

## HOUSE BILL No. 2856

By Committee on Judiciary

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AN ACT regarding crimes, criminal procedures and punishment; amending K.S.A. 2001 Supp. 21-4619, 22-3437 and 22-4902 and repealing the existing sections.

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

Section 1. K.S.A. 2001 Supp. 21-4619 is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, post-release supervision, conditional release or a suspended sentence.

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

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion 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 nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

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

(2) a violation of K.S.A. 8-1567 and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts

1 prohibited by that statute;

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

6 (4) perjury resulting from a violation of K.S.A. 8-261a and amend-  
7 ments thereto or resulting from the violation of a law of another state  
8 which is in substantial conformity with that statute;

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

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

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

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

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

22 (c) There shall be no expungement of convictions for the following  
23 offenses or of convictions for an attempt to commit any of the following  
24 offenses: (1) Rape as defined in subsection (a)(2) of K.S.A. 21-3502 and  
25 amendments thereto; (2) indecent liberties with a child as defined in  
26 K.S.A. 21-3503 and amendments thereto; (3) aggravated indecent liber-  
27 ties with a child as defined in K.S.A. 21-3504 and amendments thereto;  
28 (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-  
29 3505 and amendments thereto; (5) aggravated criminal sodomy as defined  
30 in K.S.A. 21-3506 and amendments thereto; (6) indecent solicitation of a  
31 child as defined in K.S.A. 21-3510 and amendments thereto; (7) aggra-  
32 vated indecent solicitation of a child as defined in K.S.A. 21-3511 and  
33 amendments thereto; (8) sexual exploitation of a child as defined in K.S.A.  
34 21-3516 and amendments thereto; (9) aggravated incest as defined in  
35 K.S.A. 21-3603 and amendments thereto; (10) endangering a child as  
36 defined in K.S.A. 21-3608 and amendments thereto; (11) abuse of a child  
37 as defined in K.S.A. 21-3609 and amendments thereto; (12) capital mur-  
38 der as defined in K.S.A. 21-3439 and amendments thereto; (13) murder  
39 in the first degree as defined in K.S.A. 21-3401 and amendments thereto;  
40 (14) murder in the second degree as defined in K.S.A. 21-3402 and  
41 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.  
42 21-3403 and amendments thereto; (16) involuntary manslaughter as de-  
43 fined in K.S.A. 21-3404 and amendments thereto; (17) involuntary man-

1 slaughter while driving under the influence of alcohol or drugs as defined  
2 in K.S.A. 2001 Supp. 21-3442 and amendments thereto; ~~or~~ (18) *sexual*  
3 *battery as defined in K.S.A. 21-3517 and amendments thereto*; (19) *ag-*  
4 *gravated sexual battery as defined in K.S.A. 21-3518 and amendments*  
5 *thereto*; or (20) any conviction for any offense in effect at any time prior  
6 to the effective date of this act, that is comparable to any offense as  
7 provided in this subsection.

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

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

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

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

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

18 (6) the identity of the convicting court, arresting law enforcement  
19 authority or diverting authority. There shall be no docket fee for filing a  
20 petition pursuant to this section. All petitions for expungement shall be  
21 docketed in the original criminal action. Any person who may have rel-  
22 evant information about the petitioner may testify at the hearing. The  
23 court may inquire into the background of the petitioner and shall have  
24 access to any reports or records relating to the petitioner that are on file  
25 with the secretary of corrections or the Kansas parole board.

