

As Amended by House Committee

Session of 2008

HOUSE BILL No. 2818

By Committee on Judiciary

2-11

10 AN ACT concerning expungement; amending K.S.A. 21-4619 and K.S.A.  
11 2007 Supp. 12-4516 and **75-7c04** and repealing the existing sections.  
12

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

14 Section 1. K.S.A. 2007 Supp. 12-4516 is hereby amended to read as  
15 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any  
16 person who has been convicted of a violation of a city ordinance of this  
17 state may petition the convicting court for the expungement of such con-  
18 viction and related arrest records if three or more years have elapsed  
19 since the person:

- 20 (A) Satisfied the sentence imposed; or  
21 (B) was discharged from probation, parole or a suspended sentence.  
22 (2) Except as provided in subsection (b) or (c), any person who has  
23 fulfilled the terms of a diversion agreement based on a violation of a city  
24 ordinance of this state may petition the court for the expungement of  
25 such diversion agreement and related arrest records if three or more years  
26 have elapsed since the terms of the diversion agreement were fulfilled.  
27 (b) No person may petition for expungement until five or more years  
28 have elapsed since the person satisfied the sentence imposed or the terms  
29 of a diversion agreement or was discharged from probation, parole, con-  
30 ditional release or a suspended sentence, if such person was convicted of  
31 the violation of a city ordinance which would also constitute:  
32 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-  
33 ments thereto;  
34 (2) driving while the privilege to operate a motor vehicle on the public  
35 highways of this state has been canceled, suspended or revoked, as pro-  
36 hibited by K.S.A. 8-262, and amendments thereto;  
37 (3) perjury resulting from a violation of K.S.A. 8-261a, and amend-  
38 ments thereto;  
39 (4) a violation of the provisions of the fifth clause of K.S.A. 8-142,  
40 and amendments thereto, relating to fraudulent applications;  
41 (5) any crime punishable as a felony wherein a motor vehicle was  
42 used in the perpetration of such crime;  
43 (6) failing to stop at the scene of an accident and perform the duties

1 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;  
2 (7) a violation of the provisions of K.S.A. 40-3104, and amendments  
3 thereto, relating to motor vehicle liability insurance coverage; or  
4 (8) a violation of K.S.A. 21-3405b, and amendments thereto.  
5 (c) There shall be no expungement of convictions or diversions for a  
6 violation of a city ordinance which would also constitute a violation of  
7 K.S.A. 8-1567 or 8-2,144, and amendments thereto.  
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 agency or diverting authority. A municipal court may prescribe a fee to  
20 be charged as costs for a person petitioning for an order of expungement  
21 pursuant to this section. Any person who may have relevant information  
22 about the petitioner may testify at the hearing. The court may inquire  
23 into the background of the petitioner and shall have access to any reports  
24 or records relating to the petitioner that are on file with the secretary of  
25 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 employment as a detective with a private  
7 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;  
8 as security personnel with a private patrol operator, as defined by K.S.A.  
9 75-7b01, and amendments thereto; or with an institution, as defined in  
10 K.S.A. 76-12a01, and amendments thereto, of the department of social  
11 and rehabilitation services;
- 12 (B) in any application for admission, or for an order of reinstatement,  
13 to the practice of law in this state;
- 14 (C) to aid in determining the petitioner's qualifications for employ-  
15 ment with the Kansas lottery or for work in sensitive areas within the  
16 Kansas lottery as deemed appropriate by the executive director of the  
17 Kansas lottery;
- 18 (D) to aid in determining the petitioner's qualifications for executive  
19 director of the Kansas racing and gaming commission, for employment  
20 with the commission or for work in sensitive areas in parimutuel racing  
21 as deemed appropriate by the executive director of the commission, or  
22 to aid in determining qualifications for licensure or renewal of licensure  
23 by the commission;
- 24 (E) to aid in determining the petitioner's qualifications for the fol-  
25 lowing under the Kansas expanded lottery act: (i) Lottery gaming facility  
26 manager or prospective manager, racetrack gaming facility manager or  
27 prospective manager, licensee or certificate holder; or (ii) an officer, di-  
28 rector, employee, owner, agent or contractor thereof;
- 29 (F) upon application for a commercial driver's license under K.S.A.  
30 8-2,125 through 8-2,142, and amendments thereto;
- 31 (G) to aid in determining the petitioner's qualifications to be an em-  
32 ployee of the state gaming agency;
- 33 (H) to aid in determining the petitioner's qualifications to be an em-  
34 ployee of a tribal gaming commission or to hold a license issued pursuant  
35 to a tribal-state gaming compact;
- 36 (I) in any application for registration as a broker-dealer, agent, in-  
37 vestment adviser or investment adviser representative all as defined in  
38 K.S.A. 17-12a102, and amendments thereto; ~~or~~
- 39 (J) in any application for employment as a law enforcement officer,  
40 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; *or*
- 41 (K) *for applications received on and after July 1, 2006, to aid in de-*  
42 *termining the petitioner's qualifications for a license to carry a concealed*  
43 *weapon pursuant to the personal and family protection act, K.S.A. 75-*

