

{As Amended by House Committee of the Whole}

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2058

By Committee on Federal and State Affairs

1-13

1 AN ACT concerning ~~firearms; relating to the personal and family~~
2 ~~protection act~~, recognition of licenses issued by other jurisdictions;
3 {creating a provisional license for persons under the age of 21;}
4 authorizing the issuance of alternative license during a ~~declared~~
5 ~~state of disaster emergency~~ {certain circumstances}; amending
6 K.S.A. {75-7c02,} 75-7c03 ~~and~~, 75-7c04,} 75-7c05{, 75-7c08 and
7 75-7c21} and K.S.A. 2020 Supp. {21-5914, 21-6301,} 21-6302{, 21-
8 6309 and 32-1002} and repealing the existing sections.

crimes, punishment and criminal procedure; relating to

reducing the underlying felonies for the crime of criminal possession of a
weapon by a convicted felon; restoration of the right to possess firearms
upon expungement of convictions

under the personal and family protection act

21-6304,

, 21-6614

9
10 *Be it enacted by the Legislature of the State of Kansas:*
11 {Section 1. K.S.A. 2020 Supp. 21-5914 is hereby amended to read
12 as follows: 21-5914. (a) Traffic in contraband in a correctional
13 institution or care and treatment facility is, without the consent of the
14 administrator of the correctional institution or care and treatment
15 facility:
16 (1) Introducing or attempting to introduce any item into or upon
17 the grounds of any correctional institution or care and treatment
18 facility;
19 (2) taking, sending, attempting to take or attempting to send any
20 item from any correctional institution or care and treatment facility;
21 (3) any unauthorized possession of any item while in any
22 correctional institution or care and treatment facility;
23 (4) distributing any item within any correctional institution or
24 care and treatment facility;
25 (5) supplying to another who is in lawful custody any object or
26 thing adapted or designed for use in making an escape; or
27 (6) introducing into an institution in which a person is confined
28 any object or thing adapted or designed for use in making any escape.
29 (b) Traffic in contraband in a correctional institution or care and
30 treatment facility is a:
31 (1) Severity level 6, nonperson felony, except as provided in
32 subsection (b)(2) or (b)(3);
33 (2) severity level 5, nonperson felony if such items are:
34 (A) Firearms, ammunition, explosives or a controlled substance

WHEREAS, The amendments made to the provisions of K.S.A. 2020 Supp.
21-6304 and 21-6614 by this act shall be known as the Kansas protection of
firearms rights act.
Now, therefore:

1 such weapons.

2 (d) Subsection (a)(4) shall not apply to any person who **is carrying**
3 **a handgun, as defined in K.S.A. 75-7c02, and amendments thereto,**
4 **and who} possesses a valid {provisional license issued pursuant to**
5 **K.S.A. 75-7c03, and amendments thereto, or a valid} license or permit**
6 **to carry a concealed firearm that was issued by another jurisdiction and is**
7 **recognized in this state pursuant to K.S.A. 75-7c03, and amendments**
8 **thereto.**

9 ~~(d)~~(e) Subsection (a)(5) shall not apply to:

10 (1) Any person who sells, purchases, possesses or carries a firearm,
11 device or attachment which has been rendered unserviceable by steel weld
12 in the chamber and marriage weld of the barrel to the receiver and which
13 has been registered in the national firearms registration and transfer record
14 in compliance with 26 U.S.C. § 5841 et seq. in the name of such person
15 and, if such person transfers such firearm, device or attachment to another
16 person, has been so registered in the transferee's name by the transferor;

17 (2) any person employed by a laboratory which is certified by the
18 United States department of justice, national institute of justice, while
19 actually engaged in the duties of their employment and on the premises of
20 such certified laboratory. Subsection (a)(5) shall not affect the manufacture
21 of, transportation to or sale of weapons to such certified laboratory; or

22 (3) any person or entity in compliance with the national firearms act,
23 26 U.S.C. § 5801 et seq.

24 ~~(e)~~(f) As used in this section, "throwing star" means the same as
25 prescribed by K.S.A. 2020 Supp. 21-6301, and amendments thereto.

