

HOUSE BILL No. 2535

AN ACT concerning the prisoner review board; updating references and corresponding changes due to the transfer of authority from the Kansas parole board to the prisoner review board; amending K.S.A. 22-3706, 22-3709, 22-3710, 22-3711, 22-3712, 22-3713, 22-3718, 22-3719, 22-3720, 22-3722, 22-3726, 22-4111, 60-4305, 74-7320, 74-7321, 74-9102 and 75-5202 and K.S.A. 2011 Supp. 12-4516, 19-4804, 21-6603, 21-6606, 21-6609, 21-6614, 21-6803, 22-3701, 22-3717, 22-3728, 22-3729, 22-4701, 59-29a02, 74-4911f, 74-9101, 75-4318, 75-4319, 75-5210a, 75-5217, 75-5266, 77-421 and 77-603 and repealing the existing sections; also repealing K.S.A. 22-3707a and 22-3708 and K.S.A. 2011 Supp. 21-6614a, 21-6614b, 21-6614c and 22-3707.

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

Section 1. K.S.A. 2011 Supp. 12-4516 is hereby amended to read as follows: 12-4516. (a) (1) Except as provided in subsection (b), (c) and (d), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction and related arrest records if three or more years have elapsed since the person:

- (A) Satisfied the sentence imposed; or
- (B) was discharged from probation, parole or a suspended sentence.

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

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

(1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2011 Supp. 21-5406, and amendments thereto;

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

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

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

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

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

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

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

(c) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute a violation of K.S.A. 8-1567, and amendments thereto.

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

(e) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state: (1) The defendant's full name;

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

(3) the defendant's sex, race and date of birth;

(4) the crime for which the defendant was arrested, convicted or diverted;

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

(6) the identity of the convicting court, arresting law enforcement agency or diverting authority. A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section. Any person who may have relevant information

about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the ~~Kansas parole~~ *Kansas parole prisoner review* board.

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

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

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

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

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

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

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

(A) In any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

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

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

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

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

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

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

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

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

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 2011 Supp. 75-7c01 *et seq.*, and amendments thereto;

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

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

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

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

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
- (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
- (8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- (10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;
- (11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be

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

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

(13) the attorney general, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act;

(14) the Kansas sentencing commission;

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

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

Sec. 2. K.S.A. 2011 Supp. 19-4804 is hereby amended to read as follows: 19-4804. (a) An application for compensation shall be made in the manner and form prescribed by the state crime victims compensation board. A victim may seek compensation under this act whether or not an offender has been charged with the crime which results in the victim's loss.

(b) Compensation may not be awarded unless the crime has been reported to an appropriate law enforcement agency within 72 hours after its discovery and the claim has been filed with the local board within 60 days after the filing of such report, unless the local board finds there was good cause for the failure to report such crime within the time required.

(c) Compensation may not be awarded to a victim who was the offender or an accomplice of the offender and may not be awarded to another person if the award would unjustly benefit the offender or accomplice.

(d) Compensation may not be awarded unless the local board finds the victim has fully cooperated with appropriate law enforcement agencies. The local board may deny, withdraw or reduce an award of compensation for noncooperativeness.

(e) Compensation otherwise payable to a victim shall be diminished:

(1) To the extent, if any, that the economic loss upon which the victim's claim is based is recouped from other persons, including collateral sources; or

(2) to the extent a local board deems reasonable because of the contributory misconduct of the victim.

(f) Compensation may be awarded only if the local board finds a genuine need is present.

(g) No compensation payment may exceed \$500 if the property crime results in a felony charge. If the crime is committed by a juvenile, whether this subsection applies shall be determined on the basis of whether a felony would be charged had the offender been an adult.

(h) No compensation payment may exceed \$250 if the property crime results in a misdemeanor or traffic charge. If the crime is committed by a juvenile, whether this subsection applies shall be determined on the basis of whether a misdemeanor would be charged had the offender been an adult. If the original crime charged was a felony and through plea negotiations the adult or juvenile offender is charged with and pleads guilty or *nolo contendere* to a misdemeanor, in the discretion of the local board, subsection (g) limits may apply to the compensation payment.

(i) If extraordinary circumstances are present and subject to the requirements imposed by subsection (c) of K.S.A. 19-4803, and amendments thereto, the local board may exceed the amounts in subsections (g) and (h).

(j) Compensation for work loss or personal injury due to criminally injurious conduct shall be governed by K.S.A. 74-7301 *et seq.*, and amendments thereto, and rules and regulations promulgated by the state crime

victims compensation board for that purpose. No local board may duplicate compensation for criminally injurious conduct through payments under this act.

(k) The local board may determine a floor amount of compensation which would be administratively wasteful. Once such an amount is chosen it shall be made public and must be uniformly applied to all persons filing claims with the local board.

(l) The local board may provide written policy for the handling of an expedited claims process where prompt assistance and payment of services needed to repair property damage is needed to thwart the possibility of the onset of illness or disease to the victim or victim's family, and where the victim has no other means of paying for such services.

(m) No award made pursuant to this act shall be subject to execution, attachment, garnishment or other legal process, except that an award for allowable expenses shall not be exempt from a claim of a creditor to the extent the creditor has provided products, services or accommodations the costs of which are included in the payment made pursuant to this act.

(n) No assignment or agreement to assign any right to compensation for loss under this act shall be enforceable in this state.

(o) No local fund shall pay any single individual or such individual's immediate family member compensation on more than two claims within a given fiscal year.

(p) No claim shall be allowed unless the crime charged is pursuant to article 37 of chapter 21 of Kansas Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the Kansas Statutes Annotated, or subsection (a)(6) of K.S.A. 2011 Supp. 21-6412, and amendments thereto, or similar crimes in county or municipal penal codes. If the crime charged is pursuant to K.S.A. 21-3707, 21-3708, 21-3722, 21-3725, 21-3734, 21-3736, 21-3737, 21-3739, 21-3748, 21-3749, 21-3750, 21-3753, 21-3754 and 21-3756, prior to their repeal, and K.S.A. 2011 Supp. 21-5806, 21-5815, subsection (a) of 21-5817, 21-5820, 21-5821, 21-5830, 21-5831, 21-5832 and 21-5837, and amendments thereto, no claim for compensation under this act shall be allowed. In addition to claims that may be made for criminally injurious conduct with the state crime victims compensation board, a claim for compensation for property damage may be allowed under this act for crimes charged under K.S.A. 21-3418, 21-3426 or 21-3427, prior to their repeal, and K.S.A. 2011 Supp. 21-5420 or 21-6418, and amendments thereto.

(q) Payment or payments made from a local fund under this act shall not limit, impair or preclude the ability of a court or the ~~parole~~ *parole prisoner review* board to order restitution, and prescribe the manner and conditions of payment of restitution, as allowed by law.

Sec. 3. K.S.A. 2011 Supp. 21-6603 is hereby amended to read as follows: 21-6603. As used in K.S.A. 2011 Supp. 21-6601 through 21-6616, 21-6702 through 21-6712, and 21-6801 through 21-6805, and amendments thereto:

(a) "Court" means any court having jurisdiction and power to sentence offenders for violations of the laws of this state;

(b) "community correctional services program" means a program which operates under the community corrections act and to which a defendant is assigned for supervision, confinement, detention, care or treatment, subject to conditions imposed by the court. A defendant assigned to a community correctional services program shall be subject to the continuing jurisdiction of the court and in no event shall be considered to be in the custody of or under the supervision of the secretary of corrections;

(c) "correctional institution" means any correctional institution established by the state for the confinement of offenders, and under control of the secretary of corrections;

(d) "house arrest" is an individualized program in which the freedom of an inmate is restricted within the community, home or noninstitutional residential placement and specific sanctions are imposed and enforced. "House arrest" may include:

(1) Electronic monitoring which requires a transmitter to be worn by the defendant or inmate which broadcasts an encoded signal to the receiver located in the defendant's or inmate's home. The receiver is connected to a central office computer and is notified of any absence of the defendant or inmate; or

(2) voice identification-encoder which consists of an encoder worn by the defendant or inmate. A computer is programmed to randomly call the defendant or inmate and such defendant or inmate is required to provide voice identification and then insert the encoder into the verifier box, confirming identity;

(e) “parole” means the release of a prisoner to the community by the ~~Kansas parole~~ *Kansas parole prisoner review* board prior to the expiration of such prisoner’s term, subject to conditions imposed by the board and to the secretary of correction’s supervision. Parole also means the release by a court of competent jurisdiction of a person confined in the county jail or other local place of detention after conviction and prior to expiration of such person’s term, subject to conditions imposed by the court and its supervision. Where a court or other authority has filed a warrant against the prisoner, the ~~Kansas parole~~ *Kansas parole prisoner review* board or paroling court may release the prisoner on parole to answer the warrant of such court or authority;

(f) “postrelease supervision,” for crimes committed on or after July 1, 1993, means the same as in K.S.A. 2011 Supp. 21-6803, and amendments thereto;

(g) “probation” means a procedure under which a defendant, convicted of a crime, is released by the court after imposition of sentence, without imprisonment except as provided in felony cases, subject to conditions imposed by the court and subject to the supervision of the probation service of the court or community corrections. In felony cases, 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 and up to 60 days in a county jail upon each revocation of the probation sentence pursuant to subsection (b)(3) of K.S.A. 2011 Supp. 21-6702, and amendments thereto; and

(h) “suspension of sentence” means a procedure under which a defendant, convicted of a crime, is released by the court without imposition of sentence. The release may be with or without supervision in the discretion of the court. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of suspension of sentence pursuant to subsection (b)(4) of K.S.A. 2011 Supp. 21-6702, and amendments thereto.

