

~~(h)~~ (h) Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor.

Sec. 5. K.S.A. 2018 Supp. 8-15,100 is hereby amended to read as follows: 8-

15,100. (a) Except as provided in subsection (b), ~~(c) or (d)~~, it shall be unlawful for any person to operate an all-terrain vehicle: (1) On any interstate highway, federal highway or state highway; or (2) within the corporate limits of any city unless authorized by such city.

(b) Notwithstanding the provisions of subsection (a), all-terrain vehicles owned and operated by a county noxious weed department, or all-terrain vehicles owned and operated by persons contracting with a county noxious weed department or the Kansas department of transportation may be allowed to operate such all-terrain vehicles upon the right-of-way of any federal highway or state highway for the purpose of eradicating noxious weeds and such all-terrain vehicles may be operated incidentally upon such federal highway or state highway.

~~(c) Notwithstanding the provisions of subsection (a), all-terrain vehicles may be operated to cross a federal highway or state highway.~~

~~(d) Notwithstanding the provisions of subsection (a)(1), persons engaged in agricultural purposes may operate an all-terrain vehicle on a federal highway or state highway under the following conditions:~~

~~(1) The operator of the all-terrain vehicle must be a licensed driver and be operating within the restrictions of the operator's license;~~

~~(2) the federal highway or state highway must have a posted speed limit of 65 miles per hour or less;~~

~~(3) the operator of the all-terrain vehicle must operate the all-terrain vehicle as near to the right side of the roadway as practicable, except when making or preparing to make a left turn; and~~

~~(4) the purpose of the trip using the all-terrain vehicle must be for agricultural purposes.~~

~~(e) No all-terrain vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.~~

~~(f) This section shall be part of and supplemental to the uniform act regulating traffic on highways.~~

Sec. 6. K.S.A. 2018 Supp. 8-15,109 is hereby amended to read as follows: 8-15,109. (a) It shall be unlawful for any person to operate a work-site utility vehicle: (1) On any interstate highway, federal highway or state highway; or (2) within the corporate limits of any city unless authorized by such city.

~~(b) Notwithstanding the provisions of subsection (a), work-site utility vehicles may be operated to cross a federal highway or state highway.~~

~~(c) Notwithstanding the provisions of subsection (a)(1), persons engaged in agricultural purposes may operate a work-site utility vehicle on a federal highway or state highway under the following conditions:~~

~~(1) The operator of the work-site utility vehicle must be a licensed driver and be operating within the restrictions of the operator's license;~~

~~(2) the federal highway or state highway must have a posted speed limit of 65 miles per hour or less;~~

~~(3) the operator of the work-site utility vehicle must operate the work-site utility vehicle as near to the right side of the roadway as practicable, except when making or preparing to make a left turn; and~~

~~(4) the purpose of the trip using the work-site utility vehicle must be for~~

agricultural purposes.

~~(d)~~ No work-site utility vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

~~(e)~~ This section shall be part of and supplemental to the uniform act regulating traffic on highways.

New Sec. 7. "Electric-assisted scooter" means every self-propelled vehicle that has at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon when riding.

New Sec. 8. (a) It shall be unlawful for any person to operate an electric-assisted scooter on any interstate highway, federal highway or state highway.

(b) Notwithstanding the provisions of subsection (a), traffic regulations applicable to bicycles shall apply to electric-assisted scooters.

(c) The governing body of a city or county may adopt an ordinance or resolution that further restricts or prohibits the operation of electric-assisted scooters on any public highway, street or sidewalk within such city or county.

(d) Except as otherwise provided in subsection (c), the provisions of subsection (a) shall not prohibit an electric-assisted scooter from crossing a federal or state highway.

~~(e)~~ This section shall be a part of and supplemental to the uniform act regulating traffic on highways.

Sec. 9. K.S.A. 2018 Supp. 8-126 is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) "All-terrain vehicle" means any motorized nonhighway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires.

(b) "Autocycle" means a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

(c) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(d) "Contractor" means a person, partnership, corporation, local government, county government, county treasurer or other state agency that has contracted with the department to provide services associated with vehicle functions.

(e) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(f) "Division" means the division of vehicles of the department of revenue.

~~(g)~~ "Electric-assisted scooter" means every self-propelled vehicle that has at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon when riding.

~~(g)~~~~(h)~~ "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or

less.

~~(h)~~(i) "Electric vehicle" means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electrical energy storage devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

- (1) Residential electric service;
- (2) an electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, EVSE (Electric Vehicle Supply Equipment) or a public charging station.

~~(j)~~(i) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2018 Supp. 8-135d, and amendments thereto.

~~(j)~~(k) "Electronic notice of security interest" means the division's online internet program ~~which that~~ enables a dealer or secured party to submit a notice of security interest as defined in this section, and to cancel the notice or release the security interest using the program. This program is also known as the Kansas elien or KSelien.

~~(k)~~(l) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

~~(l)~~(m) "Farm trailer" means every trailer and semitrailer as those terms are defined in this section, designed and used primarily as a farm vehicle.

~~(m)~~(n) "Foreign vehicle" means every motor vehicle, trailer, or semitrailer ~~which that~~ shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and ~~which~~ has not been registered in this state.

~~(n)~~(o) "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

~~(o)~~(p) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

~~(p)~~(q) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

- (1) A farm tractor;
- (2) a self-propelled farm implement;
- (3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;
- (4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;
- (5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

~~(q)~~(r) "Lien" means a security interest as defined in this section.

