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

New Section 1. As used in sections 1 through 4, and amendments thereto:

(a) "Alien" means an alien unlawfully present in the United States, as defined by the immigration laws of the United States, 8 U.S.C. § 1101 et seq.
(b) "Governmental entity" means the state or municipality as such terms are defined in K.S.A. 75-6102, and amendments thereto.
(c) "Harbor" means conduct that tends to substantially facilitate an alien's remaining in the United States illegally.

New Sec. 2. (a) It is unlawful for a person to:

(1) Intentionally conceal, harbor or shield or attempt to conceal, harbor or shield an alien from detection by law enforcement officials in any place in this state, including, but not limited to, any building or any means of transportation, if the person recklessly disregards the fact that the alien has come to, has entered or remains in the United States in violation of federal law; or
(2) intentionally encourage or induce an alien to come to or reside in the United States if the person recklessly disregards the fact that such coming to, entering or residing in the United States is or will be in violation of federal law.

(b) (1) Violation of this section is a class A misdemeanor, except as provided in subsection (b)(2).
(2) Violation of this section that involves 10 or more aliens who are 18 years of age or older and who are unlawfully present in the United States is a severity level 8, person felony.

New Sec. 3. (a) No alien who is unlawfully present in the United States shall receive any governmental entity public benefit, except for governmental entity public benefits that are required to be offered by 8 U.S.C. § 1621(b), or as provided in K.S.A. 2011 Supp. 76-731a, and amendments thereto.
(b) In addition to providing proof of other eligibility requirements, at the time of application for any governmental entity public benefit, an
individual applicant who is 18 years of age or older shall provide
affirmative proof that the individual applicant is a citizen or a permanent
resident of the United States or is lawfully present in the United States.
Such affirmative proof shall include documentary evidence recognized by
the division of motor vehicles when processing an application for a driver's
license, as established in K.S.A. 8-240, and amendments thereto, as well as
any document issued by the federal government that confirms an alien's
lawful presence in the United States.

(c) No governmental entity shall provide any public benefit to any
alien without first verifying that the alien is lawfully present in the United
States and is a qualified alien, as described by 8 U.S.C. §§ 1621 and 1641.
Such verification shall occur through the systematic alien verification for
entitlements program, operated by the United States department of
homeland security.

(d) Governmental entities administering public benefits in this state
shall cooperate with the United States department of homeland security in
achieving verification of aliens' lawful presence in the United States in
furtherance of this section.

(e) As used in this section, "public benefit" means any grant, contract,
loan or commercial or professional license provided by an agency of any
governmental entity, or any retirement, welfare, health, disability, housing,
food assistance or unemployment benefit under which payments,
assistance, credits or reduced rates or fees are provided, except that in no
event shall the term "public benefit" include any license issued by the
department of wildlife, parks and tourism or licenses and identification
cards issued by the division of motor vehicles.

New Sec. 4. (a) It is unlawful for any person to fail to complete or
carry an alien registration document if the person is in violation of 8
U.S.C. §§ 1304(e) or 1306(a), and the person is an alien unlawfully
present in the United States.

(b) Violation of this section is a class C misdemeanor. Any fine
imposed for such violation shall not exceed $100.

(c) In the enforcement of this section:

(1) An alien’s immigration status shall be determined by verification
of the alien’s immigration status with the federal government pursuant to 8
U.S.C. § 1373(c). A law enforcement officer shall not attempt to
independently verify the immigration status of any alien.

(2) A law enforcement official or agency may not consider race, color
or national origin in the enforcement of this section except to the extent
permitted by the United States constitution and the Kansas constitution.

(d) This section shall not apply to a person who maintains
authorization from the federal government to be present in the United
States.
(e) Any record that relates to the immigration status of a person is admissible in court without further foundation or testimony from a custodian of records if the record is certified as authentic by the government agency that is responsible for maintaining the record. A verification of an alien’s immigration status received from the federal government pursuant to 8 U.S.C. § 1373(c) shall constitute proof of that alien’s status.

New Sec. 5. If any provision of sections 1 through 4, and amendments thereto, is held to be unconstitutional under the United States or Kansas constitutions, that provision shall be severed from this act, and the other provisions of sections 1 through 4, and amendments thereto, shall remain valid and in effect.

