

SENATE BILL No. 179

By Committee on Judiciary

2-10

1 AN ACT concerning human trafficking and related crimes; creating the
2 crimes of unlawful use of a communication facility, promoting travel
3 for child exploitation, internet trading in child pornography and
4 aggravated internet trading in child pornography; relating to training for
5 commercial driver's license applicants; sexual exploitation of a child;
6 buying sexual relations; commercial sexual exploitation of a child;
7 offender registration; expungement of juvenile adjudications; victim
8 compensation; amending K.S.A. 2016 Supp. 12-4120, 21-5426, 21-
9 5510, 21-6421, 21-6422, 22-4902, 38-2312, 74-7305 and 75-759 and
10 repealing the existing sections.

11

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

13 New Section 1. (a) It shall be unlawful for any person to knowingly
14 or intentionally use any communication facility:

15 (1) In committing, causing, or facilitating the commission of any
16 felony under K.S.A. 2016 Supp. 21-5426, 21-6422 or 21-6420, and
17 amendments thereto;

18 (2) in any attempt to commit, any conspiracy to commit, or any
19 criminal solicitation of any felony under K.S.A. 2016 Supp. 21-5426, 21-
20 6422 or 21-6420, and amendments thereto; or

21 (3) in committing, causing, or facilitating the commission of any
22 felony or misdemeanor under K.S.A. 2016 Supp. 21-6421, and
23 amendments thereto, or in any attempt to commit, any conspiracy to
24 commit, or any criminal solicitation of any felony or misdemeanor under
25 K.S.A. 2016 Supp. 21-6421, and amendments thereto.

26 Each separate use of a communication facility may be charged as a
27 separate offense under this subsection.

28 (b) (1) Violation of subsection (a)(1) or (a)(2) is a severity level 7,
29 person felony.

30 (2) Violation of subsection (a)(3) is a class A person misdemeanor.

31 (c) As used in this section, "communication facility" means any and
32 all public and private instrumentalities used or useful in the transmission
33 of writing, signs, signals, pictures or sounds of all kinds and includes
34 telephone, wire, radio, computer, computer networks, beepers, pagers and
35 all other means of communication.

36 (d) It shall be an affirmative defense to any prosecution under this

1 section that the defendant committed the violation of this section because
2 such defendant was subjected to human trafficking or aggravated human
3 trafficking, as defined by K.S.A. 2016 Supp. 21-5426, and amendments
4 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.
5 2016 Supp. 21-6422, and amendments thereto.

6 (e) This section shall be part of and supplemental to the Kansas
7 criminal code.

8 New Sec. 2. (a) Promoting travel for child exploitation is knowingly
9 selling or offering to sell travel services that include or facilitate travel for
10 the purpose of any person engaging in conduct that would constitute a
11 violation of K.S.A. 2016 Supp. 21-5510 or 21-6422, and amendments
12 thereto, if such conduct occurred in this state.

13 (b) Promoting travel for child exploitation is a severity level 5, person
14 felony.

15 (c) As used in this section, "travel services" means transportation by
16 air, sea or ground, hotel or any lodging accommodations, package tours, or
17 vouchers or coupons to be redeemed for future travel or accommodations
18 for a fee, commission or other valuable consideration.

19 (d) This section shall be part of and supplemental to the Kansas
20 criminal code.

21 New Sec. 3. (a) Internet trading in child pornography is sexual
22 exploitation of a child, as defined in K.S.A. 2016 Supp. 21-5510(a)(2), and
23 amendments thereto, when the offender is 18 years of age or older, and the
24 offender knowingly causes or permits the visual depiction to be viewed, by
25 use of any electronic device connected to the internet, by any person other
26 than the offender or a person depicted in the visual depiction.

27 (b) Aggravated internet trading in child pornography is sexual
28 exploitation of a child, as defined in K.S.A. 2016 Supp. 21-5510(a)(1) or
29 (4), and amendments thereto, when the offender is 18 years of age or older
30 and the offender knowingly causes or permits the performance to be
31 viewed, by use of any electronic device connected to the internet, by any
32 person other than the offender or a person depicted in the performance.

33 (c) (1) Internet trading in child pornography is a severity level 5,
34 person felony.

35 (2) Aggravated internet trading in child pornography is a severity
36 level 3, person felony, except as provided in subsection (c)(3).

37 (3) Aggravated internet trading in child pornography or attempt,
38 conspiracy or criminal solicitation to commit aggravated internet trading in
39 child pornography is an off-grid person felony when the child is under 14
40 years of age.

41 (d) If the child is under 14 years of age, the provisions of:

42 (1) K.S.A. 2016 Supp. 21-5301(c), and amendments thereto, shall not
43 apply to a violation of attempting to commit the crime of aggravated

1 internet trading in child pornography pursuant to this section;

2 (2) K.S.A. 2016 Supp. 21-5302(c), and amendments thereto, shall not
3 apply to a violation of conspiracy to commit the crime of aggravated
4 internet trading in child pornography pursuant to this section; and

5 (3) K.S.A. 2016 Supp. 21-5303(d), and amendments thereto, shall not
6 apply to a violation of criminal solicitation to commit the crime of
7 aggravated internet trading in child pornography pursuant to this section.

8 (e) In addition to the venue provided for under any other provision of
9 law, a prosecution for internet trading in child pornography or aggravated
10 internet trading in child pornography may be brought in the county where
11 the visual depiction or performance may be viewed by any person other
12 than the offender using any electronic device connected to the internet and
13 is viewed by a law enforcement officer using an electronic device
14 connected to the internet while engaged in such officer's official duties.

15 (f) As used in this section, "the internet" has the meaning as provided
16 in K.S.A. 66-2011, and amendments thereto.

17 (g) This section shall be part of and supplemental to the Kansas
18 criminal code.