(~~+~~)(s) "Lightweight roadable vehicle" means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration.

(~~s~~)(t) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(~~+~~)(u) "Micro utility truck" means any motor vehicle ~~which that~~ is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle or recreational off-highway vehicle.

(~~+~~)(v) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, ~~which that~~ is self-propelled.

(~~+~~)(w) "Motorcycle" means every motor vehicle, including autocycles, designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as defined in this section.

(~~w~~)(x) "Motorized bicycle" means every device having two tandem wheels or three wheels, ~~which that~~ may be propelled by either human power or helper motor, or by both, and ~~which~~ has:

- (1) A motor which produces not more than 3.5 brake horsepower;
- (2) a cylinder capacity of not more than 130 cubic centimeters;
- (3) an automatic transmission; and
- (4) the capability of a maximum design speed of no more than 30 miles per hour.

(~~+~~)(y) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person and such vehicle is incapable of a speed in excess of 15 miles per hour.

(~~+~~)(z) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(~~z~~)(aa) "Nonresident" means every person who is not a resident of this state.

(~~aa~~)(bb) "Notice of security interest" means a notification to the division from a dealer or secured party of a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, upon a vehicle ~~which that~~ has been sold and delivered to the purchaser describing the vehicle and showing the name, address and acknowledgment of the secured party as well as the name and address of the debtor or debtors and other information the division requires.

(~~bb~~)(cc) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(~~ee~~)(dd) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with

an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

~~(dd)~~(ee) "Passenger vehicle" means every motor vehicle, as defined in this section, ~~which that~~ is designed primarily to carry 10 or fewer passengers, and ~~which~~ is not used as a truck.

~~(ee)~~(ff) "Person" means every natural person, firm, partnership, association or corporation.

~~(ff)~~(gg) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

~~(gg)~~(hh) "Recreational off-highway vehicle" means any motor vehicle more than 50 but not greater than 64 inches in width, having a dry weight of 2,000 pounds or less, traveling on four or more nonhighway tires.

~~(hh)~~(ii) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

~~(ii)~~(jj) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

~~(jj)~~(kk) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

~~(kk)~~(ll) "Specially constructed vehicle" means any vehicle ~~which that~~ shall not have been originally constructed under a distinctive name, make, model or type, or ~~which that~~, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

~~(ll)~~(mm) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

~~(mm)~~(nn) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

~~(nn)~~(oo) "Truck" means a motor vehicle ~~which that~~ is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

~~(oo)~~(pp) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

~~(pp)~~(qq) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers or vehicles.

~~(qq)~~(rr) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

~~(#)~~(ss) "Vehicle functions" means services relating to the application, processing, auditing or distribution of original or renewal vehicle registrations, certificates of title, driver's licenses and division-issued identification cards associated with services and functions set out in articles 1, 2 and 13 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto. "Vehicle functions" may also include personal property taxation duties set out in article 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and other vehicle-related events described in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

~~(ss)~~(tt) "Work-site utility vehicle" means any motor vehicle ~~which that~~ is not less than 48 inches in width, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more nonhighway tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck or recreational off-highway vehicle.

Sec. 10. K.S.A. 2018 Supp. 8-128 is hereby amended to read as follows: 8-128. (a) The following need not be registered under this act, any:

- (1) Implement of husbandry;
- (2) all-terrain vehicle;
- (3) micro utility truck;
- (4) golf cart;
- (5) work-site utility vehicle;
- (6) road roller or road machinery temporarily operated or moved upon the highways;
- (7) municipally owned fire truck;
- (8) privately owned fire truck subject to a mutual aid agreement with a municipality;
- (9) school bus owned and operated by a school district or a nonpublic school ~~which that~~ has the name of the municipality, school district or nonpublic school plainly painted thereon;
- (10) farm trailer used in carrying not more than 6,000 pounds owned by a person engaged in farming, which trailer is used exclusively by the owner to transport agricultural products produced by such owner or commodities purchased by the owner for use on the farm owned or rented by the owner of such trailer and the weight of any such farm trailer, plus the cargo weight of 6,000 pounds or less, shall not be considered in determining the gross weight for which the truck or truck tractor propelling the same shall be registered; ~~or~~
- (11) farm trailer used and designed for transporting hay or forage from a field to a storage area or from a storage area to a feedlot, ~~which that~~ is only incidentally moved or operated upon the highways, except that this paragraph shall not apply to a farm semitrailer; or

(12) electric-assisted scooter.

(b) Self-propelled cranes where the crane operator on a job site operates the controls of such crane from a permanent housing or module on the crane and the crane is not used for the transportation of property, except the property that is required for the operation of the crane itself and earth moving equipment ~~which that~~ are equipped with pneumatic tires may be moved on the highways of this state from one job location to another, or to or from places of storage, delivery or repair, without complying with the

provisions of the law relating to registration and display of license plates but shall comply with all the other requirements of the law relating to motor vehicles.

(c) Oil well servicing, oil well clean-out or oil well drilling machinery or equipment need not be registered under this act but shall comply with all the other requirements of the law relating to motor vehicles.

(d) A truck permanently mounted with a hydraulic concrete pump and placing boom may be moved on the highways of this state from one job location to another, or to or from places of storage delivery or repair, without being registered under this act, but shall comply with all the other requirements of the law relating to motor vehicles. The provisions of this subsection shall not apply to ready-mix concrete trucks.