Sec. 6. K.S.A. 2011 Supp. 21-5918 is hereby amended to read as follows: 21-5918. (a) Dealing in false identification documents is knowingly reproducing, manufacturing, selling or offering for sale any identification document which:

(1) Simulates, purports to be or is designed so as to cause others reasonably to believe it to be an identification document; and

(2) bears a fictitious name or other false information.

(b) Vital records identity fraud related to birth, death, marriage and divorce certificates is:

(1) Supplying false information intending that the information be used to obtain a certified copy of a vital record;

(2) making, counterfeiting, altering, amending or mutilating any certified copy of a vital record without lawful authority and with the intent to deceive; or

(3) obtaining, possessing, using, selling or furnishing or attempting to obtain, possess or furnish to another a certified copy of a vital record, with the intent to deceive.

(c) (1) Vital records identity fraud is a severity level 8, nonperson felony.

(2) Dealing in false identification documents is a severity level 6, nonperson felony.

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

(1) A person less than 21 years of age who uses the identification document of another person to acquire an alcoholic beverage, as defined in K.S.A. 8-1599, and amendments thereto; or

(2) a person less than 18 years of age who uses the identification documents of another person to acquire:

(A) Cigarettes or tobacco products, as defined in K.S.A. 79-3301, and amendments thereto;

(B) a periodical, videotape or other communication medium that contains or depicts nudity;
admittance to a performance, live or film, that prohibits the
attendance of the person based on age; or

(D) an item that is prohibited by law for use or consumption by such
person.

(e) As used in this section, "identification document" means any card,
certificate or document or banking instrument including, but not limited to,
credit or debit card, which identifies or purports to identify the bearer of
such document, whether or not intended for use as identification, and
includes, but is not limited to, documents purporting to be drivers' licenses,
nondrivers' identification cards, certified copies of birth, death, marriage
and divorce certificates, social security cards and employee identification
cards.

Sec. 7. K.S.A. 2011 Supp. 22-2802 is hereby amended to read as
follows: 22-2802. (1) Any person charged with a crime shall, at the
person's first appearance before a magistrate, be ordered released pending
preliminary examination or trial upon the execution of an appearance bond
in an amount specified by the magistrate and sufficient to assure the
appearance of such person before the magistrate when ordered and to
assure the public safety. If the person charged with a crime is not a citizen
or national of the United States, such person's immigration status shall be
verified with the federal government pursuant to 8 U.S.C. § 1373(c). For
the purposes of determining the grant of or issuance of appearance bond,
it shall be a rebuttable presumption that a person who has been verified by
the federal government to be an alien unlawfully present in the United
States is a risk of flight. If the person is being bound over for a felony, the
bond shall also be conditioned on the person's appearance in the district
court or by way of a two-way electronic audio-video communication as
provided in subsection (14) at the time required by the court to answer the
charge against such person and at any time thereafter that the court
requires. Unless the magistrate makes a specific finding otherwise, if the
person is being bonded out for a person felony or a person misdemeanor,
the bond shall be conditioned on the person being prohibited from having
any contact with the alleged victim of such offense for a period of at least
72 hours. The magistrate may impose such of the following additional
conditions of release as will reasonably assure the appearance of the
person for preliminary examination or trial:

(a) Place the person in the custody of a designated person or
organization agreeing to supervise such person;

(b) place restrictions on the travel, association or place of abode of
the person during the period of release;

(c) impose any other condition deemed reasonably necessary to
assure appearance as required, including a condition requiring that the
person return to custody during specified hours;
(d) place the person under a house arrest program pursuant to K.S.A. 2011 Supp. 21-6609, and amendments thereto; or
(e) place the person under the supervision of a court services officer responsible for monitoring the person's compliance with any conditions of release ordered by the magistrate. The magistrate may order the person to pay for any costs associated with the supervision provided by the court services department in an amount not to exceed $15 per week of such supervision. The magistrate may also order the person to pay for all other costs associated with the supervision and conditions for compliance in addition to the $15 per week.

(2) In addition to any conditions of release provided in subsection (1), for any person charged with a felony, the magistrate may order such person to submit to a drug and alcohol abuse examination and evaluation in a public or private treatment facility or state institution and, if determined by the head of such facility or institution that such person is a drug or alcohol abuser or is incapacitated by drugs or alcohol, to submit to treatment for such drug or alcohol abuse, as a condition of release.

(3) The appearance bond shall be executed with sufficient solvent sureties who are residents of the state of Kansas, unless the magistrate determines, in the exercise of such magistrate's discretion, that requiring sureties is not necessary to assure the appearance of the person at the time ordered.

