

## HOUSE Substitute for SENATE BILL No. 329

By Committee on Federal and State Affairs

3-14

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9 AN ACT enacting the Kansas illegal alien reform act; amending K.S.A.  
10 21-3830, 22-2802 and 25-2416 and K.S.A. 2007 Supp. 8-240 and 8-  
11 1324 and repealing the existing sections.  
12

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

14 New Section 1. As used in this act:

15 (a) “E-verify” means the electronic verification of work authorization  
16 program of the illegal immigration reform and immigrant responsibility  
17 act of 1996, P.L. 104-208, division C, section 403(a); 8 U.S.C. 1324a, and  
18 operated by the United States department of homeland security or a  
19 successor program established by the federal government.

20 (b) “Business entity” means any person or group of persons perform-  
21 ing or engaging in any activity, enterprise, profession or occupation for  
22 gain, benefit, advantage or livelihood, whether for profit or not-for-profit.  
23 “Business entity” shall not include an individual employing casual do-  
24 mestic labor. “Business entity” shall include, but not be limited to:

25 (1) Self-employed individuals, business entities filing articles of in-  
26 corporation pursuant to article 60 of chapter 17 of the Kansas Statutes  
27 Annotated, and amendments thereto; a partnership pursuant to chapter  
28 56a of the Kansas Statutes Annotated, and amendments thereto; a limited  
29 partnership pursuant to article 1a of chapter 56 of the Kansas Statutes  
30 Annotated, and amendments thereto; a limited liability company pursuant  
31 to article 76 of chapter 17 of the Kansas Statutes Annotated, and amend-  
32 ments thereto; a foreign corporation, a foreign limited partnership or a  
33 foreign limited liability company authorized to transact business in this  
34 state; a business trust pursuant to article 20 of chapter 17 of the Kansas  
35 Statutes Annotated, and amendments thereto; and any business entity  
36 that registers with the secretary of state.

37 (2) Any business entity that possesses a business license, permit, cer-  
38 tificate, approval, registration, charter or similar form of authorization  
39 issued by the state, any business entity that is exempt by law from ob-  
40 taining such a business license, and any business entity that is operating  
41 unlawfully without such a business license.

42 (c) “Employee” has the meaning ascribed thereto in K.S.A. 44-313,  
43 and amendments thereto.

- 1 (d) “Employer” means any person employing or seeking to employ  
2 any person for hire. Where there are two or more putative employers,  
3 the person or entity taking a deductible business expense for state income  
4 tax purposes for the employee in question shall be considered the em-  
5 ployer of that person for purposes of this act.
- 6 (e) “Employment” means the act of employing or state of being em-  
7 ployed, engaged or hired.
- 8 (f) “Illegal alien” means any person who is not a citizen or national  
9 of the United States, according to the terms of 8 U.S.C. 1101 et seq. The  
10 state of Kansas shall not conclude that a person is an illegal alien unless  
11 and until an authorized representative of the state has verified with the  
12 federal government, pursuant to 8 U.S.C. 1373(c), that the person is an  
13 alien who is not lawfully present in the United States.
- 14 (g) “Unauthorized alien” means an alien who does not have the legal  
15 right or authorization under federal law to work in the United States, as  
16 defined by 8 U.S.C. 1324a(h)(3).
- 17 (h) “Work” means any job, task, employment, labor, personal serv-  
18 ices, or any other activity for which compensation is provided, expected  
19 or due, including, but not limited to, all activities conducted by business  
20 entities.
- 21 (i) “Law enforcement” means city, county and state police officers,  
22 highway patrol, county sheriff and any other law enforcement officers in  
23 the state.
- 24 (j) “Law enforcement agency” means any agency employing law en-  
25 forcement officers.
- 26 (k) “License” means any license, permit, certificate, approval, regis-  
27 tration, charter or similar form of authorization that is required by law  
28 and that is issued by any state agency for the purposes of operating a  
29 business in this state. “License” shall not include any water, health, safety  
30 or environmental permits which are issued for a particular facility, or any  
31 driver’s license issued pursuant to the motor vehicle drivers’ license act,  
32 and amendments thereto.
- 33 (l) “Municipality” has the meaning ascribed thereto in K.S.A. 75-  
34 1117, and amendments thereto.
- 35 (m) “Identification document” has the meaning ascribed thereto in  
36 K.S.A. 21-3830, and amendments thereto. As used in this act, “identifi-  
37 cation document” shall not include:
- 38 (1) Driver’s licenses issued pursuant to the motor vehicle drivers’  
39 license act, and amendments thereto; and
- 40 (2) identification cards issued pursuant to K.S.A. 8-1324, and amend-  
41 ments thereto.
- 42 (n) “Knowingly employ an unauthorized alien” means the actions de-  
43 scribed in 8 U.S.C. 1324a. The term “knowingly” shall include actions