Sec. 11. K.S.A. 2018 Supp. 8-1486 is hereby amended to read as follows: 8-1486. K.S.A. 8-1402a, 8-1414a, 8-1439c, 8-1458a, 8-1459a, 8-1475a, 8-1487, 8-1488, 8-1489 and 8-1490, and amendments thereto, and K.S.A. 2018 Supp. 8-1491, 8-1492, 8-1493, 8-1494, 8-1495, 8-1496 and, 8-1497 and section 7, and amendments thereto, shall be a part of, and supplemental to, the uniform act regulating traffic on highways.

Sec. 12. K.S.A. 2018 Supp. 8-2118 is hereby amended to read as follows: 8-2118. (a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.

(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made in any manner accepted by the court. The traffic citation shall not have been complied with if the payment is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest, the payment shall be deemed such an appearance, waiver of right to trial and plea of no contest.

(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine ~~which that~~ may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense contained in the following uniform fine schedule is for reference only and is not a legal definition.

<i>Description of Offense</i>	<i>Statute</i>	<i>Fine</i>
Refusal to submit to a preliminary breath test	8-1012	\$105
Unsafe speed for prevailing conditions	8-1557	\$75
Exceeding maximum speed limit; or speeding in zone posted by the state department of transportation; or speeding in locally posted zone	8-1558 to 8-1560 8-1560a or 8-1560b	1-10 mph over the limit, \$45  11-20 mph over the limit, \$45 plus \$6 per mph over 10 mph over the limit;

		21-30 mph over the limit, \$105 plus \$9 per mph over 20 mph over the limit; 31 and more mph over the limit, \$195 plus \$15 per mph over 30 mph over the limit;
Disobeying traffic control device	8-1507	\$75
Violating traffic control signal	8-1508	\$75
Violating pedestrian control signal	8-1509	\$45
Violating flashing traffic signals	8-1510	\$75
Violating lane-control signal	8-1511	\$75
Unauthorized sign, signal, marking or device	8-1512	\$45
Driving on left side of roadway	8-1514	\$75
Failure to keep right to pass oncoming vehicle	8-1515	\$75
Improper passing; increasing speed when passed	8-1516	\$75
Improper passing on right	8-1517	\$75
Passing on left with insufficient clearance	8-1518	\$75
Driving on left side where curve, grade, intersection railroad crossing, or obstructed view	8-1519	\$75
Driving on left in no-passing zone	8-1520	\$75
Unlawful passing of stopped emergency vehicle	8-1520a	\$75
Driving wrong direction on one-way road	8-1521	\$75
Improper driving on laned roadway	8-1522	\$75
Following too close	8-1523	\$75
Improper crossover on divided highway	8-1524	\$45
Failure to yield right-of-way at uncontrolled intersection	8-1526	\$75
Failure to yield to approaching vehicle when turning left	8-1527	\$75
Failure to yield at stop or	8-1528	\$75

yield sign		
Failure to yield from private road or driveway	8-1529	\$75
Failure to yield to emergency vehicle	8-1530	\$195
Failure to yield to pedestrian or vehicle working on roadway	8-1531	\$105
Failure to comply with restrictions in road construction zone	8-1531a	\$45
Disobeying pedestrian traffic control device	8-1532	\$45
Failure to yield to pedestrian in crosswalk; pedestrian suddenly entering roadway; passing vehicle stopped for pedestrian at crosswalk	8-1533	\$75
Improper pedestrian crossing	8-1534	\$45
Failure to exercise due care in regard to pedestrian	8-1535	\$45
Improper pedestrian movement in crosswalk	8-1536	\$45
Improper use of roadway by pedestrian	8-1537	\$45
Soliciting ride or business on roadway	8-1538	\$45
Driving through safety zone	8-1539	\$45
Failure to yield to pedestrian on sidewalk	8-1540	\$45
Failure of pedestrian to yield to emergency vehicle	8-1541	\$45
Failure to yield to blind pedestrian	8-1542	\$45
Pedestrian disobeying bridge or railroad signal	8-1544	\$45
Improper turn or approach	8-1545	\$75
Improper "U" turn	8-1546	\$75
Unsafe starting of stopped vehicle	8-1547	\$45
Unsafe turning or stopping, failure to give proper signal; using turn signal unlawfully	8-1548	\$75
Improper method of giving notice of intention to turn	8-1549	\$45

Improper hand signal	8-1550	\$45
Failure to stop or obey road crossing signal	8-1551	\$195
Failure to stop at railroad crossing stop sign	8-1552	\$135
Certain hazardous vehicles failure to stop at railroad crossing	8-1553	\$195
Improper moving of heavy equipment at railroad crossing	8-1554	\$75
Vehicle emerging from alley, private roadway, building or driveway	8-1555	\$75
Improper passing of school bus; improper use of school bus signals	8-1556	\$315
Improper passing of church or day-care bus; improper use of signals	8-1556a	\$195
Impeding normal traffic by slow speed	8-1561	\$45
Speeding on motor-driven cycle	8-1562	\$75
Speeding in certain vehicles or on posted bridge	8-1563	\$45
Improper stopping, standing or parking on roadway	8-1569	\$45
Parking, standing or stopping in prohibited area	8-1571	\$45
Improper parking	8-1572	\$45
Unattended vehicle	8-1573	\$45
Improper backing	8-1574	\$45
Driving on sidewalk	8-1575	\$45
Driving with view or driving mechanism obstructed	8-1576	\$45
Unsafe opening of vehicle door	8-1577	\$45
Riding in house trailer	8-1578	\$45
Unlawful riding on vehicle	8-1578a	\$75
Improper driving in defiles, canyons, or on grades	8-1579	\$45
Coasting	8-1580	\$45
Following fire apparatus too closely	8-1581	\$75
Driving over fire hose	8-1582	\$45
Putting glass, etc., on high-	8-1583	\$105