Sec. 4. K.S.A. 2011 Supp. 21-6606 is hereby amended to read as follows: 21-6606. (a) When separate sentences of imprisonment for different crimes are imposed on a defendant on the same date, including sentences for crimes for which suspended sentences, probation or assignment to a community correctional services program have been revoked, such sentences shall run concurrently or consecutively as the court directs. Whenever the record is silent as to the manner in which two or more sentences imposed at the same time shall be served, they shall be served concurrently, except as provided in subsections (c), (d) and (e).

(b) Any person who is convicted and sentenced for a crime committed while on probation, assignment to a community correctional services program, parole or conditional release for a misdemeanor shall serve the sentence concurrently with or consecutively to the term or terms under which the person was on probation, assigned to a community correctional services program or on parole or conditional release, as the court directs.

(c) Any person who is convicted and sentenced for a crime committed while on probation, assigned to a community correctional services program, on parole, on conditional release or on postrelease supervision for a felony shall serve the sentence consecutively to the term or terms under which the person was on probation, assigned to a community correctional services program or on parole or conditional release.

(d) Any person who is convicted and sentenced for a crime committed while on release for a felony pursuant to article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, shall serve the sentence consecutively to the term or terms under which the person was released.

(e) (1) Any person who is convicted and sentenced for a crime committed while such person is incarcerated and serving a sentence for a felony in any place of incarceration shall serve the sentence consecutively to the term or terms under which the person was incarcerated.

(2) If a person is sentenced to prison for a crime committed on or

after July 1, 1993, while the person was imprisoned for an offense committed prior to July 1, 1993, and the person is not eligible for the retroactive application of the sentencing guidelines act, 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, whichever is earlier. 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 ~~Kansas parole~~ *prisoner review* board or reaches the maximum sentence date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of post incarceration supervision shall be based on the longest term of post incarceration supervision imposed for all crimes upon which sentence was imposed or until discharged from supervision by the ~~Kansas parole~~ *prisoner review* board. The term of post incarceration supervision imposed by this paragraph shall apply retroactively to crimes committed prior to July 1, 2008.

(3) As used in this subsection, "post incarceration supervision" includes parole and postrelease supervision.

(f) The provisions of this subsection relating to parole eligibility shall be applicable to persons convicted of crimes committed prior to January 1, 1979, but shall be applicable to persons convicted of crimes committed on or after that date only to the extent that the terms of this subsection are not in conflict with the provisions of K.S.A. 22-3717, and amendments thereto. In calculating the time to be served on concurrent and consecutive sentences, the following rules shall apply:

(1) When indeterminate terms run concurrently, the shorter minimum terms merge in and are satisfied by serving the longest minimum term and the shorter maximum terms merge in and are satisfied by conditional release or discharge on the longest maximum term if the terms are imposed on the same date.

(2) When concurrent terms are imposed on different dates, computation will be made to determine which term or terms require the longest period of imprisonment to reach parole eligibility, conditional release and maximum dates, and that sentence will be considered the controlling sentence. The parole eligibility date may be computed and projected on one sentence and the conditional release date and maximum may be computed and projected from another to determine the controlling sentence.

(3) When indeterminate terms imposed on the same date are to be served consecutively, the minimum terms are added to arrive at an aggregate minimum to be served equal to the sum of all minimum terms and the maximum terms are added to arrive at an aggregate maximum equal to the sum of all maximum terms.

(4) When indeterminate sentences are imposed to be served consecutively to sentences previously imposed in any other court or the sentencing court, the aggregated minimums and maximums shall be computed from the effective date of the subsequent sentences which have been imposed as consecutive. For the purpose of determining the sentence begins date and the parole eligibility and conditional release dates, the inmate shall be given credit on the aggregate sentence for time spent imprisoned on the previous sentences, but not exceeding an amount equal to the previous minimum sentence less the maximum amount of good time credit that could have been earned on the minimum sentence. For the purpose of computing the maximum date, the inmate shall be given credit for all time spent imprisoned on the previous sentence. This method for computation of the maximum sentence shall be utilized for all sentences computed pursuant to this subsection after July 1, 1983.

Nothing in this subsection (f)(4) shall affect the authority of the ~~Kansas parole~~ *prisoner review* board to determine the parole eligibility of inmates pursuant to subsection (d) of K.S.A. 22-3717, and amendments thereto.

(5) When consecutive sentences are imposed which are to be served consecutive to sentences for which a prisoner has been on probation, assigned to a community correctional services program, on parole or on conditional release, the amount of time served on probation, on assignment to a community correctional services program, on parole or on conditional release shall not be credited as service on the aggregate sentence in determining the parole eligibility, conditional release and maximum dates, except that credit shall be given for any amount of time spent in a

residential facility while on probation or assignment to a community correctional residential services program.

(g) When a definite and an indefinite term run consecutively, the period of the definite term is added to both the minimum and maximum of the indeterminate term and both sentences are satisfied by serving the indeterminate term. The provisions of this subsection shall not apply to crimes committed on or after July 1, 1993.

(h) When a defendant is sentenced in a state court and is also under sentence from a federal court or other state court or is subject to sentence in a federal court or other state court for an offense committed prior to the defendant's sentence in a Kansas state court, the court may direct that custody of the defendant may be relinquished to federal or other state authorities and that such state sentences as are imposed may run concurrently with any federal or other state sentence imposed.

Sec. 5. K.S.A. 2011 Supp. 21-6609 is hereby amended to read as follows: 21-6609. (a) The court or the secretary of corrections may implement a house arrest program for defendants or inmates being sentenced by the court or in the custody of the secretary of corrections or as a sanction for offenders who have failed to comply with the conditions of probation, parole or postrelease supervision, except:

(1) No defendant shall be placed by the court under house arrest if found guilty of:

(A) Any crime designated as a class A or B felony in article 34 or 35 of the Kansas Statutes Annotated, prior to their repeal;

(B) subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments thereto;

(C) K.S.A. 2011 Supp. 21-5602, and amendments thereto;

(D) any off-grid felony; or

(E) any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, unless the offender has been sentenced to probation;

(2) no inmate shall be placed under house arrest if such inmate's security status is greater than minimum security; or

(3) no inmate shall be placed under house arrest who has been denied parole by the ~~parole~~ *prisoner review* board within the last ~~6~~ six months. Any inmate who, while participating in the house arrest program, is denied parole by the ~~parole~~ *prisoner review* board shall be allowed to remain under house arrest until the completion of the sentence or until the inmate is otherwise removed from the program.

(b) At the time of placement of an inmate under house arrest, the court, secretary or house arrest staff shall provide written notification to the sheriff and district or county attorney of the county in which any person under house arrest is to be placed and to the chief law enforcement officer of any incorporated city or town in which such person is to be placed of the placement of the person under house arrest within the county or incorporated city or town.

(c) House arrest sanctions shall be administered by the court and the secretary of corrections, respectively, through rules and regulations, and may include, but are not limited to, rehabilitative restitution in money or in kind, curfew, revocation or suspension of the driver's license, community service, deprivation of nonessential activities or privileges, or other appropriate restraints on the inmate's liberty.

(d) Upon placement in a house arrest program, the court, secretary or house arrest staff shall inform the offender, and any other people residing with such offender, of the nature and extent of such house arrest monitoring, and shall obtain the written agreement of such offender to comply with all requirements of the program.

(e) The offender shall remain within the property boundaries of the offender's residence at all times during the term of house arrest, except as provided under the house arrest agreement with such offender.

(f) The offender shall allow any law enforcement officer, community corrections officer, court services officer or duly authorized agent of the department of corrections, to enter such offender's residence at any time to verify the offender's compliance with the conditions of the house release.

(g) As a condition of house arrest, the court or secretary may require

an offender placed under house arrest to pay any supervision costs associated with the house arrest program.

(h) The offender shall consent to be monitored by:

- (1) An electronic monitoring device on such offender's person;
- (2) an electronic monitoring device in such offender's home;
- (3) a remote blood alcohol monitoring device;
- (4) a home telephone verification procedure;
- (5) radio frequency devices; or
- (6) any combination of monitoring methods as the court, secretary or house arrest staff finds necessary.

(i) The secretary or the court may contract for independent monitoring services. Such independent monitoring service shall be able to provide monitoring 24 hours a day, every day of the year, and any other services as determined by the secretary or the court.

(j) An offender violating the provisions of K.S.A. 8-1567, and amendments thereto, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. On a second conviction of K.S.A. 8-1567, and amendments thereto, an offender placed under house arrest shall serve a total of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours. On a third or subsequent conviction of K.S.A. 8-1567, and amendments thereto, an offender placed under house arrest shall serve a total of 240 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 240 hours.

(k) As used in this section:

(1) "House arrest staff" means an independent contractor or government entity, and agents thereof, utilized by the secretary or court to administer the provisions of a house arrest program;

(2) "electronic monitoring device" means:

(A) An active or passive global positioning system-enabled device capable of recording and transmitting an offender's location at all times or at designated intervals. Such monitoring device may record or transmit sound, visual images or other information regarding such offender's location, via wireless communication; or

(B) a radio frequency device capable of monitoring an offender's location; and

(3) "remote alcohol monitoring device" means a device capable of monitoring an offender's blood alcohol content via micro fuel cell or deep lung tissue sample. Such monitoring devices shall be of comparable accuracy to roadside breath alcohol testing devices utilized by law enforcement, and shall have wireless or landline telephone transmission capabilities. Such device may be used in conjunction with an alcohol and drug-sensing bracelet to monitor such offender's compliance with the terms of house arrest.