26 (e) At the hearing on the petition, the court shall order the peti-  
27 tioner's arrest record, conviction or diversion expunged if the court finds  
28 that:

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

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

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

35 (f) When the court has ordered an arrest record, conviction or diver-  
36 sion expunged, the order of expungement shall state the information re-  
37 quired to be contained in the petition. The clerk of the court shall send  
38 a certified copy of the order of expungement to the Kansas bureau of  
39 investigation which shall notify the federal bureau of investigation, the  
40 secretary of corrections and any other criminal justice agency which may  
41 have a record of the arrest, conviction or diversion. After the order of  
42 expungement is entered, the petitioner shall be treated as not having been  
43 arrested, convicted or diverted of the crime, except that:

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

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

6 (A) In any application for *licensure as a private detective, private*  
7 *detective agency, certification as a firearms trainer pursuant to K.S.A.*  
8 *2001 Supp. 75-7b21, and amendments thereto, or employment as a de-*  
9 *etective with a private detective agency, as defined by K.S.A. 75-7b01 and*  
10 *amendments thereto; as security personnel with a private patrol operator,*  
11 *as defined by K.S.A. 75-7b01 and amendments thereto; or with an insti-*  
12 *tution, as defined in K.S.A. 76-12a01 and amendments thereto, of the*  
13 *department of social and rehabilitation services;*

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

16 (C) to aid in determining the petitioner's qualifications for employ-  
17 ment with the Kansas lottery or for work in sensitive areas within the  
18 Kansas lottery as deemed appropriate by the executive director of the  
19 Kansas lottery;

20 (D) to aid in determining the petitioner's qualifications for executive  
21 director of the Kansas racing commission, for employment with the com-  
22 mission or for work in sensitive areas in parimutuel racing as deemed  
23 appropriate by the executive director of the commission, or to aid in  
24 determining qualifications for licensure or renewal of licensure by the  
25 commission;

26 (E) upon application for a commercial driver's license under K.S.A.  
27 8-2,125 through 8-2,142, and amendments thereto;

28 (F) to aid in determining the petitioner's qualifications to be an em-  
29 ployee of the state gaming agency;

30 (G) to aid in determining the petitioner's qualifications to be an em-  
31 ployee of a tribal gaming commission or to hold a license issued pursuant  
32 to a tribal-state gaming compact;

33 (H) in any application for registration as a broker-dealer, agent, in-  
34 vestment adviser or investment adviser representative all as defined in  
35 K.S.A. 17-1252 and amendments thereto; or

36 (I) in any application for a commercial guide permit or associate  
37 guide permit under K.S.A. 32-964, and amendments thereto;

38 (3) the court, in the order of expungement, may specify other cir-  
39 cumstances under which the conviction is to be disclosed;

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

43 (5) upon commitment to the custody of the secretary of corrections,

1 any previously expunged record in the possession of the secretary of cor-  
2 rections may be reinstated and the expungement disregarded, and the  
3 record continued for the purpose of the new commitment.

4 (g) Whenever a person is convicted of a crime, pleads guilty and pays  
5 a fine for a crime, is placed on parole, postrelease supervision or proba-  
6 tion, is assigned to a community correctional services program, is granted  
7 a suspended sentence or is released on conditional release, the person  
8 shall be informed of the ability to expunge the arrest records or convic-  
9 tion. Whenever a person enters into a diversion agreement, the person  
10 shall be informed of the ability to expunge the diversion.

11 (h) Subject to the disclosures required pursuant to subsection (f), in  
12 any application for employment, license or other civil right or privilege,  
13 or any appearance as a witness, a person whose arrest records, conviction  
14 or diversion of a crime has been expunged under this statute may state  
15 that such person has never been arrested, convicted or diverted of such  
16 crime, but the expungement of a felony conviction does not relieve an  
17 individual of complying with any state or federal law relating to the use  
18 or possession of firearms by persons convicted of a felony.