1 that are taken willfully and with actual knowledge. “Knowingly” shall not  
2 include unintentional or accidental conduct.

3 New Sec. 2. It is unlawful for a business entity to knowingly hire,  
4 recruit or refer for a fee for employment in the state of Kansas or continue  
5 to employ an unauthorized alien.

6 New Sec. 3. (a) On and after July 1, 2008:

7 (1) All state agencies, departments, boards or commissions or any  
8 municipality who is an employer shall enroll and actively participate in e-  
9 verify;

10 (2) the department of commerce shall enter into a memorandum of  
11 understanding with the United States department of homeland security  
12 to utilize the systematic alien verification for entitlements program to  
13 verify the employment authorization of any alien seeking the public ben-  
14 efit of a referral from a department of commerce workforce center. No  
15 individual who is an alien shall be granted the benefit of such a referral  
16 unless and until the United States department of homeland security has  
17 conclusively verified the employment authorization of such alien pursuant  
18 to 8 U.S.C. 1373(c). No individual who is a United States citizen shall be  
19 granted the benefit of such a referral unless and until the individual pro-  
20 vides documentary evidence of such individual’s United States citizen-  
21 ship, by providing a birth certificate showing birth in the United States,  
22 a United States passport or a naturalization document issued by the fed-  
23 eral government; and

24 (3) any employer who is found by the federal government to have  
25 engaged in a pattern or practice of employment recruitment or referral  
26 in violation of 8 U.S.C. 1324a(a)(1)(A) or 1324a(a)(2), as defined in any  
27 applicable federal rules and regulations, shall be required to enroll in and  
28 actively participate in e-verify.

29 (b) On and after July 1, 2009, as a condition for the award of any  
30 state contract or grant to a business entity for which the value of em-  
31 ployment, labor or personal services exceeds \$10,000, the business entity  
32 shall provide documentation affirming its enrollment and participation in  
33 e-verify.

34 (c) On July 1, 2010, the department of labor shall enter into a mem-  
35 orandum of understanding with United States citizenship and immigra-  
36 tion services to become an e-verify designated agent for all employers in  
37 the state of Kansas. The department of labor shall use e-verify to verify  
38 the employment authorization of all employees hired by employers in the  
39 state of Kansas. An employer may elect to not use the department of  
40 labor as its e-verify designated agent, and may do so in a form and manner  
41 proscribed by the department of labor. In the event an employer elects  
42 not to use the department of labor as its e-verify designated agent, then  
43 such employer must be enrolled in and actively participate in e-verify.

1 (d) An employer participating in e-verify shall verify the employment  
2 eligibility of every employee in the employer's hire whose employment  
3 commences after the employer enrolls in e-verify.

4 (e) Those state agencies, departments, boards, commissions and mu-  
5 nicipalities required to enroll in and actively participate in e-verify pur-  
6 suant to subsection (a) shall report on such entity's use of e-verify, in-  
7 cluding the number of verification checks submitted, the number of  
8 tentative nonconfirmations received and the number of such tentative  
9 nonconfirmations that were resolved, to the state legislature on or before  
10 January 15, 2010.