Sec. 6. K.S.A. 2011 Supp. 21-6614 is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c) ~~and~~, (d) *and* (e), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

(b) Except as provided in subsections (c) ~~and~~, (d) *and* (e), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agree-

ment or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

(1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its repeal, or K.S.A. 2011 Supp. 21-5406, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

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

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

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

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

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

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

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

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

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

(1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2011 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child or aggravated indecent liberties with a child as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or K.S.A. 2011 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

(4) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2011 Supp. 21-5504, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2011 Supp. 21-5508, and amendments thereto;

(6) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

(7) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2011 Supp. 21-5604, and amendments thereto;

(8) endangering a child or aggravated endangering a child as defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2011 Supp. 21-5601, and amendments thereto;

(9) abuse of a child as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2011 Supp. 21-5602, and amendments thereto;

(10) capital murder as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2011 Supp. 21-5401, and amendments thereto;

(11) murder in the first degree as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto;

(12) murder in the second degree as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto;

(13) voluntary manslaughter as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto;

(14) involuntary manslaughter as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

(15) sexual battery as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2011 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(16) aggravated sexual battery as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2011 Supp. 21-5505, and amendments thereto;

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

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

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

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

(A) Defendant's full name;

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

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

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

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

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

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. On and after ~~April 15, 2010 through June 30, 2011~~ *May 19, 2011, through June 30, 2012*, the supreme court may impose a charge, not to exceed ~~\$15~~ \$19 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

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

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

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

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

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

~~(g)~~(h) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that

was expunged may be considered as a prior conviction in determining the sentence to be imposed;

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2011 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

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

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

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

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

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

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

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

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

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 2011 Supp. 75-7c01 *et seq.*, and amendments thereto;

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

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

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

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

~~(i)~~(j) Subject to the disclosures required pursuant to subsection ~~(h)~~(g), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime, but the expungement of a felony conviction does not relieve an

individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
- (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
- (8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- (10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;
- (11) the Kansas sentencing commission;
- (12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;
- (13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;
- (14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 *et seq.*, and amendments thereto;
- (15) a law enforcement agency and the request is accompanied by a

statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto; ~~or~~

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

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

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

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

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

Sec. 7. K.S.A. 2011 Supp. 21-6803 is hereby amended to read as follows: 21-6803. As used in K.S.A. 2011 Supp. 21-6801 through 21-6824, and amendments thereto:

(a) "Aggravating factor" means a substantial and compelling reason justifying an exceptional sentence whereby the sentencing court may impose a departure sentence outside the standard sentencing range for a crime. An aggravating factor may result in a dispositional or durational departure;

(b) "commission" means the Kansas sentencing commission;

(c) "criminal history" means and includes an offender's criminal record of adult felony, class A misdemeanor, class B person misdemeanor or select misdemeanor convictions and comparable juvenile adjudications at the time such offender is sentenced;

(d) "criminal history score" means the summation of the convictions described as criminal history that place an offender in one of the criminal history score categories listed on the horizontal axis of the sentencing guidelines grids;

(e) "decay factor" means prior convictions that are no longer considered as part of an offender's criminal history score;

(f) "departure" means a sentence which is inconsistent with the presumptive sentence for an offender;

(g) "dispositional departure" means a departure sentence imposing a nonprison sanction when the presumptive sentence is prison or prison when the presumptive sentence is nonimprisonment;

(h) "dispositional line" means the solid black line on the sentencing guidelines grids which separates the grid blocks in which the presumptive sentence is a term of imprisonment and postrelease supervision from the grid blocks in which the presumptive sentence is nonimprisonment;

(i) "durational departure" means a departure sentence which is inconsistent with the presumptive term of imprisonment or nonimprisonment;

(j) "good time" means a method of behavior control or sanctions utilized by the department of corrections;

(k) "grid" means the sentencing guidelines grid for nondrug crimes as provided in K.S.A. 2011 Supp. 21-6804, and amendments thereto, or the sentencing guidelines grid for drug crimes as provided in K.S.A. 2011 Supp. 21-6805, and amendments thereto, or both;

(l) "grid block" means a box on the grid formed by the intersection of the crime severity ranking of a current crime of conviction and an offender's criminal history classification;

(m) "imprisonment" means imprisonment in a facility operated by the Kansas department of corrections;

(n) "mitigating factor" means a substantial and compelling reason justifying an exceptional sentence whereby the sentencing court may impose a departure sentence outside of the standard sentencing range for a crime. A mitigating factor may result in a dispositional or durational departure;

(o) "nonimprisonment," "nonprison" or "nonprison sanction" means probation, community corrections, conservation camp, house arrest or any other community based disposition;

(p) "postrelease supervision" means the release of a prisoner to the community after having served a period of imprisonment or equivalent

time served in a facility where credit for time served is awarded as set forth by the court, subject to conditions imposed by the ~~Kansas parole prisoner review~~ board and to the secretary of correction's supervision;

(q) "presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime severity ranking of the offender's current crime of conviction and the offender's criminal history;

(r) "prison" means a facility operated by the Kansas department of corrections; and

(s) "sentencing range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

Sec. 8. K.S.A. 2011 Supp. 22-3701 is hereby amended to read as follows: 22-3701. (1) The governor may pardon, or commute the sentence of, any person convicted of a crime in any court of this state upon such terms and conditions as prescribed in the order granting the pardon or commutation.

(2) The ~~Kansas parole prisoner review~~ board, hereafter referred to as the board, shall adopt rules and regulations governing the procedure for initiating, processing, and reviewing applications for pardon, or commutation of sentence filed by and on behalf of persons convicted of crime.

(3) Except as otherwise provided, no pardon or commutation of sentence shall be granted until more than 30 days after written notice of the application therefor has been given to: (a) The prosecuting attorney and the judge of the court in which the defendant was convicted; and (b) any victim of the person's crime or the victim's family, if the person was convicted of a crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto. Notice of such application for pardon or commutation of sentence shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary of corrections, or if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections. Notice of the receipt of such application shall be given by publication in the official county paper of the county of conviction. The form of notice shall be prescribed by the board. If the applicant executes a poverty affidavit, the cost of one publication of the notice during a twelve-month period shall be paid by the state. If more than one notice of application is published during any twelve-month period the additional cost of publication shall be paid by the applicant. Subject to the provisions of subsection (4), if written notification is not given to such victim who is alive and whose address is known to the secretary of corrections or, if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections, the governor shall not grant or deny such application until a time at least 30 days after notification is given by publication as provided in this section.

(4) All applications for pardon or commutation of sentence shall be referred to the board. The board shall examine each case and submit a report, together with such information as the board may have concerning the applicant, to the governor within 120 days after referral to the board. The governor shall not grant or deny any such application until the governor has received the report of the board or until 120 days after the referral to the board, whichever time is the shorter and the provisions of subsection (3) have been satisfied.

Sec. 9. K.S.A. 22-3706 is hereby amended to read as follows: 22-3706. No person acting as agent or representative for an individual before the board for pardon, commutation of sentence, parole or revocation of parole, conditional release or postrelease supervision shall contract for or receive a fee contingent upon a certain decision by the board. Such agent or representative shall submit a statement on the applicant's behalf to the ~~Kansas parole prisoner review~~ board in writing and shall submit therewith an affidavit stating such agent's representative's name; place of residence; the name of the applicant being represented or has been represented; the fee, if any, paid to or to be paid to such agent or representative by any person for such services; that such fee is not or was not a contingent fee. If any person representing any applicant for pardon, commutation of sentence, or parole shall fail to file such affidavit the application shall not

be considered. Any affidavit filed as provided in this section shall be a public record.

Sec. 10. K.S.A. 22-3709 is hereby amended to read as follows: 22-3709. The chairperson and vice-chairperson of the ~~Kansas parole prisoner review~~ board shall be designated by the ~~governor~~ *secretary of corrections*. The chairperson of the board shall have the authority to organize and administer the activities of the board. The chairperson of the board may designate panels, consisting of two members of the board, which shall have the full authority and power of the board to order the denial, grant or revocation of an inmate's parole or conditional release, or for crimes committed on or after July 1, 1993, grant parole for off-grid crimes or revocation of postrelease supervision or to order the revocation of an inmate's conditional release, upon hearing by one or more members of the panel, and by a majority vote of the board.

Sec. 11. K.S.A. 22-3710 is hereby amended to read as follows: 22-3710. The ~~Kansas parole prisoner review~~ board shall adopt an official seal of which the courts shall take judicial notice. The orders of the ~~parole~~ board shall not be reviewable except as to compliance with the terms of this act or other applicable laws of this state. The ~~parole~~ board shall keep a record of its acts and shall notify each institution and the secretary of corrections of its decisions relating to the persons who are or have been confined therein. At the close of each fiscal year, the ~~parole~~ board shall submit to the governor and to the legislature a report with statistical and other data of its work, including research studies which it may make of probation, sentencing, parole, postrelease supervision or related functions, ~~and a compilation and analysis of dispositions of criminal cases by district courts throughout the state or by executive authority. Such report may be part of the annual report of the department of corrections, so long as such information is presented separately and distinctly.~~

Sec. 12. K.S.A. 22-3711 is hereby amended to read as follows: 22-3711. The presentence report, the preparole report, the pre-postrelease supervision report and the supervision history, obtained in the discharge of official duty by any member or employee of the ~~Kansas parole prisoner review~~ board or any *other* employee of the department of corrections, shall be privileged and shall not be disclosed directly or indirectly to anyone other than the ~~parole prisoner review~~ board, the judge, the attorney general or others entitled to receive the information, except that the ~~parole~~ board, secretary of corrections or court may permit the inspection of the report or parts of it by the defendant, inmate, defendant's or inmate's attorney or other person having a proper interest in it, whenever the best interest or welfare of a particular defendant or inmate makes the action desirable or helpful.

Sec. 13. K.S.A. 22-3712 is hereby amended to read as follows: 22-3712. As a condition of probation, parole or postrelease supervision, a probationer, parolee or person on postrelease supervision may be placed in a diagnostic, or treatment facility by order of the court or ~~parole prisoner review~~ board. Placement in a diagnostic or treatment facility shall not exceed 90 days or the maximum period of the prison sentence that could be imposed, but may be renewed for further ninety-day periods on certificates presented to the court by the director of such facility.