(4) A deposit of cash in the amount of the bond may be made in lieu of the execution of the bond pursuant to subsection (3). Except as provided in subsection (5), such deposit shall be in the full amount of the bond and in no event shall a deposit of cash in less than the full amount of bond be permitted. Any person charged with a crime who is released on a cash bond shall be entitled to a refund of all moneys paid for the cash bond, after deduction of any outstanding restitution, costs, fines and fees, after the final disposition of the criminal case if the person complies with all requirements to appear in court. The court may not exclude the option of posting bond pursuant to subsection (3).

(5) Except as provided further, the amount of the appearance bond shall be the same whether executed as described in subsection (3) or posted with a deposit of cash as described in subsection (4). When the appearance bond has been set at $2,500 or less and the most serious charge against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson felony, a drug severity level 4 felony or a violation of K.S.A. 8-1567, and amendments thereto, the magistrate may allow the person to deposit cash with the clerk in the amount of 10% of the bond, provided the person meets at least the following qualifications:

(A) Is a resident of the state of Kansas;
(B) has a criminal history score category of G, H or I;
(C) has no prior history of failure to appear for any court appearances;
(D) has no detainer or hold from any other jurisdiction;
(E) has not been extradited from, and is not awaiting extradition to, another state; and
(F) has not been detained for an alleged violation of probation.

(6) In the discretion of the court, a person charged with a crime may be released upon the person's own recognizance by guaranteeing payment of the amount of the bond for the person's failure to comply with all requirements to appear in court. The release of a person charged with a crime upon the person's own recognizance shall not require the deposit of any cash by the person.

(7) The court shall not impose any administrative fee.

(8) In determining which conditions of release will reasonably assure appearance and the public safety, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the crime charged; the weight of the evidence against the defendant; whether the defendant is lawfully present in the United States; the defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, record of convictions, record of appearance or failure to appear at court proceedings or of flight to avoid prosecution; the likelihood or propensity of the defendant to commit crimes while on release, including whether the defendant will be likely to threaten, harass or cause injury to the victim of the crime or any witnesses thereto; and whether the defendant is on probation or parole from a previous offense at the time of the alleged commission of the subsequent offense.

(9) The appearance bond shall set forth all of the conditions of release.

(10) A person for whom conditions of release are imposed and who continues to be detained as a result of the person's inability to meet the conditions of release shall be entitled, upon application, to have the conditions reviewed without unnecessary delay by the magistrate who imposed them. If the magistrate who imposed conditions of release is not available, any other magistrate in the county may review such conditions.

(11) A magistrate ordering the release of a person on any conditions specified in this section may at any time amend the order to impose additional or different conditions of release. If the imposition of additional or different conditions results in the detention of the person, the provisions of subsection (10) shall apply.

(12) Statements or information offered in determining the conditions of release need not conform to the rules of evidence. No statement or admission of the defendant made at such a proceeding shall be received as
evidence in any subsequent proceeding against the defendant.

(13) The appearance bond and any security required as a condition of
the defendant's release shall be deposited in the office of the magistrate or
the clerk of the court where the release is ordered. If the defendant is
bound to appear before a magistrate or court other than the one ordering
the release, the order of release, together with the bond and security shall
be transmitted to the magistrate or clerk of the court before whom the
defendant is bound to appear.

(14) Proceedings before a magistrate as provided in this section to
determine the release conditions of a person charged with a crime
including release upon execution of an appearance bond may be conducted
by two-way electronic audio-video communication between the defendant
and the judge in lieu of personal presence of the defendant or defendant's
counsel in the courtroom in the discretion of the court. The defendant may
be accompanied by the defendant's counsel. The defendant shall be
informed of the defendant's right to be personally present in the courtroom
during such proceeding if the defendant so requests. Exercising the right to
be present shall in no way prejudice the defendant.

(15) The magistrate may order the person to pay for any costs
associated with the supervision of the conditions of release of the
appearance bond in an amount not to exceed $15 per week of such
supervision. As a condition of sentencing under K.S.A. 2011 Supp. 21-
6604, and amendments thereto, the court may impose the full amount of
any such costs in addition to the $15 per week, including, but not limited
to, costs for treatment and evaluation under subsection (2).

Sec. 8. K.S.A. 2011 Supp. 21-5918 and 22-2802 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its
publication in the statute book.