11 (f) On and after July 1, 2010, the department of labor shall indemnify  
12 any business entity, for which the department of labor is an e-verify des-  
13 ignated agent, against any and all claims, lawsuits, judgments and costs,  
14 including reasonable attorney fees and costs of defense, which are directly  
15 related to such business entity not hiring an individual based on the results  
16 of an e-verify employment authorization check conducted by the depart-  
17 ment of labor. In lieu of indemnifying the business entity, the department  
18 of labor may provide its own defense to such claims or lawsuits and as-  
19 sume liability for all costs associated with the action and for any damages  
20 awarded by the court.

21 (g) The provisions of this section shall expire on July 1, 2010.

22 New Sec. 4. (a) Any person who believes a business entity or em-  
23 ployer has violated any provision of section 2 or 3, and amendments  
24 thereto, may file a complaint with the attorney general. A complaint filed  
25 with the attorney general pursuant to this section shall be in writing and  
26 signed by the individual filing the complaint. The attorney general shall  
27 review and may investigate the complaint. In investigating complaints for  
28 a violation of section 2, and amendments thereto, the attorney general  
29 shall verify the work authorization of the alleged unauthorized alien with  
30 the federal government pursuant to 8 U.S.C. 1373(c). If, after an inves-  
31 tigation the attorney general determines that a violation of this section  
32 has occurred, the attorney general shall notify the United States immi-  
33 gration and customs enforcement, and may notify the district or county  
34 attorney in the county in which the alleged violation occurred.

35 (b) The provisions of sections 2 and 3, and amendments thereto, shall  
36 be enforced in the courts of the state of Kansas by the district or county  
37 attorney in the county in which the alleged violation occurred, or by the  
38 attorney general. In an action brought against a business entity under this  
39 section either party may demand a trial by jury.

40 (c) On a finding, beyond a reasonable doubt, of the first violation of  
41 section 2 or 3, and amendments thereto, by a business entity the court  
42 shall:

43 (1) Order the business entity to terminate the employment of all

1 unauthorized aliens employed by the business entity;  
2 (2) place the business entity on probation for a three year period.  
3 During the probationary period, the business entity shall file a quarterly  
4 report with the attorney general concerning each new individual the busi-  
5 ness entity hires at the specific business location where the unauthorized  
6 alien worked; and  
7 (3) order the business entity to file a sworn affidavit signed by the  
8 business entity with the prosecuting attorney within three business days  
9 after the order is issued under paragraph (1). The affidavit must include  
10 a statement that the business entity:  
11 (A) Has terminated the employment of all unauthorized aliens; and  
12 (B) will not knowingly employ an unauthorized alien.  
13 If a business entity fails to file a sworn affidavit as required under  
14 paragraph (3) with the prosecuting attorney within the required time  
15 period, the court may order the appropriate agencies to suspend all li-  
16 censes that are held by the business entity. All licenses suspended under  
17 this subsection may remain suspended until the business entity files a  
18 sworn affidavit as required under paragraph (3) with the prosecuting at-  
19 torney. If, upon a hearing, the court finds a violation of any order issued  
20 under this subsection, the court may find the business entity in contempt  
21 pursuant to K.S.A. 20-1204a, and amendments thereto.  
22 (d) On a finding, beyond a reasonable doubt, of the second violation  
23 of section 2 or 3, and amendments thereto, by a business entity the court  
24 shall:  
25 (1) Order the business entity to terminate the employment of all  
26 unauthorized aliens employed by the business entity;  
27 (2) place the business entity on probation for a five year period. Dur-  
28 ing the probationary period, the business entity shall file a quarterly report  
29 with the attorney general concerning each new individual the business  
30 entity hires at the specific business location where the unauthorized alien  
31 worked;  
32 (3) order the business entity to file a sworn affidavit signed by the  
33 business entity with the prosecuting attorney within three business days  
34 after the order is issued under paragraph (1). The affidavit must include  
35 a statement that the business entity:  
36 (A) Has terminated the employment of all unauthorized aliens; and  
37 (B) will not knowingly employ an unauthorized alien; and  
38 (4) order the suspension of all licenses that are held by such business  
39 entity for a period of not less than 10 days and not more than 30 days.  
40 If, upon a hearing, the court finds a violation of any order issued under  
41 this subsection, the court may find the business entity in contempt pur-  
42 suant to K.S.A. 20-1204a, and amendments thereto.  
43 (e) On a finding of the third violation of section 2 or 3, and amend-

1 ments thereto, by a business entity, the court shall order the permanent  
2 suspension of all licenses that are held by such business entity as well as  
3 the revocation of the business entity's registration as a corporation in the  
4 state of Kansas, if applicable.