19 New Sec. 4. Not later than January 1, 2018, the secretary of revenue
20 shall, in consultation with the attorney general and the director of vehicles,
21 promulgate rules and regulations requiring that an applicant for issuance or
22 renewal of a commercial driver's license, prior to such issuance or renewal,
23 complete training approved by the attorney general in human trafficking
24 identification and prevention and provide satisfactory proof of such
25 completion prior to such issuance or renewal.

26 Sec. 5. K.S.A. 2016 Supp. 12-4120 is hereby amended to read as
27 follows: 12-4120. (a) On and after July 1, 2012, the amount of \$250 from
28 each fine imposed for a violation of a city ordinance prohibiting the acts
29 prohibited by K.S.A. 8-1567 or 8-2,144 or K.S.A. 2016 Supp. 8-1025, and
30 amendments thereto, shall be remitted by the judge or clerk of the
31 municipal court to the state treasurer in accordance with the provisions of
32 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
33 remittance, the state treasurer shall credit the entire amount to the
34 community corrections supervision fund established by K.S.A. 2016 Supp.
35 75-52,113, and amendments thereto.

36 (b) ~~On and after July 1, 2013, the amount of \$2,500 from~~ *One-half of*
37 each fine imposed for a violation of a city ordinance prohibiting the acts
38 prohibited by K.S.A. 2016 Supp. 21-6421, and amendments thereto, shall
39 be remitted by the judge or clerk of the municipal court to the state
40 treasurer in accordance with the provisions of K.S.A. 75-4215, and
41 amendments thereto, *and the remainder shall be remitted as otherwise*
42 *provided by law.* Upon receipt of each such remittance, the state treasurer
43 shall credit the entire amount to the human trafficking victim assistance

1 fund established by K.S.A. 2016 Supp. 75-758, and amendments thereto.

2 Sec. 6. K.S.A. 2016 Supp. 21-5426 is hereby amended to read as
3 follows: 21-5426. (a) Human trafficking is:

4 (1) *Except as provided in subsection (b)(4)*, the intentional
5 recruitment, harboring, transportation, provision or obtaining of a person
6 for labor or services, through the use of force, fraud or coercion for the
7 purpose of subjecting the person to involuntary servitude or forced labor;

8 (2) intentionally benefitting financially or by receiving anything of
9 value from participation in a venture that the person has reason to know
10 has engaged in acts set forth in subsection (a)(1);

11 (3) knowingly coercing employment by obtaining or maintaining
12 labor or services that are performed or provided by another person through
13 any of the following:

14 (A) Causing or threatening to cause physical injury to any person;

15 (B) physically restraining or threatening to physically restrain another
16 person;

17 (C) abusing or threatening to abuse the law or legal process;

18 (D) threatening to withhold food, lodging or clothing; or

19 (E) knowingly destroying, concealing, removing, confiscating or
20 possessing any actual or purported government identification document of
21 another person; or

22 (4) knowingly holding another person in a condition of peonage in
23 satisfaction of a debt owed the person who is holding such other person.

24 (b) Aggravated human trafficking is ~~human trafficking, as defined in~~
25 ~~subsection (a)~~:

26 (1) *Human trafficking, as defined in subsection (a)*, involving the
27 commission or attempted commission of kidnapping, as defined in
28 ~~subsection (a) of K.S.A. 2016 Supp. 21-5408(a)~~, and amendments thereto;

29 (2) *human trafficking, as defined in subsection (a)*, committed in
30 whole or in part for the purpose of the sexual gratification of the defendant
31 or another;

32 (3) *human trafficking, as defined in subsection (a)*, resulting in a
33 death; or

34 (4) ~~involving~~ recruiting, harboring, transporting, providing or
35 ~~obtaining~~ *inducing*, by any means, a person under 18 years of age knowing
36 that the person, with or without force, fraud, threat or coercion, will be
37 used to engage in: (A) Forced labor; (B) involuntary servitude; or (C)
38 sexual gratification of the defendant or another *involving the exchange of*
39 *anything of value*.

40 (c) (1) Human trafficking is a severity level 2, person felony.

41 (2) Aggravated human trafficking is a severity level 1, person felony,
42 except as provided in subsection (c)(3).

43 (3) Aggravated human trafficking or attempt, conspiracy or criminal

1 solicitation to commit aggravated human trafficking is an off-grid person
2 felony, when the offender is 18 years of age or older and the victim is less
3 than 14 years of age.

4 *(4) In addition to any other sentence imposed, a person convicted*
5 *under subsection (c)(1) shall be fined not less than \$2,500 nor more than*
6 *\$5,000. In addition to any other sentence imposed, a person convicted*
7 *under subsection (c)(2) or (c)(3) shall be fined not less than \$5,000. All*
8 *finest collected pursuant to this section shall be remitted to the human*
9 *trafficking victim assistance fund created by K.S.A. 2016 Supp. 75-758,*
10 *and amendments thereto.*

11 *(5) In addition to any other sentence imposed, for any conviction*
12 *under this section, the court may order the person convicted to enter into*
13 *and complete a suitable educational or treatment program regarding*
14 *commercial sexual exploitation of a child.*

15 (d) If the offender is 18 years of age or older and the victim is less
16 than 14 years of age, the provisions of:

17 (1) ~~Subsection (e) of K.S.A. 2016 Supp. 21-5301(c), and amendments~~
18 ~~thereto, shall not apply to a violation of attempting to commit the crime of~~
19 ~~aggravated human trafficking pursuant to this section;~~

20 (2) ~~subsection (e) of K.S.A. 2016 Supp. 21-5302(c), and amendments~~
21 ~~thereto, shall not apply to a violation of conspiracy to commit the crime of~~
22 ~~aggravated human trafficking pursuant to this section; and~~

23 (3) ~~subsection (d) of K.S.A. 2016 Supp. 21-5303(d), and amendments~~
24 ~~thereto, shall not apply to a violation of criminal solicitation to commit the~~
25 ~~crime of aggravated human trafficking pursuant to this section.~~

26 (e) The provisions of this section shall not apply to the use of the
27 labor of any person incarcerated in a state or county correctional facility or
28 city jail.