way		
Driving into intersection, crosswalk, or crossing without sufficient space on other side	8-1584	\$45
Improper operation of snow- mobile on highway	8-1585	\$45
Parental responsibility of child riding bicycle	8-1586	\$45
Not riding on bicycle seat; too many persons on bicycle	8-1588	\$45
Clinging to other vehicle	8-1589	\$45
Improper riding of bicycle on roadway	8-1590	\$45
Carrying articles on bicycle; one hand on handlebars	8-1591	\$45
Improper bicycle lamps, brakes or reflectors	8-1592	\$45
Improper operation of mo- torcycle; seats; passen- gers, bundles	8-1594	\$45
Improper operation of motor cycle on laned roadway	8-1595	\$75
Motorcycle clinging to other vehicle	8-1596	\$45
Improper motorcycle handle- bars or passenger equipment	8-1597	\$75
Motorcycle helmet and eye- protection requirements	8-1598	\$45
Unlawful operation of all-ter- rain vehicle	8-15,100	\$75
Unlawful operation of low-speed vehicle	8-15,101	\$75
Littering	8-15,102	\$115
Disobeying school crossing guard	8-15,103	\$75
Unlawful operation of micro utility truck	8-15,106	\$75
Failure to remove vehicles in accidents	8-15,107	\$75
Unlawful operation of golf cart	8-15,108	\$75
Unlawful operation of work- site utility vehicle	8-15,109	\$75
Unlawful display of license	8-15,110	\$60

plate		
Unlawful text messaging	8-15,111	\$60
Unlawful passing of a waste collection vehicle	8-15,112	\$45
<u>Unlawful operation of electric-assisted scooter</u>	section 8	\$45
Equipment offenses that are not misdemeanors	8-1701	\$75
Driving without lights when needed	8-1703	\$45
Defective headlamps	8-1705	\$45
Defective tail lamps	8-1706	\$45
Defective reflector	8-1707	\$45
Improper stop lamp or turn signal	8-1708	\$45
Improper lighting equipment on certain vehicles	8-1710	\$45
Improper lamp color on certain vehicles	8-1711	\$45
Improper mounting of reflectors and lamps on certain vehicles	8-1712	\$45
Improper visibility of reflectors and lamps on certain vehicles	8-1713	\$45
No lamp or flag on projecting load	8-1715	\$75
Improper lamps on parked vehicle	8-1716	\$45
Improper lights, lamps, reflectors and emblems on farm tractors or slow-moving vehicles	8-1717	\$45
Improper lamps and equipment on implements of husbandry, road machinery or animal-drawn vehicles	8-1718	\$45
Unlawful use of spot, fog, or auxiliary lamp	8-1719	\$45
Improper lamps or lights on emergency vehicle	8-1720	\$45
Improper stop or turn signal	8-1721	\$45
Improper vehicular hazard warning lamp	8-1722	\$45
Unauthorized additional lighting equipment	8-1723	\$45

Improper multiple-beam lights	8-1724	\$45
Failure to dim headlights	8-1725	\$75
Improper single-beam head- lights	8-1726	\$45
Improper speed with alter- nate lighting	8-1727	\$45
Improper number of driving lamps	8-1728	\$45
Unauthorized lights and sig- nals	8-1729	\$45
Improper school bus lighting equipment and warning devices	8-1730	\$45
Unauthorized lights and de- vices on church or day- care bus	8-1730a	\$45
Improper lights on highway construction or maintenance vehicles	8-1731	\$45
Defective brakes	8-1734	\$45
Defective or improper use of horn or warning device	8-1738	\$45
Defective muffler	8-1739	\$45
Defective mirror	8-1740	\$45
Defective wipers; obstructed windshield or windows	8-1741	\$45
Improper tires	8-1742	\$45
Improper flares or warning devices	8-1744	\$45
Improper use of vehicular hazard warning lamps and devices	8-1745	\$45
Improper air-conditioning equipment	8-1747	\$45
Improper safety belt or shoulder harness	8-1749	\$45
Improper wide-based single tires	8-1742b	\$75
Improper compression re- lease engine braking sys- tem	8-1761	\$75
Defective motorcycle head- lamp	8-1801	\$45
Defective motorcycle tail lamp	8-1802	\$45
Defective motorcycle reflec- tor	8-1803	\$45