Sec. 14. K.S.A. 22-3713 is hereby amended to read as follows: 22-3713. (a) The ~~parole prisoner review~~ board may authorize one or more of its members to conduct hearings on behalf of the ~~parole~~ board.

(b) The secretary of corrections shall provide the ~~Kansas parole prisoner review~~ board with necessary personnel and accounting services.

Sec. 15. K.S.A. 2011 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. 21-4635 through 21-4638, prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642, prior to its repeal; K.S.A. 2011 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. 2011 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) Except as provided by K.S.A. 21-4635 through 21-4638, prior

to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated 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.

(2) Except as provided by subsection (b)(1) or (b)(4), 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. 2011 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.

(3) 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. 2011 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, 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.

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2011 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. 2011 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. 2011 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 level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 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. 2011 Supp. 21-6821, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes and drug severity level 3 crimes must serve 24 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. 2011 Supp. 21-6821, and amendments thereto, on post-release supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 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. 2011 Supp. 21-6821, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision

period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, departure may be imposed to extend the post-release 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. 2011 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 subsection (e) of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2011 Supp. 21-6813, 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 ~~parole~~ *prisoner review* board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2011 Supp. 21-6817, and amendments thereto.

(vi) Upon petition, the ~~parole~~ *prisoner review* board may provide for early discharge from the postrelease supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the ~~parole~~ *prisoner review* 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. 2011 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 post-release 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) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, 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.

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

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2011 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,

prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5508, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5505, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments thereto; or

(K) 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. 2011 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

“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 ~~Kansas parole~~ *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 ~~Kansas parole~~ *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 post-release 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 ~~Kansas parole~~ board.

(g) Subject to the provisions of this section, the ~~Kansas parole~~ *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, for 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 ~~Kansas parole~~ *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 the 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 ~~Kansas parole~~ *prisoner review* 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 ~~parole prisoner review~~ board ~~will~~ *shall* review the inmates 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 ~~Kansas parole~~ *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 ~~Kansas parole~~ 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 ~~parole~~ 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 ~~parole~~ 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 ~~parole~~ 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 ~~parole~~ 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 parole board hearing in the five years prior to July 1, 2010, shall have such inmates' cases reviewed by the ~~parole~~ *prisoner review* 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 ~~parole~~ *prisoner review* board determines that such resources are insufficient. If the ~~parole~~ *prisoner review* board determines that such resources are insufficient, then the provisions of this paragraph are subject to appropriations therefor.

(k) 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.

(l) The ~~Kansas parole~~ *prisoner review* board shall adopt 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 ~~Kansas parole~~ *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 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 amend-

ments thereto, unless the board finds compelling circumstances which would render payment unworkable; and

(5) unless it finds compelling circumstances which 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 ~~parole~~ *parole 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.

(n) If the court which 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 ~~Kansas parole~~ *parole 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 would render a plan of restitution unworkable.

(o) Whenever the ~~Kansas parole~~ *parole 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 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 May 25, 2000 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 for offenders convicted of severity level 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2011 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 ~~Kansas parole~~ *parole 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 ~~Kansas parole~~ *parole prisoner review* board or the court orders a person to be electronically monitored, the board or court 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 or court shall take account of the financial resources of

the person and the nature of the burden that the payment of such sum will impose.

Sec. 16. K.S.A. 22-3718 is hereby amended to read as follows: 22-3718. Upon release, an inmate who has served the inmate's maximum term or terms, less such work and good behavior credits as have been earned, shall be subject to such written rules and conditions as the ~~Kansas parole~~ *prisoner review* board may impose, until the expiration of the maximum term or terms for which the inmate was sentenced or until the inmate is otherwise discharged. If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of release pursuant to this section, the ~~parole~~ board may set aside restitution as a condition of release payment of restitution, if the board finds compelling circumstances which would render a plan of restitution unworkable. If the court which sentenced an inmate specified reimbursement of all or part of the expenditures by the state board of indigents' defense services as a condition of release, the ~~parole~~ board may set aside such reimbursement, if the board finds compelling circumstances which would render a plan of reimbursement unworkable. Prior to the release of any inmate on parole, conditional release or expiration of sentence, if an inmate is released into the community under a program under the supervision of the secretary of corrections, the secretary shall give written notice of such release to any victim or victim's family as provided in K.S.A. 22-3727, and amendments thereto.

Sec. 17. K.S.A. 22-3719 is hereby amended to read as follows: 22-3719. It shall be the duty of all correctional institution officials to grant to the members of the ~~Kansas parole~~ *prisoner review* board, or its properly accredited representatives, access at all reasonable times to any inmate, to provide for the ~~parole~~ board or such representative facilities for communicating with and observing such inmate, and to furnish to the ~~parole~~ board such reports as the ~~parole~~ board shall require concerning the conduct and character of any inmate in their custody and any other facts deemed by the ~~parole~~ board to be pertinent in determining any issue before the ~~parole~~ board.

Sec. 18. K.S.A. 22-3720 is hereby amended to read as follows: 22-3720. The ~~Kansas parole~~ *prisoner review* board shall have power to issue subpoenas requiring the attendance of any witnesses and the production of any records, books, papers and documents that it considers necessary for the investigation of the issues before it. Subpoenas may be signed and oaths administered by any member of the ~~parole~~ board. Subpoenas so issued may be served by any law enforcement officer, in the same manner as similar process in the district court. Any person who testifies falsely, fails to appear when subpoenaed or fails or refuses to produce material pursuant to the subpoena shall be subject to the same orders and penalties to which a person before a court is subject. Any district court of this state, upon application of the ~~parole~~ board, may in its discretion compel the attendance of witnesses, the production of material and the giving of testimony before the ~~parole~~ board, by an attachment for contempt or otherwise in the same manner as production of evidence may be compelled before the district court.

Sec. 19. K.S.A. 22-3722 is hereby amended to read as follows: 22-3722. The period served on parole or conditional release shall be deemed service of the term of confinement, and, subject to the provisions contained in K.S.A. 75-5217, and amendments thereto, relating to an inmate who is a fugitive from or has fled from justice, the total time served may not exceed the maximum term or sentence. The period served on post-release supervision shall vest in and be subject to the provisions contained in K.S.A. 75-5217, and amendments thereto, relating to an inmate who is a fugitive from or has fled from justice. The total time served shall not exceed the postrelease supervision period established at sentencing.

When an inmate on parole or conditional release has performed the obligations of the release for such time as shall satisfy the ~~Kansas parole~~ *prisoner review* board that final release is not incompatible with the best interest of society and the welfare of the individual, the ~~parole~~ board may make a final order of discharge and issue a certificate of discharge to the inmate but no such order of discharge shall be made in any case within a period of less than one year after the date of release except where the sentence expires earlier thereto. When an inmate has reached the end of

the postrelease supervision period, the ~~parole~~ board shall issue a certificate of discharge to the releasee. Such discharge, and the discharge of an inmate who has served the inmate's term of imprisonment, shall have the effect of restoring all civil rights lost by operation of law upon commitment, and the certification of discharge shall so state. Nothing herein contained shall be held to impair the power of the governor to grant a pardon or commutation of sentence in any case.

Sec. 20. K.S.A. 22-3726 is hereby amended to read as follows: 22-3726. The secretary of corrections may place, on a six-month supervised furlough, any inmate who is classified at a custody level not higher than minimum and who will be eligible for parole under K.S.A. 22-3717, and amendments thereto, by the end of the six-month period. If, at the end of the six-month period, the secretary determines that the inmate has successfully completed the furlough, the secretary shall certify that fact to the ~~Kansas parole~~ *prisoner review* board, which shall promptly order the inmate's release on parole, without hearing, under the level of supervision specified by the secretary and subject to such conditions as imposed by the board. The provisions of this section shall not apply to crimes committed by inmates on or after July 1, 1993.

Sec. 21. K.S.A. 2011 Supp. 22-3728 is hereby amended to read as follows: 22-3728. (a) (1) Upon application of the secretary of corrections, the ~~Kansas parole~~ *prisoner review* board may grant release to any person deemed to be functionally incapacitated, upon such terms and conditions as prescribed in the order granting such release.

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

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

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

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

(6) The secretary of corrections shall cause the person to be super-

vised upon release, and shall have the authority to initiate revocation of the person at any time for the reasons indicated in subsection (a)(5).

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

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

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

(C) the person's criminal history;

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

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

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

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

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

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

(c) Nothing in this section shall apply to the release of people with terminal medical conditions as described in K.S.A. 2011 Supp. 22-3729, and amendments thereto.

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

Sec. 22. K.S.A. 2011 Supp. 22-3729 is hereby amended to read as follows: 22-3729. (a) (1) Upon application of the secretary of corrections, the chairperson of the ~~Kansas parole board~~ *prisoner review board* may grant release to any person deemed by a doctor licensed to practice medicine and surgery in Kansas to have a terminal medical condition likely to cause death within 30 days upon such terms and conditions as prescribed in the order granting such release.

(2) The ~~Kansas parole board~~ *secretary of corrections* shall adopt rules and regulations governing the *prisoner review board's* procedure for initiating, processing, reviewing and establishing criteria for review of applications filed on behalf of persons deemed to have a terminal medical condition likely to cause death within 30 days. Such rules and regulations shall include criteria and guidelines for determining whether the terminal medical condition precludes the person from posing a threat to the public.

(3) All applications for a terminal medical condition release shall be referred to the chairperson of the board. The chairperson of the board shall examine each case and may approve such application and grant a release. An application for release shall not be approved unless the chairperson of the board determines that the person has been deemed by a doctor licensed to practice medicine and surgery in Kansas to have a terminal medical condition likely to cause death within 30 days and does not represent a future risk to public safety. The chairperson of the board may request additional information or evidence the chairperson of the board deems necessary from a doctor licensed to practice medicine and surgery in Kansas.