29 (f) As used in this section, "peonage" means a condition of
30 involuntary servitude in which the victim is forced to work for another
31 person by the use or threat of physical restraint or physical injury, or by the
32 use or threat of coercion through law or the legal process.

33 *(g) It shall not be a defense to a charge of aggravated human*
34 *trafficking, as defined in subsection (b)(4), that the victim consented or*
35 *willingly participated in the forced labor, involuntary servitude or sexual*
36 *gratification of the defendant or another.*

37 Sec. 7. K.S.A. 2016 Supp. 21-5510 is hereby amended to read as
38 follows: 21-5510. (a) Except as provided in K.S.A. 2016 Supp. 21-5610
39 and 21-5611, and amendments thereto, sexual exploitation of a child is:

40 (1) Employing, using, persuading, inducing, enticing or coercing a
41 child under 18 years of age, or a person whom the offender believes to be a
42 child under 18 years of age, to engage in sexually explicit conduct with the
43 intent to promote any performance;

1 (2) possessing any visual depiction of a child under 18 years of age
2 shown or heard engaging in sexually explicit conduct with intent to arouse
3 or satisfy the sexual desires or appeal to the prurient interest of the
4 offender or any other person;

5 (3) being a parent, guardian or other person having custody or control
6 of a child under 18 years of age and knowingly permitting such child to
7 engage in, or assist another to engage in, sexually explicit conduct for any
8 purpose described in subsection (a)(1) or (2); or

9 (4) promoting any performance that includes sexually explicit
10 conduct by a child under 18 years of age, or a person whom the offender
11 believes to be a child under 18 years of age, knowing the character and
12 content of the performance.

13 (b) (1) Sexual exploitation of a child as defined in:

14 (A) Subsection (a)(2) or (a)(3) is a severity level 5, person felony;
15 and

16 (B) subsection (a)(1) or (a)(4) is a severity level ~~5~~ 3, person felony,
17 except as provided in subsection (b)(2).

18 (2) Sexual exploitation of a child as defined in subsection (a)(1) or (a)
19 (4) or attempt, conspiracy or criminal solicitation to commit sexual
20 exploitation of a child as defined in subsection (a)(1) or (a)(4) is an off-
21 grid person felony, when the offender is 18 years of age or older and the
22 child is under 14 years of age.

23 (c) If the offender is 18 years of age or older and the child is under 14
24 years of age, the provisions of:

25 (1) K.S.A. 2016 Supp. 21-5301(c), and amendments thereto, shall not
26 apply to a violation of attempting to commit the crime of sexual
27 exploitation of a child as defined in subsection (a)(1) or (a)(4);

28 (2) K.S.A. 2016 Supp. 21-5302(c), and amendments thereto, shall not
29 apply to a violation of conspiracy to commit the crime of sexual
30 exploitation of a child as defined in subsection (a)(1) or (a)(4); and

31 (3) K.S.A. 2016 Supp. 21-5303(d), and amendments thereto, shall not
32 apply to a violation of criminal solicitation to commit the crime of sexual
33 exploitation of a child as defined in subsection (a)(1) or (a)(4).

34 (d) As used in this section:

35 (1) "Sexually explicit conduct" means actual or simulated: Exhibition
36 in the nude; sexual intercourse or sodomy, including genital-genital, oral-
37 genital, anal-genital or oral-anal contact, whether between persons of the
38 same or opposite sex; masturbation; sado-masochistic abuse with the intent
39 of sexual stimulation; or lewd exhibition of the genitals, female breasts or
40 pubic area of any person;

41 (2) "promoting" means procuring, transmitting, distributing,
42 circulating, presenting, producing, directing, manufacturing, issuing,
43 publishing, displaying, exhibiting or advertising:

1 (A) For pecuniary profit; or

2 (B) with intent to arouse or gratify the sexual desire or appeal to the
3 prurient interest of the offender or any other person;

4 (3) "performance" means any film, photograph, negative, slide, book,
5 magazine or other printed or visual medium, any audio tape recording or
6 any photocopy, video tape, video laser disk, computer hardware, software,
7 floppy disk or any other computer related equipment or computer
8 generated image that contains or incorporates in any manner any film,
9 photograph, negative, photocopy, video tape or video laser disk or any
10 play or other live presentation;

11 (4) "nude" means any state of undress in which the human genitals,
12 pubic region, buttock or female breast, at a point below the top of the
13 areola, is less than completely and opaquely covered; and

14 (5) "visual depiction" means any photograph, film, video picture,
15 digital or computer-generated image or picture, whether made or produced
16 by electronic, mechanical or other means.

17 (e) The provisions of this section shall not apply to possession of a
18 visual depiction of a child in a state of nudity if the person possessing such
19 visual depiction is the child who is the subject of such visual depiction.

20 Sec. 8. K.S.A. 2016 Supp. 21-6421 is hereby amended to read as
21 follows: 21-6421. (a) Buying sexual relations is knowingly:

22 (1) Entering or remaining in a place where sexual relations are being
23 sold or offered for sale with intent to engage in manual or other bodily
24 contact stimulation of the genitals of any person with the intent to arouse
25 or gratify the sexual desires of the offender or another, sexual intercourse,
26 sodomy or any unlawful sexual act with a person selling sexual relations
27 who is 18 years of age or older; or

28 (2) hiring a person selling sexual relations who is 18 years of age or
29 older to engage in manual or other bodily contact stimulation of the
30 genitals of any person with the intent to arouse or gratify the sexual desires
31 of the offender or another, sexual intercourse, sodomy or any unlawful
32 sexual act.

33 (b) (1) Buying sexual relations is a:

34 (A) Class A person misdemeanor, except as provided in subsection
35 (b)(1)(B); and

36 (B) severity level 9, person felony when committed by a person who
37 has, prior to the commission of the crime, been convicted of a violation of
38 this section, or any prior version of this section.