26 **{Sec. 4. K.S.A. 2020 Supp. 21-6309 is hereby amended to read as**
27 **follows: 21-6309. (a) It shall be unlawful to possess, with no**
28 **requirement of a culpable mental state, a firearm:**

29 **(1) Within any building located within the capitol complex;**

30 **(2) within the governor's residence;**

31 **(3) on the grounds of or in any building on the grounds of the**
32 **governor's residence;**

33 **(4) within any other state-owned or leased building if the**
34 **secretary of administration has so designated by rules and regulations**
35 **and conspicuously placed signs clearly stating that firearms are**
36 **prohibited within such building; or**

37 **(5) within any county courthouse, unless, by county resolution,**
38 **the board of county commissioners authorize the possession of a**
39 **firearm within such courthouse.**

40 **(b) Violation of this section is a class A misdemeanor.**

41 **(c) This section shall not apply to:**

42 **(1) A commissioned law enforcement officer;**

43 **(2) a full-time salaried law enforcement officer of another state or**

Insert Attachment A

And by renumbering sections accordingly

1 the federal government who is carrying out official duties while in this
2 state;

3 (3) any person summoned by any such officer to assist in making
4 arrests or preserving the peace while actually engaged in assisting
5 such officer; or

6 (4) a member of the military of this state or the United States
7 engaged in the performance of duties.

8 (d) It is not a violation of this section for:

9 (1) The governor, the governor's immediate family, or specifically
10 authorized guest of the governor to possess a firearm within the
11 governor's residence or on the grounds of or in any building on the
12 grounds of the governor's residence;

13 (2) the United States attorney for the district of Kansas, the
14 attorney general, any district attorney or county attorney, any
15 assistant United States attorney if authorized by the United States
16 attorney for the district of Kansas, any assistant attorney general if
17 authorized by the attorney general, or any assistant district attorney
18 or assistant county attorney if authorized by the district attorney or
19 county attorney by whom such assistant is employed, to possess a
20 firearm within any county courthouse and court-related facility,
21 subject to any restrictions or prohibitions imposed in any courtroom
22 by the chief judge of the judicial district;

23 (3) law enforcement officers, as that term is defined in K.S.A. 75-
24 7c22, and amendments thereto, who satisfy the requirements of either
25 K.S.A. 75-7c22(a) or (b), and amendments thereto, to possess a
26 firearm; or

27 (4) an individual to possess a concealed handgun—*provided if such*
28 *individual is not prohibited from possessing a firearm under either*
29 *federal or state law, and such individual is either: (A) 21 years of age or*
30 *older; or (B) possesses a valid provisional license issued pursuant to*
31 *K.S.A. 75-7c03, and amendments thereto, or a valid license to carry a*
32 *concealed handgun issued by another jurisdiction that is recognized in*
33 *this state pursuant to K.S.A. 75-7c03, and amendments thereto.*

34 (e) Notwithstanding the provisions of this section, any county may
35 elect by passage of a resolution that the provisions of subsection (d)(2)
36 shall not apply to such county's courthouse or court-related facilities if
37 such:

38 (1) Buildings have adequate security measures to ensure that no
39 weapons are permitted to be carried into such buildings;

40 (2) county also has a policy or regulation requiring all law
41 enforcement officers to secure and store such officer's firearm upon
42 entering the courthouse or court-related facility. Such policy or
43 regulation may provide that it does not apply to court security or