19 (i) Whenever the record of any arrest, conviction or diversion has  
20 been expunged under the provisions of this section or under the provi-  
21 sions of any other existing or former statute, the custodian of the records  
22 of arrest, conviction, diversion and incarceration relating to that crime  
23 shall not disclose the existence of such records, except when requested  
24 by:

25 (1) The person whose record was expunged;

26 (2) a private detective agency or a private patrol operator, and the  
27 request is accompanied by a statement that the request is being made in  
28 conjunction with an application for employment with such agency or op-  
29 erator by the person whose record has been expunged;

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

32 (4) the secretary of social and rehabilitation services, or a designee of  
33 the secretary, for the purpose of obtaining information relating to em-  
34 ployment in an institution, as defined in K.S.A. 76-12a01 and amend-  
35 ments thereto, of the department of social and rehabilitation services of  
36 any person whose record has been expunged;

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

39 (6) a prosecuting attorney, and such request is accompanied by a  
40 statement that the request is being made in conjunction with a prosecu-  
41 tion of an offense that requires a prior conviction as one of the elements  
42 of such offense;

43 (7) the supreme court, the clerk or disciplinary administrator thereof,

1 the state board for admission of attorneys or the state board for discipline  
2 of attorneys, and the request is accompanied by a statement that the  
3 request is being made in conjunction with an application for admission,  
4 or for an order of reinstatement, to the practice of law in this state by the  
5 person whose record has been expunged;

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

11 (9) the governor or the Kansas racing commission, or a designee of  
12 the commission, and the request is accompanied by a statement that the  
13 request is being made to aid in determining qualifications for executive  
14 director of the commission, for employment with the commission, for  
15 work in sensitive areas in parimutuel racing as deemed appropriate by  
16 the executive director of the commission or for licensure, renewal of  
17 licensure or continued licensure by the commission;

18 (10) the Kansas sentencing commission;

19 (11) the state gaming agency, and the request is accompanied by a  
20 statement that the request is being made to aid in determining qualifi-  
21 cations: (A) To be an employee of the state gaming agency; or (B) to be  
22 an employee of a tribal gaming commission or to hold a license issued  
23 pursuant to a tribal-gaming compact;

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

30 (13) the department of wildlife and parks and the request is accom-  
31 panied by a statement that the request is being made to aid in determining  
32 qualifications for a permit as a commercial guide or associate guide under  
33 K.S.A. 32-964, and amendments thereto.

34 Sec. 2. K.S.A. 2001 Supp. 22-3437 is hereby amended to read as  
35 follows: 22-3437. (1) In any hearing or trial, a report concerning forensic  
36 examinations and certificate of forensic examination executed pursuant  
37 to this section shall be admissible in evidence if the report and certificate  
38 are prepared and attested by a criminalist or other employee of the Kansas  
39 bureau of investigation, Kansas highway patrol or any laboratory of the  
40 federal bureau of investigation, federal postal inspection service, federal  
41 bureau of alcohol, tobacco and firearms or federal drug enforcement ad-  
42 ministration. If the examination involves a breath test for alcohol content,  
43 the report must also be admissible pursuant to subsection (f)(1) of K.S.A.

1 8-1001, and amendments thereto, and be conducted by a law enforce-  
2 ment officer or other person who is certified by the department of health  
3 and environment as a breath test operator as provided by K.S.A. 65-1,107  
4 et seq. and amendments thereto.

5 (2) Upon the request of any law enforcement agency, such person as  
6 provided in subsection (1) performing the analysis shall prepare a certif-  
7 icate. Such person shall sign the certificate under oath and shall include  
8 in the certificate an attestation as to the result of the analysis. The pres-  
9 entation of this certificate to a court by any party to a proceeding shall  
10 be evidence that all of the requirements and provisions of this section  
11 have been complied with. This certificate *supported by a written decla-*  
12 *ration pursuant to K.S.A. 53-601 and amendments thereto* shall be sworn  
13 to before a notary public or other person empowered by law to take oaths  
14 and shall contain a statement establishing the following: The type of anal-  
15 ysis performed; the result achieved; any conclusions reached based upon  
16 that result; that the subscriber is the person who performed the analysis  
17 and made the conclusions; the subscriber's training or experience to per-  
18 form the analysis; the nature and condition of the equipment used; and  
19 the certification and foundation requirements for admissibility of breath  
20 test results, when appropriate. When properly executed, the certificate  
21 shall, subject to the provisions of subsection (3) and notwithstanding any  
22 other provision of law, be admissible evidence of the results of the foren-  
23 sic examination of the samples or evidence submitted for analysis and the  
24 court shall take judicial notice of the signature of the person performing  
25 the analysis and of the fact that such person is that person who performed  
26 the analysis.