1 *7c01 et seq., and amendments thereto.* Pursuant to this paragraph, the  
2 **petitioner shall only be required to disclose convictions, adjudi-**  
3 **cations or diversions described in subsection (a)(6) of K.S.A. 2007**  
4 **Supp. 75-7c04, and amendments thereto, during the five years im-**  
5 **mediately preceding the date the application is submitted. All**  
6 **other arrests, convictions, adjudications or diversions described in**  
7 **subsection (a)(6) of K.S.A. 2007 Supp. 75-7c04, and amendments**  
8 **thereto, shall not be required to be disclosed;**

9 (3) the court, in the order of expungement, may specify other cir-  
10 cumstances under which the arrest, conviction or diversion is to be dis-  
11 closed; and

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

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

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

27 (i) Whenever the record of any arrest, conviction or diversion has  
28 been expunged under the provisions of this section or under the provi-  
29 sions of any other existing or former statute, the custodian of the records  
30 of arrest, conviction, diversion and incarceration relating to that crime  
31 shall not disclose the existence of such records, except when requested  
32 by:

33 (1) The person whose record was expunged;

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

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

40 (4) the secretary of social and rehabilitation services, or a designee of  
41 the secretary, for the purpose of obtaining information relating to em-  
42 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-  
43 ments thereto, of the department of social and rehabilitation services of

- 1 any person whose record has been expunged;
- 2 (5) a person entitled to such information pursuant to the terms of the  
3 expungement order;
- 4 (6) a prosecuting attorney, and such request is accompanied by a  
5 statement that the request is being made in conjunction with a prosecu-  
6 tion of an offense that requires a prior conviction as one of the elements  
7 of such offense;
- 8 (7) the supreme court, the clerk or disciplinary administrator thereof,  
9 the state board for admission of attorneys or the state board for discipline  
10 of attorneys, and the request is accompanied by a statement that the  
11 request is being made in conjunction with an application for admission,  
12 or for an order of reinstatement, to the practice of law in this state by the  
13 person whose record has been expunged;
- 14 (8) the Kansas lottery, and the request is accompanied by a statement  
15 that the request is being made to aid in determining qualifications for  
16 employment with the Kansas lottery or for work in sensitive areas within  
17 the Kansas lottery as deemed appropriate by the executive director of the  
18 Kansas lottery;
- 19 (9) the governor or the Kansas racing and gaming commission, or a  
20 designee of the commission, and the request is accompanied by a state-  
21 ment that the request is being made to aid in determining qualifications  
22 for executive director of the commission, for employment with the com-  
23 mission, for work in sensitive areas in parimutuel racing as deemed ap-  
24 propriate by the executive director of the commission or for licensure,  
25 renewal of licensure or continued licensure by the commission;
- 26 (10) the Kansas racing and gaming commission, or a designee of the  
27 commission, and the request is accompanied by a statement that the re-  
28 quest is being made to aid in determining qualifications of the following  
29 under the Kansas expanded lottery act: (A) Lottery gaming facility man-  
30 agers and prospective managers, racetrack gaming facility managers and  
31 prospective managers, licensees and certificate holders; and (B) their of-  
32 ficers, directors, employees, owners, agents and contractors;
- 33 (11) the state gaming agency, and the request is accompanied by a  
34 statement that the request is being made to aid in determining qualifi-  
35 cations: (A) To be an employee of the state gaming agency; or (B) to be  
36 an employee of a tribal gaming commission or to hold a license issued  
37 pursuant to a tribal-state gaming compact;
- 38 (12) the Kansas securities commissioner, or a designee of the com-  
39 missioner, and the request is accompanied by a statement that the request  
40 is being made in conjunction with an application for registration as a  
41 broker-dealer, agent, investment adviser or investment adviser represen-  
42 tative by such agency and the application was submitted by the person  
43 whose record has been expunged;