(4) The chairperson of the board shall establish any conditions related to the release of the person. The release shall be conditional, and be subject to revocation pursuant to K.S.A. 75-5217, and amendments thereto, if the person's illness or condition significantly improves, the person does not die within 30 days of release, if the person fails to comply with any condition of release, or if the board otherwise concludes that the person presents a threat or risk to public safety. The person shall remain on release supervision until the release is revoked, expiration of the maximum sentence or discharged by the board. Subject to the provisions of subsection (f) of K.S.A. 75-5217, and amendments thereto, the person shall receive credit for the time during which the person is on terminal medical condition release supervision towards service of the prison and postrelease supervision obligations of determinate sentences or indeterminate sentences.

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

(6) The decision of the chairperson of the board on the application

and the decision of the board regarding any revocation shall be final and not subject to review by any administrative agency or court.

(7) In determining whether a person meets the criteria to be released under this section, the chairperson of the board shall consider the following: (A) The person's current condition as confirmed by a doctor licensed to practice medicine and surgery in Kansas, including whether the condition is terminal and likely to cause death within 30 days;

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

(C) the person's criminal history;

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

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

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

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

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

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

(c) The secretary shall give notice of the granting of a terminal medical condition release to: (1) The prosecuting attorney and the judge of the court in which the person was convicted; and (2) any victim of the person's crime if alive or the victim's family if the victim is deceased, whose address is known by the secretary.

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

Sec. 23. K.S.A. 22-4111 is hereby amended to read as follows: 22-4111. (a) The Kansas council for interstate adult offender supervision shall consist of the following members:

(1) The governor or the governor's designee;

(2) the chief justice of the supreme court or the chief justice's designee;

(3) the attorney general or the attorney general's designee;

(4) a person representing crime victims groups appointed by the attorney general;

(5) one county attorney or district attorney appointed by the governor;

(6) one private defense counsel appointed by the governor;

(7) the chairperson of the ~~Kansas parole~~ *prisoner review* board or such chairperson's designee;

(8) the secretary of corrections or the secretary's designee;

(9) two senators, one shall be appointed by the president of the senate and one shall be appointed by the minority leader of the senate; and

(10) two representatives, one shall be appointed by the speaker of the house of representatives and one shall be appointed by the minority leader of the house of representatives.

(b) The appointments shall be made within 30 days after the effective date of this act. The initial meeting of the council shall be convened within 60 days after the effective date of this act by the secretary of corrections at a time and place designated by the secretary of corrections. The council shall elect a chairperson and may elect any additional officers from among its members necessary to discharge its duties.

(c) Meetings of the council subsequent to its initial meeting shall be held and conducted in accordance with policies and procedures established by the council.

(d) The council shall meet upon call of its chairperson as necessary to carry out its duties under this act.

(e) Each member of the council appointed by the governor or the attorney general shall be appointed for a term of four years. All other members shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.

(f) The council shall oversee and administer the state's participation in the interstate compact for adult offenders supervision, K.S.A. 22-4110, and amendments thereto, and shall develop policies concerning the op-

erations and procedures of the compact within the state. The council shall appoint the compact administrator.

(g) Each member of the council shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, for each day or part thereof actually spent on council activities.

(h) The provisions of this section shall take effect and be in force from and after the later of July 1, 2002, or upon enactment into law by the 35th jurisdiction of the interstate compact for adult offenders supervision.

Sec. 24. K.S.A. 2011 Supp. 22-4701 is hereby amended to read as follows: 22-4701. As used in this act, unless the context clearly requires otherwise:

(a) “Central repository” means the criminal justice information system central repository created by this act and the juvenile offender information system created pursuant to K.S.A. 2011 Supp. 38-2326, and amendments thereto.

(b) “Criminal history record information” means all data initiated or collected by a criminal justice agency on a person pertaining to a reportable event, and any supporting documentation. Criminal history record information does not include:

- (1) Data contained in intelligence or investigatory files or police work-product records used solely for police investigation purposes;
- (2) wanted posters, police blotter entries, court records of public judicial proceedings or published court opinions;
- (3) data pertaining to violations of the traffic laws of the state or any other traffic law or ordinance, other than vehicular homicide; or
- (4) presentence investigation and other reports prepared for use by a court in the exercise of criminal jurisdiction or by the governor in the exercise of the power of pardon, reprieve or commutation.

(c) “Criminal justice agency” means any government agency or subdivision of any such agency which is authorized by law to exercise the power of arrest, detention, prosecution, adjudication, correctional supervision, rehabilitation or release of persons suspected, charged or convicted of a crime and which allocates a substantial portion of its annual budget to any of these functions. The term includes, but is not limited to, the following agencies, when exercising jurisdiction over criminal matters or criminal history record information:

- (1) State, county, municipal and railroad police departments, sheriffs’ offices and countywide law enforcement agencies, correctional facilities, jails and detention centers;
- (2) the offices of the attorney general, county or district attorneys and any other office in which are located persons authorized by law to prosecute persons accused of criminal offenses;
- (3) the district courts, the court of appeals, the supreme court, the municipal courts and the offices of the clerks of these courts;
- (4) the Kansas sentencing commission;
- (5) the ~~Kansas parole~~ *Kansas parole prisoner review* board; and
- (6) the juvenile justice authority.

(d) “Criminal justice information system” means the equipment (including computer hardware and software), facilities, procedures, agreements and personnel used in the collection, processing, preservation and dissemination of criminal history record information.

(e) “Director” means the director of the Kansas bureau of investigation.

(f) “Disseminate” means to transmit criminal history record information in any oral or written form. The term does not include:

- (1) The transmittal of such information within a criminal justice agency;
- (2) the reporting of such information as required by this act; or
- (3) the transmittal of such information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.

(g) “Reportable event” means an event specified or provided for in K.S.A. 22-4705, and amendments thereto.

Sec. 25. K.S.A. 2011 Supp. 59-29a02 is hereby amended to read as follows: 59-29a02. As used in this act:

(a) “Sexually violent predator” means any person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in repeat acts of sexual violence.

(b) “Mental abnormality” means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others.

(c) “Likely to engage in repeat acts of sexual violence” means the person’s propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

(d) “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) “Sexually violent offense” means:

(1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2011 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

(6) indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and amendments thereto;

(7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5508, and amendments thereto;

(8) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

(9) aggravated sexual battery as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5505, and amendments thereto;

(10) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments thereto;

(11) any conviction for a felony offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent offense as defined in subparagraphs (1) through (11) or any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this section;

(12) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 and 21-3303, prior to their repeal, or K.S.A. 2011 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent offense as defined in this subsection; or

(13) any act which either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this act, has been determined beyond a reasonable doubt to have been sexually motivated.

(f) “Agency with jurisdiction” means that agency which releases upon lawful order or authority a person serving a sentence or term of confinement and includes the department of corrections, the department of social and rehabilitation services and the ~~Kansas parole~~ *prisoner review board*.

(g) “Person” means an individual who is a potential or actual subject of proceedings under this act.

(h) “Treatment staff” means the persons, agencies or firms employed by or contracted with the secretary to provide treatment, supervision or other services at the sexually violent predator facility.

(i) “Transitional release” means any halfway house, work release, sexually violent predator treatment facility or other placement designed to

assist the person's adjustment and reintegration into the community once released from commitment.

(j) "Secretary" means the secretary of the department of social and rehabilitation services.

Sec. 26. K.S.A. 60-4305 is hereby amended to read as follows: 60-4305. Records or information in the custody of the ~~Kansas parole prisoner review board~~, *the secretary of corrections*, any community correctional service program or any district court regarding the financial assets, income or employment of a criminal offender shall be subject to disclosure to any victim to whom such offender has been ordered to pay restitution, or to anyone acting on behalf of such victim to collect the ordered restitution, until such time as all restitution is paid in full.

Sec. 27. K.S.A. 2011 Supp. 74-4911f is hereby amended to read as follows: 74-4911f. (a) Subject to procedures or limitations prescribed by the governor, any person who is not an employee and who becomes a state officer may elect to not become a member of the system. The election to not become a member of the system must be filed within 90 days of assuming the position of state officer. Such election shall be irrevocable. If such election is not filed by such state officer, such state officer shall be a member of the system.

(b) Any such state officer who is a member of the Kansas public employees retirement system, on or after the effective date of this act, may elect to not be a member by filing an election with the office of the retirement system. The election to not become a member of the system must be filed within 90 days of assuming the position of state officer. If such election is not filed by such state officer, such state officer shall be a member of the system.

(c) Subject to limitations prescribed by the board, the state agency employing any employee who has filed an election as provided under subsection (a) or (b) and who has entered into an employee participation agreement, as provided in K.S.A. 2011 Supp. 74-49b10, and amendments thereto, for deferred compensation pursuant to the Kansas public employees deferred compensation plan shall contribute to such plan on such employee's behalf an amount equal to 8% of the employee's salary, as such salary has been approved pursuant to K.S.A. 75-2935b, and amendments thereto, or as otherwise prescribed by law. With regard to a state officer who is a member of the legislature who has retired pursuant to the Kansas public employees retirement system and who files an election as provided in this section, employee's salary means per diem compensation as provided by law as a member of the legislature.

(d) As used in this section and K.S.A. 74-4927k, and amendments thereto, "state officer" means the secretary of administration, secretary on aging, secretary of commerce, secretary of corrections, secretary of health and environment, secretary of labor, secretary of revenue, secretary of social and rehabilitation services, secretary of transportation, secretary of wildlife ~~and parks~~, *parks and tourism*, superintendent of the Kansas highway patrol, secretary of agriculture, executive director of the Kansas lottery, executive director of the Kansas racing commission, president of the Kansas development finance authority, state fire marshal, state librarian, securities commissioner, adjutant general, judges and chief hearing officer of the state court of tax appeals, ~~members of the Kansas parole board~~, members of the state corporation commission, any unclassified employee on the staff of officers of both houses of the legislature, any unclassified employee appointed to the governor's or lieutenant governor's staff, any person employed by the legislative branch of the state of Kansas, other than any such person receiving service credited under the Kansas public employees retirement system or any other retirement system of the state of Kansas therefor, who elected to be covered by the provisions of this section as provided in subsection (e) of K.S.A. 46-1302, and amendments thereto, or who is first employed on or after July 1, 1996, by the legislative branch of the state of Kansas and any member of the legislature who has retired pursuant to the Kansas public employees retirement system.