1 sheriff's office personnel for such county; and
 2 (3) buildings have a sign conspicuously posted at each entryway
 3 into such building stating that the provisions of subsection (d)(2) do
 4 not apply to such building.
 5 (f) As used in this section:
 6 (1) "Adequate security measures" shall have the same meaning
 7 as the term is defined in K.S.A. 75-7c20, and amendments thereto;
 8 (2) "possession" means having joint or exclusive control over a
 9 firearm or having a firearm in a place where the person has some
 10 measure of access and right of control; and
 11 (3) "capitol complex" means the same as in K.S.A. 75-4514, and
 12 amendments thereto.
 13 (g) For the purposes of subsections (a)(1), (a)(4) and (a)(5),
 14 "building" and "courthouse" shall not include any structure, or any
 15 area of any structure, designated for the parking of motor vehicles.
 16 Sec. 5. K.S.A. 2020 Supp. 32-1002 is hereby amended to read as
 17 follows: 32-1002. (a) Unless and except as permitted by law or rules
 18 and regulations adopted by the secretary in accordance with K.S.A.
 19 32-805, and amendments thereto, it is unlawful for any person to:
 20 (1) Hunt, fish, furharvest or take any wildlife in this state by any
 21 means or manner;
 22 (2) possess any wildlife, dead or alive, at any time or in any
 23 number, in this state;
 24 (3) purchase, sell, exchange, ship or offer for sale, exchange or
 25 shipment any wildlife in this state;
 26 (4) take any wildlife in this state for sale, exchange or other
 27 commercial purposes;
 28 (5) possess any seine, trammel net, hoop net, fyke net, fish gig,
 29 fish spear, fish trap or other device, contrivance or material for the
 30 purpose of taking wildlife; or
 31 (6) take or use, at any time or in any manner, any game bird,
 32 game animal, coyote or furbearing animal, whether pen-raised or
 33 wild, in any field trial or for training dogs.
 34 (b) The provisions of subsections (a)(2) and (a)(3) do not apply to
 35 animals sold in surplus property disposal sales of department exhibit
 36 herds or animals legally taken outside this state, except the provisions
 37 of subsection (a)(3) shall apply to:
 38 (1) The meat of game animals legally taken outside this state; and
 39 (2) other restrictions as provided by rule and regulation of the
 40 secretary.
 41 (c) The provisions of this section shall not be construed to
 42 prevent:
 43 (1) Any person from taking starlings or English and European

Insert Attachment B

And by renumbering sections accordingly

1 conducted pursuant to the provisions of that section.

2 Sec. 11. K.S.A. 75-7c21 is hereby amended to read as follows: 75-
3 7c21. (a) An individual may carry a concealed handgun in the state
4 capitol, provided if such individual is not prohibited from possessing a
5 firearm under either federal or state law, and is either: (A) 21 years of
6 age or older; or (B) possesses a valid provisional license issued pursuant
7 to K.S.A. 75-7c03, and amendments thereto, or a valid license to carry a
8 concealed handgun issued by another jurisdiction that is recognized in
9 this state pursuant to K.S.A. 75-7c03, and amendments thereto.

10 (b) This section shall be a part of and supplemental to the
11 personal and family protection act.

12 Sec. ~~3-4~~ {12.} K.S.A. {75-7c02,} 75-7c03 ~~and~~ {75-7c04,} 75-7c05 {
13 75-7c08 and 75-7c21} and K.S.A. 2020 Supp. {21-5914, 21-6301,} 21-
14 6302 {, 21-6309 and 32-1002} are hereby repealed. 21-6304,

15 Sec. ~~4-5~~ {13.} This act shall take effect and be in force from and , 21-6614
16 after its publication in the statute book.

ATTACHMENT A

- 1 -

Sec. 4. K.S.A. 2020 Supp. 21-6304 is hereby amended to read as follows: 21-6304. (a) Criminal possession of a weapon by a convicted felon is possession of any weapon by a person who:

(1) Has been convicted of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, or a crime under a law of another jurisdiction ~~which~~ that is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, and was found by the convicting court to have ~~been in possession of~~ used a firearm ~~at the time of~~ in the commission of the crime; or

~~(2) within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(3)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was not found to have been in possession of a firearm at the time of the commission of the crime; or~~

~~(3)~~ within the preceding 10 years, has been:

ATTACHMENT A

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(A) Convicted of a:

~~(A)~~ felony under:

(i) K.S.A. 2020 Supp. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, ~~subsection (b) or (d) of 21-5412(b) or (d), subsection (b) or (d) of 21-5413(b) or (d), subsection (a) of 21-5415(a), subsection (b) of 21-5420(b), 21-5503, subsection (b) of 21-5504(b), subsection (b) of 21-5505;(b) and subsection (b) of 21-5807(b)~~, and amendments thereto;

(ii) article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(iii) K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer;

(iv) K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to their repeal;

(v) 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. 2020 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such felony; or

(vi) a crime under a law of another jurisdiction ~~which~~ that is substantially the same as such felony; ~~or~~

(B) ~~has been~~ released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, ~~was not found to have been in possession of a firearm at the time of the commission of the crime, and has not had the conviction of such crime expunged or been pardoned for such crime. The provisions of subsection (j)(2) of K.S.A. 2020 Supp. 21-6614, and amendments thereto, shall not apply~~

ATTACHMENT A

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~~to an individual who has had a conviction under this paragraph expunged; or~~

~~(B) nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the crime.~~

(b) Criminal possession of a weapon by a convicted felon is a severity level 8, nonperson felony.