39 (2) In addition to any other sentence imposed, a person convicted
40 under subsection (b)(1)(A) shall be fined \$2,500. In addition to any other
41 sentence imposed, a person convicted under subsection (b)(1)(B) this
42 section shall be fined not less than \$1,200 nor more than \$5,000. One-half
43 of all fines collected pursuant to this section shall be remitted to the human

1 trafficking victim assistance fund created by K.S.A. 2016 Supp. 75-758,
2 and amendments thereto, *and the remainder shall be remitted as otherwise*
3 *provided by law.*

4 (3) In addition to any other sentence imposed, for any conviction
5 under this section, the court may order the person convicted to enter into
6 and complete a suitable educational or treatment program regarding
7 commercial sexual exploitation.

8 (c) For the purpose of determining whether a conviction is a first,
9 second or subsequent conviction in sentencing under this section:

10 (1) Convictions for a violation of this section, or any prior version of
11 this section, or a violation of an ordinance of any city or resolution of any
12 county which prohibits the acts that this section prohibits, or entering into
13 a diversion agreement in lieu of further criminal proceedings on a
14 complaint alleging any such violations, shall be taken into account; and

15 (2) a person may enter into a diversion agreement in lieu of further
16 criminal proceedings for a violation of this section or an ordinance which
17 prohibits the acts of this section only once during the person's lifetime.

18 (d) (1) Nothing contained in this section shall be construed as
19 preventing any city from enacting ordinances, or any county from adopting
20 resolutions, declaring acts prohibited or made unlawful by this act as
21 unlawful or prohibited in such city or county and prescribing penalties for
22 violation thereof.

23 (2) The minimum penalty prescribed by any such ordinance or
24 resolution shall not be less than the minimum penalty prescribed by this
25 section for the same violation, and the maximum penalty in any such
26 ordinance or resolution shall not exceed the maximum penalty prescribed
27 for the same violation.

28 Sec. 9. K.S.A. 2016 Supp. 21-6422 is hereby amended to read as
29 follows: 21-6422. (a) Commercial sexual exploitation of a child is
30 knowingly:

31 (1) Giving, receiving, offering or agreeing to give, or offering or
32 agreeing to receive anything of value to ~~perform any of the following acts:~~

33 ~~(A) Procuring, recruiting, inducing, soliciting, hiring or otherwise~~
34 ~~obtaining any person younger than 18 years of age to engage in sexual~~
35 ~~intercourse, sodomy or manual or other bodily contact stimulation of the~~
36 ~~genitals of any person with the intent to arouse or gratify the sexual desires~~
37 ~~of the offender or another; or~~

38 ~~(B) procuring, recruiting, inducing, soliciting, hiring or otherwise~~
39 ~~obtaining a patron where there is an exchange of value, for any person~~
40 ~~younger than 18 years of age to engage in sexual intercourse, sodomy, any~~
41 ~~unlawful sex act or manual or other bodily contact stimulation of the~~
42 ~~genitals of any person with the intent to arouse or gratify the sexual desires~~
43 ~~of the patron, the offender or another;~~

1 (2) establishing, owning, maintaining or managing any property,
 2 whether real or personal, where sexual relations are being sold or offered
 3 for sale by a person younger than 18 years of age, or participating in the
 4 establishment, ownership, maintenance or management thereof; *or*

5 (3) permitting any property, whether real or personal, partially or
 6 wholly owned or controlled by the defendant to be used as a place where
 7 sexual relations are being sold or offered for sale by a person who is
 8 younger than 18 years of age; ~~or~~

9 ~~(4) procuring transportation for, paying for the transportation of or~~
 10 ~~transporting any person younger than 18 years of age within this state with~~
 11 ~~the intent of causing, assisting or promoting that person's engaging in~~
 12 ~~selling sexual relations.~~

13 (b) (1) Commercial sexual exploitation of a child is a:

14 (A) Severity level ~~5~~ 4, person felony, except as provided in
 15 subsections (b)(1)(B) and (b)(2); and

16 (B) severity level 2, person felony when committed by a person who
 17 has, prior to the commission of the crime, been convicted of a violation of
 18 this section, except as provided in subsection (b)(2).

19 (2) Commercial sexual exploitation of a child or attempt, conspiracy
 20 or criminal solicitation to commit commercial sexual exploitation of a
 21 child is an off-grid person felony when the offender is 18 years of age or
 22 older and the victim is less than 14 years of age.

23 (3) In addition to any other sentence imposed, a person convicted
 24 under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more
 25 than \$5,000. In addition to any other sentence imposed, a person convicted
 26 under subsection (b)(1)(B) or ~~subsection (b)(2)~~ shall be fined not less than
 27 \$5,000. All fines collected pursuant to this section shall be remitted to the
 28 human trafficking victim assistance fund created by K.S.A. 2016 Supp. 75-
 29 758, and amendments thereto.

30 (4) In addition to any other sentence imposed, for any conviction
 31 under this section, the court may order the person convicted to enter into
 32 and complete a suitable educational or treatment program regarding
 33 commercial sexual exploitation of a child.

34 (c) If the offender is 18 years of age or older and the victim is less
 35 than 14 years of age, the provisions of:

36 (1) ~~Subsection (e) of K.S.A. 2016 Supp. 21-5301(c)~~, and amendments
 37 thereto, shall not apply to a violation of attempting to commit the crime of
 38 commercial sexual exploitation of a child pursuant to this section;

39 (2) ~~subsection (e) of K.S.A. 2016 Supp. 21-5302(c)~~, and amendments
 40 thereto, shall not apply to a violation of conspiracy to commit the crime of
 41 commercial sexual exploitation of a child pursuant to this section; and

42 (3) ~~subsection (d) of K.S.A. 2016 Supp. 21-5303(d)~~, and amendments
 43 thereto, shall not apply to a violation of criminal solicitation to commit the

1 crime of commercial sexual exploitation of a child pursuant to this section.