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

5 (14) the Kansas sentencing commission;

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

10 (16) a law enforcement agency and the request is accompanied by a  
11 statement that the request is being made to aid in determining eligibility  
12 for employment as a law enforcement officer as defined by K.S.A. 22-  
13 2202, and amendments thereto.

14 Sec. 2. K.S.A. 21-4619 is hereby amended to read as follows: 21-  
15 4619. (a) (1) Except as provided in subsections (b) and (c), any person  
16 convicted in this state of a traffic infraction, cigarette or tobacco infrac-  
17 tion, misdemeanor or a class D or E felony, or for crimes committed on  
18 or after July 1, 1993, nondrug crimes ranked in severity levels 6 through  
19 10 or any felony ranked in severity level 4 of the drug grid, may petition  
20 the convicting court for the expungement of such conviction or related  
21 arrest records if three or more years have elapsed since the person: (A)  
22 Satisfied the sentence imposed; or (B) was discharged from probation, a  
23 community correctional services program, parole, postrelease supervi-  
24 sion, conditional release or a suspended sentence.

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

30 (b) Except as provided in subsection (c), no person may petition for  
31 expungement until five or more years have elapsed since the person sat-  
32 isfied the sentence imposed, the terms of a diversion agreement or was  
33 discharged from probation, a community correctional services program,  
34 parole, postrelease supervision, conditional release or a suspended sen-  
35 tence, if such person was convicted of a class A, B or C felony, or for  
36 crimes committed on or after July 1, 1993, if convicted of an off-grid  
37 felony or any nondrug crime ranked in severity levels 1 through 5 or any  
38 felony ranked in severity levels 1 through 3 of the drug grid, or:

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

42 (2) driving while the privilege to operate a motor vehicle on the public  
43 highways of this state has been canceled, suspended or revoked, as pro-

1 hibited by K.S.A. 8-262, and amendments thereto, or as prohibited by  
2 any law of another state which is in substantial conformity with that  
3 statute;

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

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

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

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

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

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

20 (c) There shall be no expungement of convictions for the following  
21 offenses or of convictions for an attempt to commit any of the following  
22 offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;  
23 (2) indecent liberties with a child as defined in K.S.A. 21-3503, and  
24 amendments thereto; (3) aggravated indecent liberties with a child as  
25 defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy  
26 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-  
27 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-  
28 3506, and amendments thereto; (6) indecent solicitation of a child as  
29 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-  
30 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-  
31 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-  
32 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.  
33 21-3603, and amendments thereto; (10) endangering a child as defined  
34 in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as  
35 defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder  
36 as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in  
37 the first degree as defined in K.S.A. 21-3401, and amendments thereto;  
38 (14) murder in the second degree as defined in K.S.A. 21-3402, and  
39 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.  
40 21-3403, and amendments thereto; (16) involuntary manslaughter as de-  
41 fined in K.S.A. 21-3404, and amendments thereto; (17) involuntary man-  
42 slaughter while driving under the influence of alcohol or drugs as defined  
43 in K.S.A. 21-3442, and amendments thereto; (18) sexual battery as de-

1 fined in K.S.A. 21-3517, and amendments thereto, when the victim was  
2 less than 18 years of age at the time the crime was committed; (19) ag-  
3 gravated sexual battery as defined in K.S.A. 21-3518, and amendments  
4 thereto; (20) a violation of K.S.A. 8-1567, and amendments thereto, in-  
5 cluding any diversion for such violation; (21) a violation of K.S.A. 8-2,144,  
6 and amendments thereto, including any diversion for such violation; or  
7 (22) any conviction for any offense in effect at any time prior to the  
8 effective date of this act, that is comparable to any offense as provided in  
9 this subsection.