27 (3) Whenever a party intends to proffer in a criminal or civil pro-  
28 ceeding, a certificate executed pursuant to this section, notice of an intent  
29 to proffer that certificate and the reports relating to the analysis in ques-  
30 tion, including a copy of the certificate, shall be conveyed to the opposing  
31 party or parties within 20 days after arraignment, if a criminal proceeding  
32 or at least 20 days before a civil trial begins. An opposing party who  
33 intends to object to the admission into evidence of a certificate shall give  
34 notice of objection and the grounds for the objection within 10 days upon  
35 receiving the adversary's notice of intent to proffer the certificate. When-  
36 ever a notice of objection is filed, admissibility of the certificate shall be  
37 determined not later than two days before the beginning of the trial. A  
38 proffered certificate shall be admitted in evidence unless it appears from  
39 the notice of objection and grounds for that objection that the conclusions  
40 of the certificate, including the composition, quality or quantity of the  
41 substance submitted to the laboratory for analysis or the alcohol content  
42 of a blood or breath sample will be contested at trial. A failure to comply  
43 with the time limitations regarding the notice of objection required by

1 this section shall constitute a waiver of any objections to the admission of  
2 the certificate. The time limitations set forth in this section may be ex-  
3 tended upon a showing of good cause.

4 Sec. 3. K.S.A. 2001 Supp. 22-4902 is hereby amended to read as  
5 follows: 22-4902. As used in this act, unless the context otherwise  
6 requires:

7 (a) "Offender" means: (1) A sex offender as defined in subsection (b);

8 (2) a violent offender as defined in subsection (d);

9 (3) a sexually violent predator as defined in subsection (f);

10 (4) any person who, on and after the effective date of this act, is  
11 convicted of any of the following crimes when the victim is less than 18  
12 years of age:

13 (A) Kidnapping as defined in K.S.A. 21-3420 and amendments  
14 thereto, except by a parent;

15 (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amend-  
16 ments thereto; or

17 (C) criminal restraint as defined in K.S.A. 21-3424 and amendments  
18 thereto, except by a parent;

19 (5) any person convicted of any of the following criminal sexual con-  
20 duct if one of the parties involved is less than 18 years of age:

21 (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

22 (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-  
23 3505, and amendments thereto;

24 (C) promoting prostitution as defined by K.S.A. 21-3513, and amend-  
25 ments thereto;

26 (D) patronizing a prostitute as defined by K.S.A. 21-3515, and  
27 amendments thereto;

28 (E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and  
29 ~~amendment~~ *amendments* thereto; or

30 (F) unlawful sexual relations as defined by K.S.A. 21-3520, and  
31 amendments thereto;

32 (6) any person who is a resident of this state who has been required  
33 to register under any federal, military or other state's law;

34 (7) any person who has been convicted of an offense in effect at any  
35 time prior to the effective date of this act, that is comparable to any crime  
36 defined in subsection (4) or (5), or any federal, military or other state  
37 conviction for an offense that under the laws of this state would be an  
38 offense defined in subsection (4) or (5); or

39 (8) any person who has been convicted of an attempt, conspiracy or  
40 criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303  
41 and amendments thereto, of an offense defined in subsection (4) or (5).

42 Convictions which result from or are connected with the same act, or  
43 result from crimes committed at the same time, shall be counted for the



1 purpose of this section as one conviction. Any conviction set aside pur-  
2 suant to law is not a conviction for purposes of this section. A conviction  
3 from another state shall constitute a conviction for purposes of this  
4 section.