Defective motorcycle stop lamps and turn signals	8-1804	\$45
Defective multiple-beam lighting	8-1805	\$45
Improper road-lighting equipment on motor-driven cycles	8-1806	\$45
Defective motorcycle or motor-driven cycle brakes	8-1807	\$45
Improper performance ability of brakes	8-1808	\$45
Operating motorcycle with disapproved braking system	8-1809	\$45
Defective horn, muffler, mirrors or tires	8-1810	\$45
Unlawful statehouse parking	75-4510a	\$30
Exceeding gross weight of vehicle or combination	8-1909	Pounds Overweight up to 1000....\$40 1001 to 2000....3¢ per pound 2001 to 5000....5¢ per pound 5001 to 7500....7¢ per pound 7501 and over..10¢ per pound
Exceeding gross weight on any axle or tandem, triple or quad axles	8-1908	Pounds Overweight up to 1000....\$40 1001 to 2000....3¢ per pound 2001 to 5000....5¢ per pound 5001 to 7500....7¢ per pound 7501 and over..10¢ per pound
Failure to obtain proper registration, clearance or to have current certification	66-1324	\$287
Insufficient liability insurance for motor carriers	66-1,128 or 66-1314	\$137
Failure to obtain interstate motor fuel tax authorization	79-34,122	\$137
No authority as private or	66-1,111	\$137

common carrier		
Violation of motor carrier	66-1,129	\$115
safety rules and regula-		
tions, except for viola-		
tions specified in K.S.A.		
66-1,130(b)(2), and		
amendments thereto		

(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).

(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.

(f) For a second violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after a prior conviction of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 1½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years, after two prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined two times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 2½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c).

(g) Fines listed in the uniform fine schedule contained in subsection (c) relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in a school zone authorized under K.S.A. 8-1560(a)(4), and amendments thereto.

(h) For a second violation of K.S.A. 8-1556, and amendments thereto, within five years after a prior conviction of K.S.A. 8-1556, and amendments thereto, such person, upon conviction, shall be fined \$750 for the second violation. For a third and each succeeding violation of K.S.A. 8-1556, and amendments thereto, within five years after two prior convictions of K.S.A. 8-1556, and amendments thereto, such person, upon conviction, shall be fined \$1,000 for the third and each succeeding violation.";

Also on page 2, in line 38, after "Supp." by inserting "8-126, 8-128, 8-1486, 8-15,100, 8-15,109,"; also in line 38, after "8-1729" by inserting ", 8-1749a and 8-2118";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking the semicolon and inserting a comma; in line 4, after the semicolon by inserting "allowing for the installation of certain light screening material on windshields and windows; allowing all-terrain and work-site

utility vehicles to operate on a federal or state highway under certain conditions; regulating the use of electric-assisted scooters, definitions, requirements, penalty;"; in line 5, after "Supp." by inserting "8-126, 8-128, 8-1486, 8-15,100, 8-15,109,"; also in line 5, after "8-1729" by inserting ", 8-1749a and 8-2118";

And your committee on conference recommends the adoption of this report.

RICHARD PROEHL

JACK THIMESCH

*Conferees on part of House*

MIKE PETERSEN

DAN GODDARD

PAT PETTEY

*Conferees on part of Senate*

Senator Petersen moved the Senate adopt the Conference Committee Report on **SB 63**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Ware, Wilborn.

The Conference Committee Report was adopted.

### CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to **HB 2290** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 2, following line 4, by inserting:

"New Section 1. (a) There is hereby established the Kansas closed case task force.

The task force shall be composed of 15 voting members, as follows:

- (1) The chairperson of the standing senate committee on judiciary;
- (2) the ranking minority member of the standing senate committee on judiciary;
- (3) the chairperson of the standing house committee on judiciary;
- (4) the ranking minority member of the standing house committee on judiciary;
- (5) the governor or the governor's designee;
- (6) the attorney general or the attorney general's designee;
- (7) the director of the Kansas bureau of investigation or the director's designee;
- (8) the state combined DNA index system (CODIS) administrator as designated by the director of the Kansas bureau of investigation forensic science laboratory;
- (9) a sheriff as designated by the Kansas sheriff's association;
- (10) a chief of police as designated by the Kansas association of chiefs of police;
- (11) a prosecutor as designated by the Kansas county and district attorneys association;

(12) the executive director of the state board of indigents' defense services or the executive director's designee;

(13) the president of the Kansas bar association or the president's designee;

(14) the director of victim services of the department of corrections or the director's designee; and

(15) one member designated by the governor who represents an organization that litigates claims of innocence.

(b) (1) Members shall be appointed to the task force on or before September 1, 2019. The initial meeting of the task force shall be convened on or before October 1, 2019.

(2) The chairperson of the standing senate committee on judiciary and the chairperson of the standing house committee on judiciary shall serve as co-chairs of the task force.

(3) The task force shall meet in an open meeting at any time and at any place within the state of Kansas upon the call of either co-chairperson of the task force. A majority of the voting members of the task force constitutes a quorum. Any action by the task force shall be by motion adopted by a majority of the voting members present when there is a quorum.

(c) The task force, in consultation with practitioners and experts, shall develop a plan to ensure uniform statewide policies and procedures that address, at a minimum:

(1) Timely receipt of the data relating to hits to the combined DNA index system (CODIS) from the forensic laboratory;

(2) directly connecting the data relating to hits to the combined DNA index system (CODIS) to the relevant case file;

(3) proper policies and procedures to ensure all hits are accounted for and followed up;

(4) procedures to address how the key parties can conduct a reasonable and timely investigation into the significance of the hit; and

(5) sharing the hits in data from both solved and unsolved cases with other key parties, including the relevant prosecutors' offices, the original defense attorney and the last known attorney of record, crime victims and surviving relatives, and a local organization that litigates claims of innocence.