(c) This section shall not apply to a person who has been convicted of a crime and has had the conviction of such crime expunged or has been pardoned for such crime.

(d) As used in this section:

(1) "Knife" means a dagger, dirk, switchblade, stiletto, straight-edged razor or any other dangerous or deadly cutting instrument of like character; and

(2) "weapon" means a firearm or a knife.

ATTACHMENT B

Sec. 5. K.S.A. 2020 Supp. 21-6614 is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), 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, any nongrid felony or felony ranked in severity levels 6 through 10 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 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), (d), (e) and (f), 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) Any person convicted of prostitution, as defined in K.S.A. 21-3512, prior to its repeal, convicted of a violation of K.S.A. 2020 Supp. 21-6419, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or 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; and

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

(c) Except as provided in subsections (e) and (f), 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, 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 felony ranked in severity levels 1 through 5 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity levels 1 through 4 of the drug grid, or:

(1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its repeal, or K.S.A. 2020 Supp. 21-5406, and amendments thereto, or as prohibited by any law of another state ~~which~~ that 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~~ that 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~~ that is in substantial conformity with that statute;

(4) violating the provisions of K.S.A. 8-142 *Fifth*, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state ~~which~~ that 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. 8-1603, prior to its repeal, or K.S.A. 8-1602 or 8-1604, and amendments thereto, or required by a law of another state ~~which~~ that 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.

(d) (1) 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, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a first violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation.

(2) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence

imposed 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 second or subsequent violation of K.S.A. 8-1567, and amendments thereto.

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

(e) 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. 2020 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. 2020 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2020 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. 2020 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. 2020 Supp. 21-5510, and

amendments thereto;

(7) internet trading in child pornography or aggravated internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514, and amendments thereto;

(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2020 Supp. 21-5604, and amendments thereto;

(9) 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. 2020 Supp. 21-5601, and amendments thereto;

(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2020 Supp. 21-5602, and amendments thereto;

(11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2020 Supp. 21-5401, and amendments thereto;

(12) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;

(13) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;

(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;

(15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2020 Supp. 21-5405, and amendments thereto;

(16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2020 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2020 Supp. 21-5505, and amendments thereto;

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

(19) 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.

(f) 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.

(g) (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 \$176. On and after July 1, 2019, through June 30, 2025, the supreme court may impose a charge, not to exceed \$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 prisoner review board.

(h) 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.

(i) 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~~ that shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency ~~which~~ that may have a record of the arrest, conviction or diversion. If the case was appealed from municipal court, the clerk of the district court shall send a certified copy of the order of expungement to the municipal court. The municipal court shall order the case expunged once the certified copy of the order of expungement is received. 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. 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 Kansas department for aging and disability 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;

(K) 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. 75-7c01 et seq., and amendments thereto; or

(L) to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A. 2020 Supp. 50-6,141, 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~~ that 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.

(j) 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.

(k) (1) Subject to the disclosures required pursuant to subsection (i), 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.

~~(2) Notwithstanding the provisions of subsection (k)(1), and except as provided in K.S.A. 2020 Supp. 21-6304(a)(3)(A), and amendments thereto, the expungement of a prior felony conviction does not relieve the individual of complying with any state or federal law relating to the use, shipment, transportation, receipt or possession of firearms by persons previously convicted of a felony~~
A person whose arrest record, conviction or diversion of a crime has been expunged under this statute shall be deemed to have had such person's right to keep and bear arms fully restored. This restoration of rights shall include, but is not limited to, the right to use, transport, receive, purchase, transfer and possess firearms.

(1) 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 for aging and disability 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 Kansas department for aging and disability 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;

(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:

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

~~(B) act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A. 2020 Supp. 50-6,141, and amendments thereto; 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.~~

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