2 ~~(d) This section shall be part of and supplemental to the Kansas-~~
3 ~~criminal code.~~

4 Sec. 10. K.S.A. 2016 Supp. 22-4902 is hereby amended to read as
5 follows: 22-4902. As used in the Kansas offender registration act, unless
6 the context otherwise requires:

7 (a) "Offender" means:

8 (1) A sex offender;

9 (2) a violent offender;

10 (3) a drug offender;

11 (4) any person who has been required to register under out-of-state
12 law or is otherwise required to be registered; and

13 (5) any person required by court order to register for an offense not
14 otherwise required as provided in the Kansas offender registration act.

15 (b) "Sex offender" includes any person who:

16 (1) On or after April 14, 1994, is convicted of any sexually violent
17 crime;

18 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for
19 an act which if committed by an adult would constitute the commission of
20 a sexually violent crime, unless the court, on the record, finds that the act
21 involved non-forcible sexual conduct, the victim was at least 14 years of
22 age and the offender was not more than four years older than the victim;

23 (3) has been determined to be a sexually violent predator;

24 (4) on or after July 1, 1997, is convicted of any of the following
25 crimes when one of the parties involved is less than 18 years of age:

26 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
27 K.S.A. 2016 Supp. 21-5511, and amendments thereto;

28 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
29 repeal, or K.S.A. 2016 Supp. 21-5504(a)(1) or (a)(2), and amendments
30 thereto;

31 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
32 repeal, or K.S.A. 2016 Supp. 21-6420, prior to its amendment by section
33 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

34 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
35 repeal, or K.S.A. 2016 Supp. 21-6421, prior to its amendment by section
36 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

37 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
38 to its repeal, or K.S.A. 2016 Supp. 21-5513, and amendments thereto;

39 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
40 to its repeal, or ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5505(a), and
41 amendments thereto;

42 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
43 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or

1 K.S.A. 2016 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
2 of an offense defined in this subsection; or

3 (7) has been convicted of an offense that is comparable to any crime
4 defined in this subsection, or any out-of-state conviction for an offense that
5 under the laws of this state would be an offense defined in this subsection.

6 (c) "Sexually violent crime" means:

7 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
8 2016 Supp. 21-5503, and amendments thereto;

9 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
10 to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

11 (3) aggravated indecent liberties with a child, as defined in K.S.A.
12 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and
13 amendments thereto;

14 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
15 prior to its repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) or (a)(4), and
16 amendments thereto;

17 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
18 to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

19 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
20 prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments
21 thereto;

22 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
23 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and
24 amendments thereto;

25 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
26 to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto;

27 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
28 its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

29 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
30 repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;

31 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
32 repeal, and K.S.A. 2016 Supp. 21-5509, and amendments thereto;

33 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
34 its repeal, or K.S.A. 2016 Supp. 21-5512, and amendments thereto;

35 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
36 prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments
37 thereto, if committed in whole or in part for the purpose of the sexual
38 gratification of the defendant or another;

39 (14) commercial sexual exploitation of a child, as defined in K.S.A.
40 2016 Supp. 21-6422, and amendments thereto;

41 (15) *promoting the sale of sexual relations, as defined in K.S.A. 2016*
42 *Supp. 21-6420, and amendments thereto;*

43 (16) any conviction or adjudication for an offense that is comparable

1 to a sexually violent crime as defined in this subsection, or any out-of-state
2 conviction or adjudication for an offense that under the laws of this state
3 would be a sexually violent crime as defined in this subsection;

4 ~~(16)~~(17) an attempt, conspiracy or criminal solicitation, as defined in
5 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016
6 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
7 violent crime, as defined in this subsection; or

8 ~~(17)~~(18) any act which has been determined beyond a reasonable
9 doubt to have been sexually motivated, unless the court, on the record,
10 finds that the act involved non-forcible sexual conduct, the victim was at
11 least 14 years of age and the offender was not more than four years older
12 than the victim. As used in this paragraph, "sexually motivated" means that
13 one of the purposes for which the defendant committed the crime was for
14 the purpose of the defendant's sexual gratification.

15 (d) "Sexually violent predator" means any person who, on or after
16 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
17 59-29a01 et seq., and amendments thereto.

18 (e) "Violent offender" includes any person who:

19 (1) On or after July 1, 1997, is convicted of any of the following
20 crimes:

21 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
22 or K.S.A. 2016 Supp. 21-5401, and amendments thereto;

23 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
24 its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto;

25 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
26 to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments thereto;

27 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
28 repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;

29 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
30 its repeal, or K.S.A. 2016 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
31 amendments thereto. The provisions of this paragraph shall not apply to
32 violations of K.S.A. 2016 Supp. 21-5405(a)(3), and amendments thereto,
33 which occurred on or after July 1, 2011, through July 1, 2013;

34 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
35 K.S.A. 2016 Supp. 21-5408(a), and amendments thereto;

36 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
37 repeal, or K.S.A. 2016 Supp. 21-5408(b), and amendments thereto;

38 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its
39 repeal, or K.S.A. 2016 Supp. 21-5411, and amendments thereto, except by
40 a parent, and only when the victim is less than 18 years of age; or

41 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
42 to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, if
43 not committed in whole or in part for the purpose of the sexual

1 gratification of the defendant or another;

2 (2) on or after July 1, 2006, is convicted of any person felony and the
3 court makes a finding on the record that a deadly weapon was used in the
4 commission of such person felony;

5 (3) has been convicted of an offense that is comparable to any crime
6 defined in this subsection, any out-of-state conviction for an offense that
7 under the laws of this state would be an offense defined in this subsection;
8 or

9 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
10 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
11 K.S.A. 2016 Supp. 21-5301, 21-5302 and 21-5303, and amendments
12 thereto, of an offense defined in this subsection.