(d) The task force shall complete a plan for implementation of a protocol relating to hits to closed cases by October 1, 2020. The plan shall include a mechanism to ensure uniform compliance at the local law enforcement agency level.

(e) On or before December 1, 2020, the task force shall submit a report containing a plan for uniform implementation of the protocol throughout the state, including articulated benchmarks to facilitate and measure adoption. This report shall be posted on a public website maintained by the Kansas bureau of investigation and presented to the governor, the speaker of the house of representatives and the president of the senate.

(f) Legislative members of the task force attending meetings authorized by the task force shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto. Non-legislative members of the task force may be reimbursed by their appointing authority.

(g) The provisions of this section shall expire on December 30, 2020.

New Sec. 2. (a) There is hereby created the Kansas criminal justice reform commission.

(b) The commission shall:

(1) Analyze the sentencing guidelines grids for drug and nondrug crimes and make recommendations for legislation that would ensure sentences are appropriate;

(2) review the sentences imposed for criminal conduct to determine whether the sentences are proportionate to other sentences imposed for criminal offenses;

(3) analyze diversion programs utilized throughout the state and make recommendations with respect to expanding diversion options and implementation of a state-wide diversion standards;

(4) review the supervision levels and programming available for offenders who serve sentences for felony offenses on community supervision;

(5) study specialty courts and make recommendations for the use of specialty courts throughout the state;

(6) survey the availability of evidence-based programming for offenders provided both in correctional facilities and in the community, and make recommendations for changes in available programming;

(7) study the policies of the department of corrections for placement of offenders within the correctional facility system and make recommendations with respect to specialty facilities, including, but not limited to, geriatric, healthcare and substance abuse facilities;

(8) evaluate existing information management data systems and make recommendations for improvements to data systems that will enhance the ability of criminal justice agencies to evaluate and monitor the efficacy of the criminal justice system at all points in the criminal justice process; and

(9) study other matters, that, as the commission determines, are appropriate and necessary to complete a thorough review of the criminal justice system.

(c) The commission shall be made of the following members:

(1) One member of the Kansas senate appointed by the president of the senate;

(2) one member of the Kansas senate appointed by the minority leader of the senate;

(3) one member of the Kansas house of representatives appointed by the speaker of the Kansas house of representatives;

(4) one member of the Kansas house of representatives appointed by the minority leader of the Kansas house of representatives;

(5) one member of the judicial branch court services appointed by the chief justice of the supreme court;

(6) one criminal defense attorney or public defender appointed by the governor;

(7) one county or district attorney from an urban area and one county attorney from a rural area appointed by the Kansas county and district attorneys association;

(8) one sheriff and one chief of police appointed by the attorney general;

(9) one professor of law from the university of Kansas school of law and one professor of law from Washburn university school of law, appointed by the deans of such schools;

(10) one drug and alcohol addiction treatment provider who provides services pursuant to the certified drug abuse treatment program appointed by the Kansas sentencing commission;

(11) one district judge appointed by the Kansas district judges association;

(12) one district magistrate judge appointed by the Kansas district magistrate

judges association;

(13) one member representative of the faith-based community appointed by the governor;

(14) one member of a criminal justice reform advocacy organization appointed by the legislative coordinating council;

(15) one mental health professional appointed by the Kansas community mental health association;

(16) one member representative of community corrections appointed by the secretary of corrections; and

(17) the attorney general, the secretary of corrections and the executive director of the Kansas sentencing commission, or such persons' designees, shall serve as ex officio, nonvoting members of the commission.

(d) Members of the commission shall be appointed before August 1, 2019. The appointing authorities shall provide notice of such appointments to the office of revisor of statutes and the legislative research department.

(e) The members of the commission shall elect officers from among its members necessary to discharge its duties. The commission shall receive testimony from interested parties at public hearings to be conducted in the various geographic areas of the state.

(f) If approved by the legislative coordinating council, legislative members of the commission attending meetings authorized by the commission shall be paid amounts for expenses, mileage and subsistence as provided in K.S.A. 75-3223(e), and amendments thereto.

(g) The commission shall have the authority to organize and appoint such task forces or subcommittees as may be deemed necessary to discharge such commission's duties, including adding ex officio, nonvoting members to such task forces or subcommittees.

(h) The commission shall work with the Kansas judicial council, the department of corrections, the office of judicial administration and the Kansas sentencing commission and review studies and findings of the Kansas sentencing commission concerning proportionality of sentencing.

(i) The commission shall prepare and submit its interim report to the legislature on or before December 1, 2019. A final report and recommendations shall be submitted to the legislature on or before December 1, 2020.

(j) The staff of the office of revisor of statutes and the legislative research department shall provide such assistance as may be requested by the commission as authorized by the legislative coordinating council.

(k) The governor shall appoint a facilitator to assist the commission in developing a project plan and who shall assist the commission in carrying out the duties of the commission in an orderly manner. The facilitator shall work in collaboration with the commission chairperson and staff of the office of revisor of statutes and the legislative research department. The facilitator shall not be a member of the commission. The facilitator, in coordination with the office of revisor of statutes and the legislative research department, shall call the first meeting of the commission, which shall take place during August 2019.

New Sec. 3. (a) As used in this section:

(1) "Care" means the provision of treatment, education, training, instruction,

supervision or recreation to children, the elderly or individuals with disabilities.