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

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

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

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

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

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

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

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

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

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

37 (f) When the court has ordered an arrest record, conviction or diver-  
38 sion expunged, the order of expungement shall state the information re-  
39 quired to be contained in the petition. The clerk of the court shall send  
40 a certified copy of the order of expungement to the Kansas bureau of  
41 investigation which shall notify the federal bureau of investigation, the  
42 secretary of corrections and any other criminal justice agency which may  
43 have a record of the arrest, conviction or diversion. After the order of



1 expungement is entered, the petitioner shall be treated as not having been  
2 arrested, convicted or diverted of the crime, except that:

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

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

8 (A) In any application for licensure as a private detective, private  
9 detective agency, certification as a firearms trainer pursuant to K.S.A.  
10 2007 Supp. 75-7b21, and amendments thereto, or employment as a de-  
11 tective with a private detective agency, as defined by K.S.A. 75-7b01, and  
12 amendments thereto; as security personnel with a private patrol operator,  
13 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-  
14 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the  
15 department of social and rehabilitation services;

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

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

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

28 (E) to aid in determining the petitioner's qualifications for the fol-  
29 lowing under the Kansas expanded lottery act: (i) Lottery gaming facility  
30 manager or prospective manager, racetrack gaming facility manager or  
31 prospective manager, licensee or certificate holder; or (ii) an officer, di-  
32 rector, employee, owner, agent or contractor thereof;

33 (F) upon application for a commercial driver's license under K.S.A.  
34 8-2,125 through 8-2,142, and amendments thereto;

35 (G) to aid in determining the petitioner's qualifications to be an em-  
36 ployee of the state gaming agency;

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

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

43 (J) in any application for employment as a law enforcement officer as

- 1 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or
- 2 (K) *for applications received on and after July 1, 2006, to aid in de-*
- 3 *termining the petitioner's qualifications for a license to carry a concealed*
- 4 *weapon pursuant to the personal and family protection act, K.S.A. 75-*
- 5 *7c01 et seq., and amendments thereto.* **Pursuant to this paragraph, the**
- 6 **petitioner shall only be required to disclose convictions, adjudi-**
- 7 **cations or diversions described in subsection (a)(4)(A) or (a)(6) of**
- 8 **K.S.A. 2007 Supp. 75-7c04, and amendments thereto, during the**
- 9 **five years immediately preceding the date the application is sub-**
- 10 **mitted. All other arrests, convictions, adjudications or diversions**
- 11 **described in subsection (a)(4)(A) or (a)(6) of K.S.A. 2007 Supp. 75-**
- 12 **7c04, and amendments thereto, shall not be required to be dis-**
- 13 **closed;**
- 14 (3) the court, in the order of expungement, may specify other cir-
- 15 cumstances under which the conviction is to be disclosed;
- 16 (4) the conviction may be disclosed in a subsequent prosecution for
- 17 an offense which requires as an element of such offense a prior conviction
- 18 of the type expunged; and
- 19 (5) upon commitment to the custody of the secretary of corrections,
- 20 any previously expunged record in the possession of the secretary of cor-
- 21 rections may be reinstated and the expungement disregarded, and the
- 22 record continued for the purpose of the new commitment.
- 23 (g) Whenever a person is convicted of a crime, pleads guilty and pays
- 24 a fine for a crime, is placed on parole, postrelease supervision or proba-
- 25 tion, is assigned to a community correctional services program, is granted
- 26 a suspended sentence or is released on conditional release, the person
- 27 shall be informed of the ability to expunge the arrest records or convic-
- 28 tion. Whenever a person enters into a diversion agreement, the person
- 29 shall be informed of the ability to expunge the diversion.
- 30 (h) Subject to the disclosures required pursuant to subsection (f), in
- 31 any application for employment, license or other civil right or privilege,
- 32 or any appearance as a witness, a person whose arrest records, conviction
- 33 or diversion of a crime has been expunged under this statute may state
- 34 that such person has never been arrested, convicted or diverted of such
- 35 crime, but the expungement of a felony conviction does not relieve an
- 36 individual of complying with any state or federal law relating to the use
- 37 or possession of firearms by persons convicted of a felony.
- 38 (i) Whenever the record of any arrest, conviction or diversion has
- 39 been expunged under the provisions of this section or under the provi-
- 40 sions of any other existing or former statute, the custodian of the records
- 41 of arrest, conviction, diversion and incarceration relating to that crime
- 42 shall not disclose the existence of such records, except when requested
- 43 by:

- 1 (1) The person whose record was expunged;
- 2 (2) a private detective agency or a private patrol operator, and the  
3 request is accompanied by a statement that the request is being made in  
4 conjunction with an application for employment with such agency or op-  
5 erator by the person whose record has been expunged;
- 6 (3) a court, upon a showing of a subsequent conviction of the person  
7 whose record has been expunged;
- 8 (4) the secretary of social and rehabilitation services, or a designee of  
9 the secretary, for the purpose of obtaining information relating to em-  
10 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-  
11 ments thereto, of the department of social and rehabilitation services of  
12 any person whose record has been expunged;
- 13 (5) a person entitled to such information pursuant to the terms of the  
14 expungement order;
- 15 (6) a prosecuting attorney, and such request is accompanied by a  
16 statement that the request is being made in conjunction with a prosecu-  
17 tion of an offense that requires a prior conviction as one of the elements  
18 of such offense;
- 19 (7) the supreme court, the clerk or disciplinary administrator thereof,  
20 the state board for admission of attorneys or the state board for discipline  
21 of attorneys, and the request is accompanied by a statement that the  
22 request is being made in conjunction with an application for admission,  
23 or for an order of reinstatement, to the practice of law in this state by the  
24 person whose record has been expunged;
- 25 (8) the Kansas lottery, and the request is accompanied by a statement  
26 that the request is being made to aid in determining qualifications for  
27 employment with the Kansas lottery or for work in sensitive areas within  
28 the Kansas lottery as deemed appropriate by the executive director of the  
29 Kansas lottery;
- 30 (9) the governor or the Kansas racing and gaming commission, or a  
31 designee of the commission, and the request is accompanied by a state-  
32 ment that the request is being made to aid in determining qualifications  
33 for executive director of the commission, for employment with the com-  
34 mission, for work in sensitive areas in parimutuel racing as deemed ap-  
35 propriate by the executive director of the commission or for licensure,  
36 renewal of licensure or continued licensure by the commission;
- 37 (10) the Kansas racing and gaming commission, or a designee of the  
38 commission, and the request is accompanied by a statement that the re-  
39 quest is being made to aid in determining qualifications of the following  
40 under the Kansas expanded lottery act: (A) Lottery gaming facility man-  
41 agers and prospective managers, racetrack gaming facility managers and  
42 prospective managers, licensees and certificate holders; and (B) their of-  
43 ficers, directors, employees, owners, agents and contractors;

- 1 (11) the Kansas sentencing commission;
- 2 (12) the state gaming agency, and the request is accompanied by a  
3 statement that the request is being made to aid in determining qualifi-  
4 cations: (A) To be an employee of the state gaming agency; or (B) to be  
5 an employee of a tribal gaming commission or to hold a license issued  
6 pursuant to a tribal-gaming compact;
- 7 (13) the Kansas securities commissioner or a designee of the com-  
8 missioner, and the request is accompanied by a statement that the request  
9 is being made in conjunction with an application for registration as a  
10 broker-dealer, agent, investment adviser or investment adviser represen-  
11 tative by such agency and the application was submitted by the person  
12 whose record has been expunged;
- 13 (14) the Kansas commission on peace officers' standards and training  
14 and the request is accompanied by a statement that the request is being  
15 made to aid in determining certification eligibility as a law enforcement  
16 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;
- 17 (15) a law enforcement agency and the request is accompanied by a  
18 statement that the request is being made to aid in determining eligibility  
19 for employment as a law enforcement officer as defined by K.S.A. 22-  
20 2202, and amendments thereto; or
- 21 (16) the attorney general and the request is accompanied by a state-  
22 ment that the request is being made to aid in determining qualifications  
23 for a license to carry a concealed weapon pursuant to the personal and  
24 family protection act.
- 25 **Sec. 3. K.S.A. 2007 Supp. 75-7c04 is hereby amended to read**  
26 **as follows: 75-7c04. (a) On and after January 1, 2007, the attorney**  
27 **general shall issue a license pursuant to this act if the applicant:**
- 28 (1) **Is a resident of the county where application for licensure**  
29 **is made and has been a resident of the state for six months or more**  
30 **immediately preceding the filing of the application, residency to**  
31 **be determined in accordance with K.S.A. 77-201, and amendments**  
32 **thereto;**
- 33 (2) **is 21 years or more of age;**
- 34 (3) **does not suffer from a physical infirmity which prevents the**  
35 **safe handling of a weapon;**
- 36 (4) (A) **has never not been, during the five years immediately pre-**  
37 **ceding the date the application is submitted, convicted or placed on**  
38 **diversion, in this or any other jurisdiction, for an act that consti-**  
39 **tutes a felony under the laws of this state or adjudicated, in this or**  
40 **any other jurisdiction, of committing as a juvenile an act that would**  
41 **be a felony under the laws of this state if committed by an adult,**  
42 **if such felony may be expunged and has been expunged pursuant to K.S.A.**  
43 **21-4619, and amendments thereto; or**