13 (f) "Drug offender" includes any person who, on or after July 1, 2007:

14 (1) Is convicted of any of the following crimes:

15 (A) Unlawful manufacture or attempting such of any controlled
16 substance or controlled substance analog, as defined in K.S.A. 65-4159,
17 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
18 K.S.A. 2016 Supp. 21-5703, and amendments thereto;

19 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
20 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
21 ammonia or phenylpropanolamine, or their salts, isomers or salts of
22 isomers with intent to use the product to manufacture a controlled
23 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
24 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2016 Supp. 21-5709(a),
25 and amendments thereto;

26 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
27 36a05(a)(1), prior to its transfer, or K.S.A. 2016 Supp. 21-5705(a)(1), and
28 amendments thereto. The provisions of this paragraph shall not apply to
29 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)
30 which occurred on or after July 1, 2009, through April 15, 2010;

31 (2) has been convicted of an offense that is comparable to any crime
32 defined in this subsection, any out-of-state conviction for an offense that
33 under the laws of this state would be an offense defined in this subsection;
34 or

35 (3) is or has been convicted of an attempt, conspiracy or criminal
36 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
37 their repeal, or K.S.A. 2016 Supp. 21-5301, 21-5302 and 21-5303, and
38 amendments thereto, of an offense defined in this subsection.

39 (g) Convictions or adjudications which result from or are connected
40 with the same act, or result from crimes committed at the same time, shall
41 be counted for the purpose of this section as one conviction or
42 adjudication. Any conviction or adjudication set aside pursuant to law is
43 not a conviction or adjudication for purposes of this section. A conviction

1 or adjudication from any out-of-state court shall constitute a conviction or
2 adjudication for purposes of this section.

3 (h) "School" means any public or private educational institution,
4 including, but not limited to, postsecondary school, college, university,
5 community college, secondary school, high school, junior high school,
6 middle school, elementary school, trade school, vocational school or
7 professional school providing training or education to an offender for three
8 or more consecutive days or parts of days, or for 10 or more
9 nonconsecutive days in a period of 30 consecutive days.

10 (i) "Employment" means any full-time, part-time, transient, day-labor
11 employment or volunteer work, with or without compensation, for three or
12 more consecutive days or parts of days, or for 10 or more nonconsecutive
13 days in a period of 30 consecutive days.

14 (j) "Reside" means to stay, sleep or maintain with regularity or
15 temporarily one's person and property in a particular place other than a
16 location where the offender is incarcerated. It shall be presumed that an
17 offender resides at any and all locations where the offender stays, sleeps or
18 maintains the offender's person for three or more consecutive days or parts
19 of days, or for ten or more nonconsecutive days in a period of 30
20 consecutive days.

21 (k) "Residence" means a particular and definable place where an
22 individual resides. Nothing in the Kansas offender registration act shall be
23 construed to state that an offender may only have one residence for the
24 purpose of such act.

25 (l) "Transient" means having no fixed or identifiable residence.

26 (m) "Law enforcement agency having initial jurisdiction" means the
27 registering law enforcement agency of the county or location of
28 jurisdiction where the offender expects to most often reside upon the
29 offender's discharge, parole or release.

30 (n) "Registering law enforcement agency" means the sheriff's office
31 or tribal police department responsible for registering an offender.

32 (o) "Registering entity" means any person, agency or other
33 governmental unit, correctional facility or registering law enforcement
34 agency responsible for obtaining the required information from, and
35 explaining the required registration procedures to, any person required to
36 register pursuant to the Kansas offender registration act. "Registering
37 entity" shall include, but not be limited to, sheriff's offices, tribal police
38 departments and correctional facilities.

39 (p) "Treatment facility" means any public or private facility or
40 institution providing inpatient mental health, drug or alcohol treatment or
41 counseling, but does not include a hospital, as defined in K.S.A. 65-425,
42 and amendments thereto.

43 (q) "Correctional facility" means any public or private correctional

1 facility, juvenile detention facility, prison or jail.

2 (r) "Out-of-state" means: the District of Columbia; any federal,
3 military or tribal jurisdiction, including those within this state; any foreign
4 jurisdiction; or any state or territory within the United States, other than
5 this state.

6 (s) "Duration of registration" means the length of time during which
7 an offender is required to register for a specified offense or violation.

8 (t) (1) Notwithstanding any other provision of this section, "offender"
9 shall not include any person who is:

10 (A) Convicted of unlawful transmission of a visual depiction of a
11 child, as defined in K.S.A. 2016 Supp. 21-5611(a), and amendments
12 thereto, aggravated unlawful transmission of a visual depiction of a child,
13 as defined in K.S.A. 2016 Supp. 21-5611(b), and amendments thereto, or
14 unlawful possession of a visual depiction of a child, as defined in K.S.A.
15 2016 Supp. 21-5610, and amendments thereto; or

16 (B) adjudicated as a juvenile offender for an act which if committed
17 by an adult would constitute the commission of a crime defined in
18 subsection (t)(1)(A).

19 (2) Notwithstanding any other provision of law, a court shall not
20 order any person to register under the Kansas offender registration act for
21 the offenses described in subsection (t)(1).

22 Sec. 11. K.S.A. 2016 Supp. 38-2312 is hereby amended to read as
23 follows: 38-2312. (a) Except as provided in ~~subsection~~ *subsections* (b) and
24 (c), any records or files specified in this code concerning a juvenile may be
25 expunged upon application to a judge of the court of the county in which
26 the records or files are maintained. The application for expungement may
27 be made by the juvenile, if 18 years of age or older or, if the juvenile is
28 less than 18 years of age, by the juvenile's parent or next friend.

29 (b) There shall be no expungement of records or files concerning acts
30 committed by a juvenile which, if committed by an adult, would constitute
31 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-
32 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,
33 prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments
34 thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal,
35 or K.S.A. 2016 Supp. 21-5404, and amendments thereto, voluntary
36 manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2016 Supp.
37 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-
38 3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and amendments
39 thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 2016
40 Supp. 21-5405(a)(3), and amendments thereto, involuntary manslaughter
41 while driving under the influence of alcohol or drugs; K.S.A. 21-3502,
42 prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments
43 thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-

1 5506(a), and amendments thereto, indecent liberties with a child; K.S.A.
2 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and
3 amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-
4 3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and
5 amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior
6 to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto,
7 indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or
8 K.S.A. 2016 Supp. 21-5508(b), and amendments thereto, aggravated
9 indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or
10 K.S.A. 2016 Supp. 21-5510, and amendments thereto, sexual exploitation
11 of a child; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-
12 5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608,
13 prior to its repeal, or K.S.A. 2016 Supp. 21-5601(a), and amendments
14 thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.
15 2016 Supp. 21-5602, and amendments thereto, abuse of a child; or which
16 would constitute an attempt to commit a violation of any of the offenses
17 specified in this subsection.