(e) The provisions of this section shall not apply to any state officer who has elected to remain eligible for assistance by the state board of regents as provided in subsection (a) of K.S.A. 74-4925, and amendments thereto.

Sec. 28. K.S.A. 74-7320 is hereby amended to read as follows: 74-7320. Upon the receipt of any moneys pursuant to K.S.A. 74-7319, and amendments thereto, the crime victims compensation board shall deposit the entire amount in a separate escrow account to be used only as follows:

(a) Upon dismissal of charges against the accused person or upon acquittal of the accused person, the board shall promptly pay the entire amount to such person, or such person's representatives or assignees.

(b) Upon conviction of the accused person or if the accused person has already been convicted, the board shall promptly distribute the entire amount and any future moneys paid to the board under K.S.A. 74-7319, and amendments thereto, as follows:

(1) First, to pay any restitution ordered by the court or by the ~~Kansas parole~~ *prisoner review* board to be paid by the convicted person to the person directed by the court or *prisoner review* board;

(2) if any moneys remain after payment pursuant to subsection (b)(1), to repay any amount expended by the state board of indigents' defense services on behalf of the convicted person in defending prosecution for the crime, including appeals;

(3) if any moneys remain after payment pursuant to subsections (b)(1) and (2), to pay any court costs assessed against the convicted person in proceedings for prosecution for the crime, including appellate proceedings;

(4) if any moneys remain after payment pursuant to subsections (b)(1), (2) and (3), to pay compensation pursuant to K.S.A. 74-7321, and amendments thereto; and

(5) if any moneys remain after payment pursuant to subsections (b)(1), (2), (3) and (4), to pay crime victims compensation pursuant to K.S.A. 74-7301 through 74-7318, and amendments thereto, for which purpose such moneys shall be deposited in the state treasury and credited to the state general fund.

Sec. 29. K.S.A. 74-7321 is hereby amended to read as follows: 74-7321. (a) When moneys are to be distributed pursuant to subsection (b) of K.S.A. 74-7320, and amendments thereto, the victim of the crime, and the victim's dependents, heirs, representatives or assignees, may apply to the crime victims compensation board for compensation for losses arising from the convicted person's crime. To the extent that moneys received by the board pursuant to K.S.A. 74-7319, and amendments thereto are sufficient, such compensation shall be in an amount equal to the applicant's actual loss, as determined by the board, less any restitution paid pursuant to order of a court or order of the ~~Kansas parole~~ *prisoner review* board and any compensation paid by the crime victims compensation board pursuant to K.S.A. 74-7301 *et seq.*, and amendments thereto. If moneys received by the board pursuant to K.S.A. 74-7319, and amendments thereto, are not sufficient to pay compensation as otherwise provided under this subsection (a), such moneys shall be prorated among all applicants eligible to receive compensation for losses arising from the convicted person's crime on the basis that the amount each applicant is entitled to receive under this subsection (a) bears to the total amount all such applicants would be entitled to receive under this subsection (a).

(b) The limitations provided by K.S.A. 74-7301 *et seq.*, and amendments thereto, shall not apply to compensation paid pursuant to this section.

(c) The crime victims compensation board shall adopt such rules and regulations as necessary to administer the provisions of K.S.A. 74-7319, 74-7320 and 74-7321, and amendments thereto.

Sec. 30. K.S.A. 2011 Supp. 74-9101 is hereby amended to read as follows: 74-9101. (a) There is hereby established the Kansas sentencing commission.

(b) The commission shall:

(1) Develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the circumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is

appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the ~~Kansas parole~~ *prisoner review* board and whether the policy of allocating good time credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued;

(2) consult with and advise the legislature with reference to the implementation, management, monitoring, maintenance and operations of the sentencing guidelines system;

(3) direct implementation of the sentencing guidelines system;

(4) assist in the process of training judges, county and district attorneys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. For these purposes, the sentencing commission shall develop an implementation policy and shall construct an implementation manual for use in its training activities;

(5) receive presentence reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993, to develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences. In developing the evaluative criteria, the commission shall take into consideration rational and consistent sentencing standards which reduce sentence disparity to include, but not be limited to, racial and regional biases;

(6) advise and consult with the secretary of corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies, including but not limited to the capacities of local and state correctional facilities. Such linkage shall include a review and determination of the impact of the sentencing guidelines on the state's prison population, review of corrections programs and a study of ways to more effectively utilize correction dollars and to reduce prison population;

(7) make recommendations relating to modification to the sentencing guidelines as provided in K.S.A. 2011 Supp. 21-6822, and amendments thereto;

(8) prepare and submit fiscal impact and correctional resource statement as provided in K.S.A. 74-9106, and amendments thereto;

(9) make recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;

(10) develop prosecuting standards and guidelines to govern the conduct of prosecutors when charging persons with crimes and when engaging in plea bargaining;

(11) analyze problems in criminal justice, identify alternative solutions and make recommendations for improvements in criminal law, prosecution, community and correctional placement, programs, release procedures and related matters including study and recommendations concerning the statutory definition of crimes and criminal penalties and review of proposed criminal law changes;

(12) perform such other criminal justice studies or tasks as may be assigned by the governor or specifically requested by the legislature, department of corrections, the chief justice or the attorney general;

(13) develop a program plan which includes involvement of business and industry in the public or other social or fraternal organizations for admitting back into the mainstream those offenders who demonstrate both the desire and ability to reconstruct their lives during their incarceration or during conditional release;

(14) appoint a task force to make recommendations concerning the consolidation of probation, parole and community corrections services;

(15) produce official inmate population projections annually on or before six weeks following the date of receipt of the data from the department of corrections. When the commission's projections indicate that the inmate population will exceed available prison capacity within two years of the date of the projection, the commission shall identify and analyze the impact of specific options for (A) reducing the number of prison admissions; or (B) adjusting sentence lengths for specific groups

of offenders. Options for reducing the number of prison admissions shall include, but not be limited to, possible modification of both sentencing grids to include presumptive intermediate dispositions for certain categories of offenders. Intermediate sanction dispositions shall include, but not be limited to: intensive supervision; short-term jail sentences; halfway houses; community-based work release; electronic monitoring and house arrest; substance abuse treatment; and pre-revocation incarceration. Intermediate sanction options shall include, but not be limited to, mechanisms to explicitly target offenders that would otherwise be placed in prison. Analysis of each option shall include an assessment of such options impact on the overall size of the prison population, the effect on public safety and costs. In preparing the assessment, the commission shall review the experience of other states and shall review available research regarding the effectiveness of such option. The commission's findings relative to each sentencing policy option shall be presented to the governor and the joint committee on corrections and juvenile justice oversight no later than November 1;

(16) at the request of the governor or the joint committee on corrections and juvenile justice oversight, initiate and complete an analysis of other sentencing policy adjustments not otherwise evaluated by the commission;

(17) develop information relating to the number of offenders on post-release supervision and subject to electronic monitoring for the duration of the person's natural life;

(18) determine the effect the mandatory sentencing established in K.S.A. 21-4642 and 21-4643, prior to their repeal, or K.S.A. 2011 Supp. 21-6626 and 21-6627, and amendments thereto, would have on the number of offenders civilly committed to a treatment facility as a sexually violent predator as provided pursuant to K.S.A. 59-29a01 *et seq.*, and amendments thereto;

(19) assume the designation and functions of the state statistical analysis center. All criminal justice agencies, as defined in subsection (c) of K.S.A. 22-4701, and amendments thereto, and the juvenile justice authority shall provide any data or information, including juvenile offender information, requested by the commission to facilitate the function of the state statistical analysis center; and

(20) subject to the provisions of appropriation acts and the availability of funds therefor, produce official juvenile correctional facility population projections annually on or before November 1, not more than six weeks following the receipt of the data from the juvenile justice authority and develop bed impacts regarding legislation that may affect juvenile correctional facility population.

Sec. 31. K.S.A. 74-9102 is hereby amended to read as follows: 74-9102. (a) The Kansas sentencing commission shall consist of 17 members, as follows:

(1) The chief justice of the supreme court or the chief justice's designee;

(2) two district court judges appointed by the chief justice of the supreme court;

(3) the attorney general or the attorney general's designee;

(4) one public defender appointed by the governor;

(5) one private defense counsel appointed by the governor;

(6) one county attorney or district attorney appointed by the governor;

(7) the secretary of corrections or the secretary's designee;

(8) the chairperson of the ~~Kansas parole~~ *prisoner review* board or such chairperson's designee;

(9) two members of the general public, at least one of whom shall be a member of a racial minority group, appointed by the governor;

(10) a director of a community corrections program appointed by the governor; and

(11) a court services officer appointed by the chief justice of the supreme court. Not more than three members of the commission appointed by the governor shall be of the same political party.

(b) In addition to the members appointed pursuant to subsection (a), four members of the legislature shall serve as voting members of the commission. Such members shall be appointed as follows: One shall be

appointed by the president of the senate, one shall be appointed by the minority leader of the senate, one shall be appointed by the speaker of the house of representatives and one shall be appointed by the minority leader of the house of representatives.

(c) The governor shall appoint a chairperson from the two district court judges appointed by the chief justice of the supreme court or the chief justice of the supreme court. The members of the commission appointed pursuant to subsection (a) shall elect any additional officers from among its members necessary to discharge its duties.