1     (B) *has never been convicted or placed on diversion, in this or any*  
2 *other jurisdiction, for an act that constitutes a felony under the laws of*  
3 *this state or adjudicated, in this or any other jurisdiction, of committing*  
4 *as a juvenile an act that would be a felony under the laws of this state if*  
5 *committed by an adult, if such felony can not be expunged pursuant to*  
6 *K.S.A. 21-4619, and amendments thereto;*

7     **(5) has never been convicted, in this or any other jurisdiction,**  
8 **for an act that constitutes a misdemeanor crime of domestic vio-**  
9 **lence, as defined by 18 U.S.C. 921(a)(33)(A) or adjudicated, in this**  
10 **or any other jurisdiction, of committing as a juvenile an act that**  
11 **would be a misdemeanor crime of domestic violence under 18**  
12 **U.S.C. 921(a)(33)(A) if committed by an adult;**

13     **(6) has not been, during the five years immediately preceding**  
14 **the date the application is submitted: (A) Convicted or placed on**  
15 **diversion, in this or any other jurisdiction, for an act that consti-**  
16 **tutes a misdemeanor under the provisions of the uniform con-**  
17 **trolled substances act or adjudicated, in this or any other jurisdic-**  
18 **tion, of committing as a juvenile an act that would be a**  
19 **misdemeanor under such act if committed by an adult; (B) con-**  
20 **victed or placed on diversion, in this or any other jurisdiction, two**  
21 **or more times for an act that constitutes a violation of K.S.A. 8-**  
22 **1567, and amendments thereto; (C) convicted or placed on diver-**  
23 **sion, in this or any other jurisdiction, for an act that constitutes a**  
24 **domestic violence misdemeanor under any municipal ordinance**  
25 **or article 34 or 35 of chapter 21 of the Kansas Statutes Annotated**  
26 **or adjudicated, in this or any other jurisdiction, of committing as**  
27 **a juvenile an act that would be a domestic violence misdemeanor**  
28 **under article 34 or 35 of chapter 21 of the Kansas Statutes Anno-**  
29 **tated if committed by an adult; or (D) convicted or placed on di-**  
30 **version, in this or any other jurisdiction, for an act that constitutes**  
31 **a violation of K.S.A. 2007 Supp. 75-7c12, and amendments thereto,**  
32 **or a violation of subsection (a)(4) of K.S.A. 21-4201, and amend-**  
33 **ments thereto, or adjudicated, in this or any other jurisdiction, of**  
34 **committing as a juvenile an act that would be a violation of K.S.A.**  
35 **2007 Supp. 75-7c12, and amendments thereto, or a violation of**  
36 **subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, if**  
37 **committed by an adult;**

38     **(7) has not been charged with a crime which would render the**  
39 **applicant, if convicted, ineligible for a license or, if so charged,**  
40 **final disposition of the charge has occurred and no other charges**  
41 **are pending which would cause the applicant to be ineligible for**  
42 **a license;**