5 (b) “Sex offender” includes any person who, after the effective date  
6 of this act, is convicted of any sexually violent crime set forth in subsection

7 (c).

8 (c) “Sexually violent crime” means:

9 (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

10 (2) indecent liberties with a child as defined in K.S.A. 21-3503 and  
11 amendments thereto;

12 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-  
13 3504 and amendments thereto;

14 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of  
15 K.S.A. 21-3505 and amendments thereto;

16 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and  
17 amendments thereto;

18 (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and  
19 amendments thereto;

20 (7) aggravated indecent solicitation of a child as defined by K.S.A.  
21 21-3511 and amendments thereto;

22 (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and  
23 amendments thereto;

24 (9) sexual battery as defined by K.S.A. 21-3517 and amendments  
25 thereto;

26 (10) aggravated sexual battery as defined by K.S.A. 21-3518 and  
27 amendments thereto;

28 (11) aggravated incest as defined by K.S.A. 21-3603 and amendments  
29 thereto; or

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

35 (13) an attempt, conspiracy or criminal solicitation, as defined in  
36 K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sex-  
37 ually violent crime, as defined in this section; or

38 (14) any act which at the time of sentencing for the offense has been  
39 determined beyond a reasonable doubt to have been sexually motivated.  
40 As used in this subparagraph, “sexually motivated” means that one of the  
41 purposes for which the defendant committed the crime was for the pur-  
42 pose of the defendant’s sexual gratification.

43 (d) “Violent offender” includes any person who, after the effective

1 date of this act, is convicted of any of the following crimes:

2 (1) Capital murder as defined by K.S.A. 21-3439 and amendments  
3 thereto;

4 (2) murder in the first degree as defined by K.S.A. 21-3401 and  
5 amendments thereto;

6 (3) murder in the second degree as defined by K.S.A. 21-3402 and  
7 amendments thereto;

8 (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amend-  
9 ments thereto;

10 (5) involuntary manslaughter as defined by K.S.A. 21-3404 and  
11 amendments thereto; or

12 (6) any conviction for an offense in effect at any time prior to the  
13 effective date of this act, that is comparable to any crime defined in this  
14 subsection, or any federal, military or other state conviction for an offense  
15 that under the laws of this state would be an offense defined in this  
16 subsection; or

17 (7) an attempt, conspiracy or criminal solicitation, as defined in  
18 K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an of-  
19 fense defined in this subsection.

20 (e) “Law enforcement agency having jurisdiction” means the sheriff  
21 of the county in which the offender expects to reside upon the offender’s  
22 discharge, parole or release.

23 (f) “Sexually violent predator” means any person who, on or after July  
24 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-  
25 29a01 *et seq.* and amendments thereto.

26 (g) “Nonresident student or worker” includes any offender who  
27 crosses into the state or county for more than 14 days, or for an aggregate  
28 period exceeding 30 days in a calender year, for the purposes of employ-  
29 ment, with or without compensation, or to attend school as a student.

30 (h) “Aggravated offenses” means engaging in sexual acts involving  
31 penetration with victims of any age through the use of force or the threat  
32 of serious violence, or engaging in sexual acts involving penetration with  
33 victims less than 14 years of age, and includes the following offenses:

34 (1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of  
35 K.S.A. 2001 Supp. 21-3502, and amendments thereto;

36 (2) aggravated criminal sodomy as defined in subsection (a)(1) and  
37 subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

38 (3) any attempt, conspiracy or criminal solicitation, as defined in  
39 K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an of-  
40 fense defined in subsection ~~(h)~~ (h).

41 Sec. 4. K.S.A. 2001 Supp. 21-4619, 22-3437 and 22-4902 are hereby  
42 repealed.

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1     Sec. 5. This act shall take effect and be in force from and after its  
2 publication in the statute book.  
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