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

24 (d) When a petition for expungement is filed, the court shall set a date
25 for a hearing on the petition and shall give notice thereof to the county or
26 district attorney. The petition shall state: (1) The juvenile's full name; (2)
27 the full name of the juvenile as reflected in the court record, if different
28 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
29 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
30 of the trial court. Except as otherwise provided by law, a petition for
31 expungement shall be accompanied by a docket fee in the amount of \$176.
32 On and after July 1, 2015, through June 30, 2017, the supreme court may
33 impose a charge, not to exceed \$19 per case, to fund the costs of non-
34 judicial personnel. All petitions for expungement shall be docketed in the
35 original action. Any person who may have relevant information about the
36 petitioner may testify at the hearing. The court may inquire into the
37 background of the petitioner.

38 (e) (1) After hearing, the court shall order the expungement of the
39 records and files if the court finds that:

40 (A) (i) The juvenile has reached 23 years of age or that two years
41 have elapsed since the final discharge; ~~or~~

42 (ii) one year has elapsed since the final discharge for an adjudication
43 concerning acts committed by a juvenile which, if committed by an adult,

1 would constitute a violation of K.S.A. 2016 Supp. 21-6419, and
2 amendments thereto; or

3 *(iii) the juvenile is a victim of human trafficking, aggravated human*
4 *trafficking or commercial sexual exploitation of a child, the adjudication*
5 *concerned acts committed by the juvenile as a result of such victimization,*
6 *including, but not limited to, acts which, if committed by an adult, would*
7 *constitute a violation of K.S.A. 2016 Supp. 21-6203 or 21-6419, and*
8 *amendments thereto, and the hearing on expungement occurred on or*
9 *after the date of final discharge. The provisions of this clause shall not*
10 *allow an expungement of records or files concerning acts described in*
11 *subsection (b);*

12 (B) since the final discharge of the juvenile, the juvenile has not been
13 convicted of a felony or of a misdemeanor other than a traffic offense or
14 adjudicated as a juvenile offender under the revised Kansas juvenile justice
15 code and no proceedings are pending seeking such a conviction or
16 adjudication; and

17 (C) the circumstances and behavior of the petitioner warrant
18 expungement.

19 (2) The court may require that all court costs, fees and restitution
20 shall be paid.

21 (f) Upon entry of an order expunging records or files, the offense
22 which the records or files concern shall be treated as if it never occurred,
23 except that upon conviction of a crime or adjudication in a subsequent
24 action under this code the offense may be considered in determining the
25 sentence to be imposed. The petitioner, the court and all law enforcement
26 officers and other public offices and agencies shall properly reply on
27 inquiry that no record or file exists with respect to the juvenile. Inspection
28 of the expunged files or records thereafter may be permitted by order of
29 the court upon petition by the person who is the subject thereof. The
30 inspection shall be limited to inspection by the person who is the subject of
31 the files or records and the person's designees.

32 (g) A certified copy of any order made pursuant to subsection (a) or
33 (d) shall be sent to the Kansas bureau of investigation, which shall notify
34 every juvenile or criminal justice agency which may possess records or
35 files ordered to be expunged. If the agency fails to comply with the order
36 within a reasonable time after its receipt, such agency may be adjudged in
37 contempt of court and punished accordingly.

38 (h) The court shall inform any juvenile who has been adjudicated a
39 juvenile offender of the provisions of this section.

40 (i) Nothing in this section shall be construed to prohibit the
41 maintenance of information relating to an offense after records or files
42 concerning the offense have been expunged if the information is kept in a
43 manner that does not enable identification of the juvenile.

1 (j) Nothing in this section shall be construed to permit or require
2 expungement of files or records related to a child support order registered
3 pursuant to the revised Kansas juvenile justice code.

4 (k) Whenever the records or files of any adjudication have been
5 expunged under the provisions of this section, the custodian of the records
6 or files of adjudication relating to that offense shall not disclose the
7 existence of such records or files, except when requested by:

8 (1) The person whose record was expunged;

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

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

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

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

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

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

34 (8) the Kansas sentencing commission; or

35 (9) the Kansas bureau of investigation, for the purposes of:

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

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

42 (l) The provisions of subsection (k)(9) shall apply to all records
43 created prior to, on and after July 1, 2011.

1 Sec. 12. K.S.A. 2016 Supp. 74-7305 is hereby amended to read as
2 follows: 74-7305. (a) An application for compensation shall be made in the
3 manner and form prescribed by the board.

4 (b) Compensation may not be awarded unless an application has been
5 filed with the board within two years of the reporting of the incident to law
6 enforcement officials if the victim was less than 16 years of age and the
7 injury or death is the result of any of the following crimes: (1) Indecent
8 liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or
9 K.S.A. 2016 Supp. 21-5506(a), and amendments thereto; (2) aggravated
10 indecent liberties with a child as defined in K.S.A. 21-3504, prior to its
11 repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto; (3)
12 aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its
13 repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto; (4)
14 enticement of a child as defined in K.S.A. 21-3509 prior to its repeal; (5)
15 indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its
16 repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto; (6)
17 aggravated indecent solicitation of a child as defined in K.S.A. 21-3511,
18 prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments
19 thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516,
20 prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments
21 thereto; (8) aggravated incest as defined in K.S.A. 21-3603, prior to its
22 repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto; (9)
23 human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or
24 K.S.A. 2016 Supp. 21-5426(a), and amendments thereto; (10) aggravated
25 human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or
26 K.S.A. 2016 Supp. 21-5426(b), and amendments thereto; or (11)
27 commercial sexual exploitation of a child as defined in K.S.A. 2016 Supp.
28 21-6422, and amendments thereto. Compensation for mental health
29 counseling may be awarded, if a claim is filed within two years of
30 testimony, to a claimant who is, or will be, required to testify in a sexually
31 violent predator commitment, pursuant to article 29a of chapter 59 of the
32 Kansas Statutes Annotated, and amendments thereto, of an offender who
33 victimized the claimant or the victim on whose behalf the claim is made.
34 For all other incidents of criminally injurious conduct, compensation may
35 not be awarded unless the claim has been filed with the board within two
36 years after the injury or death upon which the claim is based.
37 Compensation may not be awarded to a claimant who was the offender or
38 an accomplice of the offender and may not be awarded to another person if
39 the award would unjustly benefit the offender or accomplice.