(2) "Provider" means a person who:

(A) Is employed by a qualified entity and has, seeks to have, or may have supervised or unsupervised access to children, the elderly or individuals with disabilities to whom the qualified entity provides care;

(B) is a volunteer of a qualified entity and has, seeks to have, or may have supervised or unsupervised access to children, the elderly or individuals with disabilities to whom the qualified entity provides care; or

(C) owns, operates or seeks to own or operate a qualified entity.

(3) "Qualified entity" means a business or organization that provides care to children, the elderly or individuals with disabilities that is private, for profit, not-for-profit or voluntary, except such businesses or organizations that are subject to the provisions of K.S.A. 39-970, 65-516 or 65-5117, and amendments thereto, or K.S.A. 2018 Supp. 39-2009 or 75-53,105, and amendments thereto.

(b) A qualified entity may request the Kansas bureau of investigation to conduct a state and national criminal history record check on any person who will serve as a provider, or is currently a provider with such entity. The qualified entity may request a state and national criminal history record check by submitting the following:

(1) The person's fingerprints; and

(2) a copy of a completed and signed statement furnished by the qualified entity that includes:

(A) A waiver permitting the qualified entity to request and receive a criminal history record check for the purpose of determining the person's qualification and fitness to serve as a provider;

(B) the name, address and date of birth of the person as it appears on a valid identification document;

(C) a disclosure of whether or not the person has ever been convicted of or is the subject of pending charges for a criminal offense and, if convicted, a description of the crime and the result of the conviction; and

(D) a notice to the person that they are entitled to obtain a copy of the criminal history record check to challenge the accuracy and completeness of any information contained in any such report before any final determination is made by the qualified entity.

(c) A qualified entity is authorized to require a person to be fingerprinted and to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The qualified entity shall use the fingerprints to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdictions or countries. The qualified entity may use the information obtained from the fingerprints and such state and national criminal history record checks in the official determination of the qualifications and fitness of the person to be permitted to serve as a provider.

(d) Local and state law enforcement officers and agencies shall assist the qualified entity in taking and processing a person's fingerprints as authorized by this section.

(e) The Kansas bureau of investigation shall release all records of the person's adult convictions and diversions, and adult convictions and diversions from another state, jurisdiction or country, to the qualified entity to make a final determination of the qualification of such person to serve as a provider.

(f) A qualified entity shall be solely responsible for making any determination that a person's criminal history record shows that such person has been convicted of a crime that bears upon the fitness of such person to serve as a provider. This section does not require the Kansas bureau of investigation to make such a determination on behalf of any qualified entity.";

On page 3, following line 38, by inserting:

"Sec. 7. K.S.A. 2018 Supp. 9-513c is hereby amended to read as follows: 9-513c. (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (c) or (d).

(b) ~~(1)~~ All confidential information shall be the property of the state of Kansas and shall not be subject to disclosure except upon the written approval of the state bank commissioner.

~~(2) The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this paragraph shall be reviewed by the legislature prior to July 1, 2019.~~

(c) (1) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(2) The requirements under any federal or state law regarding the confidentiality of any information or material provided to the nationwide multi-state licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of confidentiality protections provided by federal and state laws.

(d) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(e) The commissioner may accept a report of examination or investigation from another state or federal licensing agency, in which the accepted report is an official report of the commissioner. Acceptance of an examination or investigation report does not waive any fee required by this act.

(f) Nothing shall prohibit the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on such persons.

(g) The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.

Sec. 8. K.S.A. 2018 Supp. 40-3407 is hereby amended to read as follows: 40-3407.

(a) Except for investment purposes, all payments from the fund shall be upon warrants of the state of Kansas issued pursuant to vouchers approved by the executive director or the executive director's designee, and, with respect to claim payments, accompanied by:

(1) A file stamped copy of a final judgment against a healthcare provider or inactive

healthcare provider for which the fund is liable; or (2) a file stamped copy of a court approved settlement against a healthcare provider or inactive healthcare provider for which the fund is liable.

(b) For investment purposes amounts shall be paid from the fund upon vouchers approved by the chairperson of the pooled money investment board.

(c)-(4) Payments from the fund for attorney fees, expert witness fees, and other costs related to claims, including invoices, statements and other documentation thereof, shall not be subject to K.S.A. 45-218, and amendments thereto.

~~(2) The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this section shall be reviewed by the legislature prior to July 1, 2019.~~

Sec. 9. K.S.A. 2018 Supp. 45-229 is hereby amended to read as follows: 45-229.

(a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

- (1) The public record is of a sensitive or personal nature concerning individuals;
- (2) the public record is necessary for the effective and efficient administration of a governmental program; or
- (3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by July 15, the language and statutory citation of each exception that will expire in the following year ~~which that~~ meets the criteria of an exception as defined in this section. Any exception that is not identified and certified to the president of the senate and the speaker of the house of representatives is not subject to legislative review and shall not expire. If the revisor of statutes fails to certify an exception that the revisor

subsequently determines should have been certified, the revisor shall include the exception in the following year's certification after that determination.

(f) "Exception" means any provision of law that creates an exception to disclosure or limits disclosure under the open records act pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any other provision of law.

(g) A provision of law that creates or amends an exception to disclosure under the open records law shall not be subject to review and expiration under this act if such provision:

- (1) Is required by federal law;
- (2) applies solely to the legislature or to the state court system;
- (3) has been reviewed and continued in existence twice by the legislature; or
- (4) has been reviewed and continued in existence by the legislature during the 2013 legislative session and thereafter.