43     **(8) has not been ordered by a court to receive treatment for**

1 mental illness pursuant to K.S.A. 59-2966, and amendments  
2 thereto, or for an alcohol or substance abuse problem pursuant to  
3 K.S.A. 59-29b66, and amendments thereto, or, if a court has or-  
4 dered such treatment, has not been issued a certificate of resto-  
5 ration pursuant to K.S.A. 2007 Supp. 75-7c26, and amendments  
6 thereto, not less than five years before the date of the application;  
7 (9) desires a legal means to carry a concealed weapon for law-  
8 ful self-defense;  
9 (10) except as provided by subsection (g) of K.S.A. 2007 Supp.  
10 75-7c05, and amendments thereto, presents evidence satisfactory  
11 to the attorney general that the applicant has satisfactorily com-  
12 pleted a weapons safety and training course approved by the at-  
13 torney general pursuant to subsection (b);  
14 (11) has not been adjudged a disabled person under the act for  
15 obtaining a guardian or conservator, or both, or under a similar  
16 law of another state or the District of Columbia, unless the appli-  
17 cant was ordered restored to capacity three or more years before  
18 the date on which the application is submitted;  
19 (12) has not been dishonorably discharged from military  
20 service;  
21 (13) is a citizen of the United States;  
22 (14) is not subject to a restraining order issued under the pro-  
23 tection from abuse act, under the protection from stalking act or  
24 pursuant to K.S.A. 60-1607, K.S.A. 2007 Supp. 38-2242, 38-2243 or  
25 38-2255, and amendments thereto, or any equivalent order en-  
26 tered in another state or jurisdiction which is entitled to full faith  
27 and credit in Kansas; and  
28 (15) is not in contempt of court in a child support proceeding.  
29 (b) (1) The attorney general shall adopt rules and regulations  
30 establishing procedures and standards as authorized by this act for  
31 an eight-hour weapons safety and training course required by this  
32 section. Such standards shall include: (A) A requirement that train-  
33 ees receive training in the safe storage of weapons, actual firing of  
34 weapons and instruction in the laws of this state governing the  
35 carrying of a concealed weapon and the use of deadly force; (B)  
36 general guidelines for courses which are compatible with the in-  
37 dustry standard for basic firearms training for civilians; (C) quali-  
38 fications of instructors; and (D) a requirement that the course be:  
39 (i) A weapons course certified or sponsored by the attorney gen-  
40 eral; or (ii) a weapons course certified or sponsored by the national  
41 rifle association or by a law enforcement agency, college, private  
42 or public institution or organization or weapons training school, if  
43 the attorney general determines that such course meets or exceeds

1 the standards required by rules and regulations adopted by the  
2 attorney general and is taught by instructors certified by the at-  
3 torney general or by the national rifle association, if the attorney  
4 general determines that the requirements for certification of in-  
5 structors by such association meet or exceed the standards re-  
6 quired by rules and regulations adopted by the attorney general.  
7 Any person wanting to be certified by the attorney general as an  
8 instructor shall submit to the attorney general an application in  
9 the form required by the attorney general and a fee not to exceed  
10 \$150.

11 (2) The cost of the weapons safety and training course required  
12 by this section shall be paid by the applicant. The following shall  
13 constitute satisfactory evidence of satisfactory completion of an  
14 approved weapons safety and training course: (A) Evidence of  
15 completion of the course, in the form provided by rules and reg-  
16 ulations adopted by the attorney general; or (B) an affidavit from  
17 the instructor, school, club, organization or group that conducted  
18 or taught such course attesting to the completion of the course by  
19 the applicant.

20 (c) In addition to the requirements of subsection (a), a person  
21 holding a license pursuant to this act, prior to renewal of the li-  
22 cense provided herein, shall submit evidence satisfactory to the  
23 attorney general that the licensee has requalified by completion  
24 of an approved course given by an instructor of an approved weap-  
25 ons safety and training course under subsection (b).

26 (d) *If an applicant has had a conviction, adjudication or diversion*  
27 *described in subsection (a)(4)(A) or (a)(6) expunged pursuant to K.S.A.*  
28 *12-4516 or 21-4619, and amendments thereto, five years or more preced-*  
29 *ing the date the application is submitted, the applicant shall not be dis-*  
30 *qualified from being issued a license if the applicant is otherwise qualified*  
31 *for licensure pursuant to this section.*

32 Sec. ~~3~~ 4. K.S.A. 21-4619 and K.S.A. 2007 Supp. 12-4516 and 75-  
33 7c04 are hereby repealed.

34 Sec. 4 5. This act shall take effect and be in force from and after its  
35 publication in the statute book.