40 (c) Compensation otherwise payable to a claimant shall be reduced or
41 denied, to the extent, if any that the:

42 (1) Economic loss upon which the claimant's claim is based is
43 recouped from other persons, including collateral sources;

1 (2) board deems reasonable because of the contributory misconduct
2 of the claimant or of a victim through whom the claimant claims; or

3 (3) board deems reasonable, because the victim was likely engaging
4 in, or attempting to engage in, unlawful activity at the time of the crime
5 upon which the claim for compensation is based. This subsection shall not
6 be construed to reduce or deny compensation to a victim of domestic
7 abuse or sexual assault.

8 (d) Compensation may be awarded only if the board finds that unless
9 the claimant is awarded compensation the claimant will suffer financial
10 stress as the result of economic loss otherwise reparable. A claimant
11 suffers financial stress only if the claimant cannot maintain the claimant's
12 customary level of health, safety and education for self and dependents
13 without undue financial hardship. In making its determination of financial
14 stress, the board shall consider all relevant factors, including:

15 (1) The number of claimant's dependents;

16 (2) the usual living expenses of the claimant and the claimant's
17 family;

18 (3) the special needs of the claimant and the claimant's dependents;

19 (4) the claimant's income and potential earning capacity; and

20 (5) the claimant's resources.

21 (e) Compensation may not be awarded unless the criminally injurious
22 conduct resulting in injury or death was reported to a law enforcement
23 officer within 72 hours after its occurrence or the board finds there was
24 good cause for the failure to report within that time.

25 (f) The board, upon finding that the claimant or victim has not fully
26 cooperated with appropriate law enforcement agencies, may deny,
27 withdraw or reduce an award of compensation.

28 (g) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or
29 K.S.A. 2016 Supp. 21-5604, and amendments thereto, or cases of sex
30 offenses established in article 35 of chapter 21, of the Kansas Statutes
31 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas
32 Statutes Annotated, and amendments thereto, K.S.A. 2016 Supp. 21-6419
33 through 21-6422, and amendments thereto, or human trafficking or
34 aggravated human trafficking, as defined in K.S.A. 21-3446 or 21-3447,
35 prior to their repeal, or K.S.A. 2016 Supp. 21-5426, and amendments
36 thereto, compensation may not be awarded if the economic loss is less than
37 \$100.

38 (h) Compensation for work loss, replacement services loss,
39 dependent's economic loss and dependent's replacement service loss may
40 not exceed \$400 per week or actual loss, whichever is less.

41 (i) Compensation payable to a victim and to all other claimants
42 sustaining economic loss because of injury to or death of that victim may
43 not exceed \$25,000 in the aggregate.

1 (j) *Nothing in subsections (c)(2), (c)(3), (e) and (f) shall be construed*
2 *to reduce or deny compensation to a victim of human trafficking or*
3 *aggravated human trafficking, as defined in K.S.A. 2016 Supp. 21-5426,*
4 *and amendments thereto, or commercial sexual exploitation of a child, as*
5 *defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto, who was*
6 *18 years of age or younger at the time the crime was committed and is*
7 *otherwise qualified for compensation.*

8 Sec. 13. K.S.A. 2016 Supp. 75-759 is hereby amended to read as
9 follows: 75-759. (a) A notice offering help to victims of human trafficking
10 shall be accessible on the official website of the attorney general, the
11 official website of the department for children and families and the official
12 website of the department of labor, and may be posted in a prominent and
13 accessible location in workplaces.

14 (b) The notice shall provide such information as the attorney general
15 determines appropriate to help and support victims of human trafficking,
16 including, but not limited to, information regarding the national human
17 trafficking resource center (NHTRC) hotline as follows:

18 "If you or someone you know is being forced to engage in any activity
19 and cannot leave — whether it is commercial sex, housework, farm work
20 or any other activity — call the toll-free National Human Trafficking
21 Resource Center Hotline at 1-888-373-7888 to access help and services.
22 The toll-free hotline is:

23 • Available 24 hours a day, 7 days a week
24 • Operated by a nonprofit, nongovernmental organization
25 • Anonymous and confidential
26 • Accessible in 170 languages
27 • Able to provide help, referral to services, training, and general
28 information."

29 (c) The notice described in this section shall be made available in
30 English, Spanish, and, if requested by an employer, another language.

31 (d) The secretary of labor, in consultation with the attorney general,
32 shall develop and implement an education plan to raise awareness among
33 Kansas employers about the problem of human trafficking, about the
34 hotline described in this section, and about other resources that may be
35 available to employers, employees, and potential victims of human
36 trafficking. On or before February 1, 2014, the secretary shall report to the
37 standing committees on judiciary in the senate and the house of
38 representatives, respectively, on the progress achieved in developing and
39 implementing the notice requirement and education plan required by this
40 section.

41 Sec. 14. K.S.A. 2016 Supp. 12-4120, 21-5426, 21-5510, 21-6421, 21-
42 6422, 22-4902, 38-2312, 74-7305 and 75-759 are hereby repealed.

43 Sec. 15. This act shall take effect and be in force from and after its

- 1 publication in the statute book.