(h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:

- (A) What specific records are affected by the exception;
- (B) whom does the exception uniquely affect, as opposed to the general public;
- (C) what is the identifiable public purpose or goal of the exception;
- (D) whether the information contained in the records may be obtained readily by alternative means and how it may be obtained;

(2) an exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, ~~which administration that~~ would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of ~~which such~~ information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information ~~which that~~ is used to protect or further a business advantage over those who do not know or use it, if the disclosure of ~~which such~~ information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and that have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-

304, 17-1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, 45-221(a)(1) through (43), 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-996, 72-4311, 72-4452, 72-5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11, 76-3305, 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2015 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 17-2036, 40-5301, 45-221(a)(45), (46) and (49), 48-16a10, 58-4616, 60-3351, 72-972a, 74-50,217 and 75-53,105.

(j) (1) Exceptions contained in the following statutes as continued in existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas and that have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2015 and that have been reviewed during the 2016 legislative session are hereby continued in existence: 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 40-955, 44-1132, 45-221(a)(10)(F) and (a)(50), 60-3333, 65-4a05, 65-445(g), 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-7c06.

(k) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2014 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, 45-221(a)(44), (45), (46), (47) and (48), 50-6a11, 56-1a610, 56a-1204, 65-1,243, 65-16,104, 65-3239, 74-50,184, 74-8134, 74-99b06, 77-503a and 82a-2210.

(l) Exceptions contained in the following statutes as certified by the revisor of

statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2016 and that have been reviewed during the 2017 legislative session are hereby continued in existence: 12-5711, 21-2511, 22-4909, 38-2313, 45-221(a)(51) and (52), 65-516, 65-1505, 74-2012, 74-5607, 74-8745, 74-8752, 74-8772, 75-7d01, 75-7d05, 75-5133, 75-7427 and 79-3234.

(m) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2012 and that have been reviewed during the 2013 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a, 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-712 and 75-5366.

(n) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2018 legislative session are hereby continued in existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-6832, 65-6834, 75-7c06 and 75-7c20.

(o) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) that have been reviewed during the 2019 legislative session are hereby continued in existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d) and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding 46-1106(i), 65-2836(i), 65-2839a(c), 65-2842(d), 65-28a05(n), article 6(d) of 65-6230, 72-6314(a) and 74-7047(b).";

On page 4, in line 41, by striking "3" and inserting "6";

On page 7, in line 35, by striking "3" and inserting "6";

On page 8, in line 23, by striking "3" and inserting "6";

On page 10, in line 2, by striking "of a claim" and inserting "in an action, proceeding or investigation"; in line 9, after "Supp." by inserting "9-513c, 40-3407, 45-229 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "public agencies; establishing the Kansas closed case task force; creating the Kansas criminal justice reform commission; relating to the Kansas bureau of investigation; criminal history record checks for entities providing care to children, the elderly or individuals with disabilities; relating to"; in line 7, after the semicolon by inserting "relating to the Kansas open records act; legislative review of exceptions to disclosure of public records"; in line 10, after "Supp." by inserting "9-513c, 40-3407, 45-229 and";

And your committee on conference recommends the adoption of this report.

RICK WILBORN

ERIC RUCKER

VIC MILLER

*Conferees on part of Senate*

FRED PATTON

BRAD RALPH

JOHN CARMICHAEL

*Conferees on part of House*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **HB 2290**.

On roll call, the vote was: Yeas 39; Nays 1; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Wagle, Ware, Wilborn.

Nays: Tyson.

The Conference Committee Report was adopted.

On motion of Senator Denning, the Senate recessed until 4:00 p.m.

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The Senate met pursuant to recess with Vice President Longbine in the chair.

#### **MESSAGE FROM THE HOUSE**

The House announce the appointment of Representatives Waymaster, Hoffman and Wolfe Moore as conferees on **HB 2203**

The House announced the appointment of Representatives Patton, Ralph and Carmichael as conferees on **HB 2248**

The House announced the appointment of Representatives Patton, Ralph and Carmichael as conferees on **SB 28**

The House announced the appointment of Representatives Johnson, Mason and Gartner as conferees on **HB 2140**.

#### **ORIGINAL MOTION**

Senator Denning moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **HB 2033**.

#### **CONFERENCE COMMITTEE REPORT**

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to **HB 2033** submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

SUSAN WAGLE

DAN KERSCHEN

*Conferees on part of Senate*

STEVEN JOHNSON

LES MASON

*Conferees on part of House*

On motion of Senator Wagle the Senate adopted the conference committee report on **HB 2033**, and requested a new conference be appointed.

The Vice President appointed Senators Wagle, Kerschen and Holland as a second Conference Committee on the part of the Senate on **HB 2033**.

#### **REPORT ON ENROLLED BILLS**

**SB 16** reported correctly enrolled, properly signed and presented to the Governor on April 06, 2019.

**SB 15, SB 67, SB 70, SB 78** reported correctly enrolled, properly signed and presented to the Governor on April 12, 2019.

**SCR 1612** reported correctly enrolled, properly signed and presented to the Secretary of State on April 09, 2019.

On motion of Senator Denning, the Senate adjourned until 10:00 a.m., Thursday, May 2, 2019.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