(d) The commission shall meet upon call of its chairperson as necessary to carry out its duties under this act.

(e) Each appointed member of the commission shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.

(f) Each member of the commission shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the commission shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on commission activities.

Sec. 32. K.S.A. 2011 Supp. 75-4318 is hereby amended to read as follows: 75-4318. (a) Subject to the provisions of subsection (g), all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state and political and taxing subdivisions thereof, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such bodies shall be by secret ballot. Meetings of task forces, advisory committees or subcommittees of advisory committees created pursuant to a governor's executive order shall be open to the public in accordance with this act.

(b) Notice of the date, time and place of any regular or special meeting of a public body designated hereinabove shall be furnished to any person requesting such notice, except that:

(1) If notice is requested by petition, the petition shall designate one person to receive notice on behalf of all persons named in the petition, and notice to such person shall constitute notice to all persons named in the petition;

(2) if notice is furnished to an executive officer of an employees' organization or trade association, such notice shall be deemed to have been furnished to the entire membership of such organization or association; and

(3) the public body may require that a request to receive notice must be submitted again to the body prior to the commencement of any subsequent fiscal year of the body during which the person wishes to continue receiving notice, but, prior to discontinuing notice to any person, the public body must notify the person that notice will be discontinued unless the person resubmits a request to receive notice.

(c) It shall be the duty of the presiding officer or other person calling the meeting, if the meeting is not called by the presiding officer, to furnish the notice required by subsection (b).

(d) Prior to any meeting hereinabove mentioned, any agenda relating to the business to be transacted at such meeting shall be made available to any person requesting the agenda.

(e) The use of cameras, photographic lights and recording devices shall not be prohibited at any meeting mentioned by subsection (a), but such use shall be subject to reasonable rules designed to insure the orderly conduct of the proceedings at such meeting.

(f) Except as provided by section 22 of article 2 of the constitution of the state of Kansas, interactive communications in a series shall be open if they collectively involve a majority of the membership of the body or agency, share a common topic of discussion concerning the business or affairs of the body or agency, and are intended by any or all of the par-

ticipants to reach agreement on a matter that would require binding action to be taken by the body or agency.

(g) The provisions of the open meetings law shall not apply:

(1) To any administrative body that is authorized by law to exercise quasi-judicial functions when such body is deliberating matters relating to a decision involving such quasi-judicial functions;

(2) to the ~~parole~~ *parole prisoner review* board when conducting parole hearings or parole violation hearings held at a correctional institution;

(3) to any impeachment inquiry or other impeachment matter referred to any committee of the house of representatives prior to the report of such committee to the full house of representatives; and

(4) if otherwise provided by state or federal law or by rules of the Kansas senate or house of representatives.

Sec. 33. K.S.A. 2011 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

(1) Personnel matters of nonelected personnel;

(2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;

(3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;

(4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;

(5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;

(6) preliminary discussions relating to the acquisition of real property;

(7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804, and amendments thereto;

(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507, and amendments thereto, or subsection (e) of K.S.A. 38-1508, and amendments thereto;

(9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243, and amendments thereto;

(10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596, and amendments thereto;

(11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119, and amendments thereto;

(12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

(13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include,

but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto;

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2011 Supp. 75-7427, and amendments thereto; and

(16) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2011 Supp. 46-3801, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d) (1) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(2) (A) Except as otherwise provided by law, any confidential documents, records or reports relating to the ~~parole prisoner review~~ board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(B) Notwithstanding any other provision of law to the contrary, any summary statement provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 34. K.S.A. 75-5202 is hereby amended to read as follows: 75-5202. As used in K.S.A. 75-5201 *et seq.*, and amendments thereto, unless the context clearly requires otherwise:

(a) “Secretary” means the secretary of corrections.

(b) “~~Parole Prisoner review~~ board” means the ~~Kansas parole prisoner review~~ board established by K.S.A. ~~22-3707~~ 2011 Supp. 75-52,152, and amendments thereto.

(c) “Inmate” means any person incarcerated in any correctional institution of the state of Kansas.

(d) “Correctional institution” means the Lansing correctional facility, Hutchinson correctional facility, Topeka correctional facility, Norton correctional facility, Ellsworth correctional facility, Winfield correctional facility, Osawatomie correctional facility, Larned correctional mental health facility, Toronto correctional work facility, Stockton correctional facility, Wichita work release facility, El Dorado correctional facility, and any other correctional institution established by the state for the confinement of offenders under control of the secretary of corrections.

(e) “Warden” means the person in charge of the operation and supervision of a correctional institution.

(f) “Corrections officer” means a full-time, salaried officer or employee under the jurisdiction of the secretary, whose duties include the receipt, custody, control, maintenance, discipline, security and apprehension of persons convicted of criminal offense in this state and sentenced to a term of imprisonment under the custody of the secretary.

(g) “Parole officer” means a full-time salaried officer or employee under the jurisdiction of the secretary whose duties include:

(1) Investigation, supervision, arrest and control of persons on parole or postrelease supervision and the enforcement of the conditions of parole or postrelease supervision; and

(2) services which relate to probationers, parolees or persons on post-release supervision and are required by the uniform act for out-of-state parolee supervision.

Sec. 35. K.S.A. 2011 Supp. 75-5210a is hereby amended to read as follows: 75-5210a. (a) Within a reasonable time after a defendant is committed to the custody of the secretary of corrections, for service of a sentence for an indeterminate or off grid crime, the secretary shall enter into a written agreement with the inmate specifying those educational, vocational, mental health or other programs which the secretary determines the inmate must satisfactorily complete in order to be prepared for release on parole supervision. To the extent practicable, the agreement shall require the inmate to have made progress towards or to have successfully completed the equivalent of a secondary education before

release on parole if the inmate has not previously completed such educational equivalent and is capable of doing so. The agreement shall be conditioned on the inmate's satisfactory conduct, employment and attitude while incarcerated. If the secretary determines that the inmate's conduct, employment, attitude or needs require modifications or additions to those programs which are set forth in the agreement, the secretary shall revise the requirements. The secretary shall agree that, when the inmate satisfactorily completes the programs required by the agreement, or any revision thereof, the secretary shall report that fact in writing to the ~~Kansas parole~~ *prisoner review* board. If the inmate becomes eligible for parole before satisfactorily completing such programs, the secretary shall report in writing to the ~~Kansas parole~~ board the programs which are not completed.

(b) A copy of any agreement and any revisions thereof shall be entered into the inmate's record.

Sec. 36. K.S.A. 2011 Supp. 75-5217 is hereby amended to read as follows: 75-5217. (a) At any time during release on parole, conditional release or postrelease supervision, the secretary of corrections may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release, or a notice to appear to answer to a charge of violation. Such notice shall be served personally upon the released inmate. The warrant shall authorize any law enforcement officer to arrest and deliver the released inmate to a place as provided by subsection (g). Any parole officer may arrest such released inmate without a warrant, or may deputize any other officer with power of arrest to do so by giving such officer a written or verbal arrest and detain order setting forth that the released inmate, in the judgment of the parole officer, has violated the conditions of the inmate's release. A written arrest and detain order delivered to the official in charge of the institution or place to which the released inmate is brought for detention shall be sufficient warrant for detaining the inmate. After making an arrest the parole officer shall present to the detaining authorities a similar arrest and detain order and statement of the circumstances of violation. Pending a hearing, as provided in this section, upon any charge of violation the released inmate shall remain incarcerated in the institution or place to which the inmate is taken for detention.

(b) Upon such arrest and detention, the parole officer shall notify the secretary of corrections, or the secretary's designee, within five days and shall submit in writing a report showing in what manner the released inmate had violated the conditions of release. After such notification is given to the secretary of corrections, or upon an arrest by warrant as herein provided, and the finding of probable cause pursuant to procedures established by the secretary of a violation of the released inmate's conditions of release, the secretary or the secretary's designee may cause the released inmate to be brought before the ~~Kansas parole~~ *prisoner review* board, its designee or designees, for a hearing on the violation charged, under such rules and regulations as the board may adopt, or may dismiss the charges that the released inmate has violated the conditions of release and order the released inmate to remain on parole, conditional release or post release supervision. It is within the discretion of the ~~Kansas parole~~ board whether such hearing requires the released inmate to appear personally before the board when such inmate's violation results from a conviction for a new felony or misdemeanor. An offender under determinate sentencing whose violation does not result from a conviction of a new felony or misdemeanor may waive the right to a final revocation hearing before the ~~Kansas parole~~ board under such conditions and terms as may be prescribed by rules and regulations promulgated by the ~~Kansas parole board~~ *secretary of corrections*. Relevant written statements made under oath shall be admitted and considered by the ~~Kansas parole~~ board, its designee or designees, along with other evidence presented at the hearing. If the violation is established to the satisfaction of the ~~Kansas parole~~ board, the board may continue or revoke the parole or conditional release, or enter such other order as the board may see fit. The revocation of release of inmates who are on a specified period of postrelease supervision shall be for a six-month period of confinement from the date of the revocation hearing before the board or the effective date of waiver of such hearing by the offender pursuant to rules and regulations promul-

gated by the ~~Kansas parole~~ board, if the violation does not result from a conviction for a new felony or misdemeanor. Such period of confinement may be reduced by not more than three months based on the inmate's conduct, work and program participation during the incarceration period. The reduction in the incarceration period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(c) If the violation results from a conviction for a new felony, upon revocation, the inmate shall serve the entire remaining balance of the period of postrelease supervision even if the new conviction did not result in the imposition of a new term of imprisonment.

(d) If the violation results from a conviction for a new misdemeanor, upon revocation, the inmate shall serve a period of confinement, to be determined by the ~~Kansas parole~~ *prisoner review* board, which shall not exceed the remaining balance of the period of postrelease supervision.

(e) In the event the released inmate reaches conditional release date as provided by K.S.A. 22-3718, and amendments thereto, after a finding of probable cause, pursuant to procedures established by the secretary of corrections of a violation of the released inmate's conditions of release, but prior to a hearing before the ~~Kansas parole~~ *prisoner review* board, the secretary of corrections shall be authorized to detain the inmate until the hearing by the ~~Kansas parole~~ board. The secretary shall then enforce the order issued by the ~~Kansas parole~~ board.

(f) If the secretary of corrections issues a warrant for the arrest of a released inmate for violation of any of the conditions of release and the released inmate is subsequently arrested in the state of Kansas, either pursuant to the warrant issued by the secretary of corrections or for any other reason, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest.

If a released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state, and the released inmate has been authorized as a condition of such inmate's release to reside in or travel to the state in which the released inmate was arrested, and the released inmate has not absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant to the date of the released inmate's arrest. If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state for reasons other than the secretary's warrant and the released inmate does not have authorization to be in the other state or if authorized to be in the other state has been charged by the secretary with having absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant by the secretary to the date the released inmate is first available to be returned to the state of Kansas. If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of a condition of release is subsequently arrested in another state pursuant only to the secretary's warrant, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest, regardless of whether the released inmate's presence in the other state was authorized or the released inmate had absconded from supervision.

The secretary may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release and may direct that all reasonable means to serve the warrant and detain such released inmate be employed including but not limited to notifying the federal bureau of investigation of such violation and issuance of warrant and requesting from the federal bureau of investigation any pertinent information it may possess concerning the whereabouts of the released inmate.

(g) Law enforcement officers shall execute warrants issued by the secretary of corrections, and shall deliver the inmate named in the warrant to the jail used by the county where the inmate is arrested unless some other place is designated by the secretary, in the same manner as for the execution of any arrest warrant.

(h) For the purposes of this section, an inmate or released inmate is an individual under the supervision of the secretary of corrections, including, but not limited to, an individual on parole, conditional release,

postrelease supervision, probation granted by another state or an individual supervised under any interstate compact in accordance with the provisions of the uniform act for out-of-state parolee supervision, K.S.A. 22-4101 *et seq.*, and amendments thereto.

Sec. 37. K.S.A. 2011 Supp. 75-5266 is hereby amended to read as follows: 75-5266. Psychiatric evaluation reports of correctional facilities shall be privileged and shall not be disclosed directly or indirectly to anyone except as provided herein. The court, the district or county attorney, the attorney for the defendant or inmate, the ~~Kansas parole prisoner review~~ board and its staff, the wardens and classification committees of the state correctional institutions and those persons authorized by the secretary shall have access to such reports. Such reports may be disclosed to: (1) The defendant or inmate or members of the defendant's or inmate's family; (2) the defendant's or inmate's friends when authorized by the defendant or inmate or the defendant's or inmate's family; or (3) the superintendent or director of any other state institution when authorized by the warden, or secretary of corrections. Employees of the correctional institutions under the supervision of the secretary are expressly forbidden from disclosing the contents of such reports to anyone except as provided herein. Nothing in this section shall be construed as preventing the attorney for the defendant or inmate from discussing such reports with the defendant or inmate.

Sec. 38. K.S.A. 2011 Supp. 77-421 is hereby amended to read as follows: 77-421. (a) (1) Except as provided by subsection (a)(2), subsection (a)(3) or subsection (a)(4), prior to the adoption of any permanent rule and regulation or any temporary rule and regulation which is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by the secretary of administration and the attorney general, the adopting state agency shall give at least 60 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations established by K.S.A. 77-436, and amendments thereto. The notice shall be provided to the secretary of state and to the chairperson, vice chairperson, ranking minority member of the joint committee and legislative research department and shall be published in the Kansas register. A complete copy of all proposed rules and regulations and the complete economic impact statement required by K.S.A. 77-416, and amendments thereto, shall accompany the notice sent to the secretary of state. The notice shall contain:

(A) A summary of the substance of the proposed rules and regulations;

(B) a summary of the economic impact statement indicating the estimated economic impact on governmental agencies or units, persons subject to the proposed rules and regulations and the general public;

(C) a summary of the environmental benefit statement, if applicable, indicating the need for the proposed rules and regulations;

(D) the address where a complete copy of the proposed rules and regulations, the complete economic impact statement, the environmental benefit statement, if applicable, required by K.S.A. 77-416, and amendments thereto, may be obtained;

(E) the time and place of the public hearing to be held; the manner in which interested parties may present their views; and

(F) a specific statement that the period of 60 days' notice constitutes a public comment period for the purpose of receiving written public comments on the proposed rules and regulations and the address where such comments may be submitted to the state agency. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rules and regulations.

(2) Prior to adopting any rule and regulation which establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife and after such rule and regulation has been approved by the secretary of administration and the attorney general, the secretary of ~~the department of wildlife and parks~~ *wildlife, parks and tourism* shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and

amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(3) Prior to adopting any rule and regulation which establishes any permanent prior authorization on a prescription-only drug pursuant to K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or reimbursement for pharmaceuticals under the pharmacy program of the state medicaid plan, and after such rule and regulation has been approved by the secretary of administration and the attorney general, the Kansas health policy authority shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(4) Prior to adopting any rule and regulation pursuant to subsection (c), the state agency shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of notice constitutes a public comment period on such rules and regulations.

(b) (1) On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. At the time it adopts or amends a rule and regulation, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto, including:

(A) The agency's reasons for not accepting substantial arguments made in testimony and comments; and

(B) the reasons for any substantial change between the text of the proposed adopted or amended rule and regulation contained in the published notice of the proposed adoption or amendment of the rule and regulation and the text of the rule and regulation as finally adopted.

(2) Whenever a state agency is required by any other statute to give notice and hold a hearing before adopting, amending, reviving or revoking a rule and regulation, the state agency, in lieu of following the requirements or statutory procedure set out in such other law, may give notice and hold hearings on proposed rules and regulations in the manner prescribed by this section.

(3) Notwithstanding the other provisions of this section, ~~the Kansas parole board and the secretary of corrections; may give notice or an opportunity to be heard to any inmate in the custody of the secretary of corrections with regard to the adoption of any rule and regulation, but the secretary shall not be required to give such notice or opportunity.~~

(c) (1) The agency shall initiate new rulemaking proceedings under this act, if a state agency proposes to adopt a final rule and regulation that:

(A) Differs in subject matter or effect in any material respect from the rule and regulation as originally proposed; and

(B) is not a logical outgrowth of the rule and regulation as originally proposed.

(2) In accordance with subsection (a), the period for public comment required by K.S.A. 77-421, and amendments thereto, may be shortened to not less than 30 days.

(3) For the purposes of this provision, a rule and regulation is not the logical outgrowth of the rule and regulation as originally proposed if a person affected by the final rule and regulation was not put on notice that such person's interests were affected in the rulemaking.

(d) When, pursuant to this or any other statute, a state agency holds a hearing on the adoption of a proposed rule and regulation, the agency shall cause written minutes or other records, including a record maintained on sound recording tape or on any electronically accessed media or any combination of written or electronically accessed media records of

the hearing to be made. If the proposed rule and regulation is adopted and becomes effective, the state agency shall maintain, for not less than three years after its effective date, such minutes or other records, together with any recording, transcript or other record made of the hearing and a list of all persons who appeared at the hearing and who they represented, any written testimony presented at the hearing and any written comments submitted during the public comment period.

(e) No rule and regulation shall be adopted by a board, commission, authority or other similar body except at a meeting which is open to the public and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted by a board, commission, authority or other similar body unless it receives approval by roll call vote of a majority of the total membership thereof.

Sec. 39. K.S.A. 2011 Supp. 77-603 is hereby amended to read as follows: 77-603. (a) This act applies to all agencies and all proceedings for judicial review and civil enforcement of agency actions not specifically exempted by statute from the provisions of this act.

(b) This act creates only procedural rights and imposes only procedural duties. They are in addition to those created and imposed by other statutes.

(c) This act does not apply to agency actions:

(1) Of the ~~Kansas parole~~ *prisoner review* board concerning inmates or persons under parole or conditional release supervision;

(2) concerning the management, discipline or release of persons in the custody of the secretary of corrections;

(3) concerning the management, discipline or release of persons in the custody of the commissioner of juvenile justice;

(4) under the election laws contained in chapter 25 of the Kansas Statutes Annotated, and amendments thereto, except as provided by K.S.A. 25-4185, and amendments thereto;

(5) concerning pardon, commutation of sentence, clemency or extradition;

(6) concerning military or naval affairs other than actions relating to armories;

(7) governed by the provisions of the open records act and subject to an action for enforcement pursuant to K.S.A. 45-222, and amendments thereto;

(8) governed by the provisions of K.S.A. 75-4317 *et seq.*, and amendments thereto, relating to open public meetings, and subject to an action for civil penalties or enforcement pursuant to K.S.A. 75-4320 or 75-4320a, and amendments thereto; or

(9) concerning the civil commitment of sexually violent predators pursuant to K.S.A. 59-29a01 *et seq.*, and amendments thereto.

Sec. 40. K.S.A. 22-3706, 22-3707a, 22-3708, 22-3709, 22-3710, 22-3711, 22-3712, 22-3713, 22-3718, 22-3719, 22-3720, 22-3722, 22-3726, 22-4111, 60-4305, 74-7320, 74-7321, 74-9102 and 75-5202 and K.S.A. 2011 Supp. 12-4516, 19-4804, 21-6603, 21-6606, 21-6609, 21-6614, 21-6614a, 21-6614b, 21-6614c, 21-6803, 22-3701, 22-3707, 22-3717, 22-3728, 22-3729, 22-4701, 59-29a02, 74-4911f, 74-9101, 75-4318, 75-4319, 75-5210a, 75-5217, 75-5266, 77-421 and 77-603 are hereby repealed.

Sec. 41. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.