5 (f) In enforcing the provisions of sections 2 and 3, and amendments  
6 thereto, no state, county or local official shall attempt to independently  
7 determine whether an individual is an unauthorized alien or an alien not  
8 lawfully present in the United States. Such determination shall only be  
9 made by verifying the alien's immigration status with the federal govern-  
10 ment, pursuant to 8 U.S.C. 1373(c).

11 (g) For the purposes of this section, when making a determination of  
12 whether an employee is an unauthorized alien, a court shall only consider  
13 the federal government's determination pursuant to 8 U.S.C. 1373(c).  
14 The court shall take judicial notice of any verification of the immigration  
15 status previously provided by the federal government. The court may,  
16 and at the request of a party, shall request the federal government to  
17 provide, in automated, documentary or testimonial form, a new verifi-  
18 cation of the immigration status of the employee pursuant to 8 U.S.C.  
19 1373(c). The most recent determination of the immigration status of an  
20 employee by the federal government shall create a rebuttable presump-  
21 tion as to the employee's immigration status. The determination of any  
22 person's employment authorization pursuant to 8 U.S.C. 1373(c) shall  
23 accommodate any contest of a tentative nonconfirmation by the federal  
24 government and no enforcement of sections 2 and 3 shall occur until the  
25 federal government issues a final nonconfirmation of employment au-  
26 thorization and any contest period provided by federal law has run. The  
27 court may stay proceedings brought pursuant to this section until such  
28 time as the data has been finally determined.

29 (h) For the purposes of this section, a business entity that has com-  
30 plied in good faith with sections 2 and 3, and amendments thereto,  
31 through registration and participation in e-verify to confirm the employ-  
32 ment authorization of any employee in question may not be found to have  
33 violated section 2 or section 3, and amendments thereto, regardless of  
34 whether such business entity is required to enroll and participate in e-  
35 verify pursuant to section 3, and amendments thereto. It shall be a de-  
36 fense to a civil action brought for wrongful failure to hire an individual  
37 based on such individual's employment authorization status that the de-  
38 fendant business entity has complied in good faith with sections 2 and 3,  
39 and amendments thereto, through registration and participation in e-ver-  
40 ify to confirm the employment authorization of the employee in question.

41 (i) For purposes of this section, a business entity that has complied  
42 in good faith with the requirements of 8 U.S.C. 1324a(b) shall have an  
43 affirmative defense that the business entity did not knowingly hire, recruit

1 or refer for a fee for employment in the state of Kansas or continue to  
2 employ an unauthorized alien.

3 (j) A person who files a complaint with the attorney general or a  
4 prosecuting attorney under this section, knowing that such complaint is  
5 false or frivolous, is guilty of a class B misdemeanor.

6 New Sec. 5. (a) All state officials, agencies and personnel shall fully  
7 comply with, and, to the full extent permitted by law, support the en-  
8 forcement of federal law prohibiting the entry into, presence or residence  
9 in the United States of aliens in violation of federal immigration law.

10 (b) All state, county and city law enforcement officers shall inquire  
11 into the citizenship and immigration status of any person arrested for a  
12 violation of any state law or municipal ordinance, regardless of the per-  
13 son's national origin, ethnicity or race, where such inquiry does not sig-  
14 nificantly expand the duration of the detention. In all such cases where a  
15 person indicates that such person is not a citizen or national of the United  
16 States, the law enforcement agent shall verify with the federal govern-  
17 ment whether the alien is lawfully or unlawfully present in the United  
18 States, pursuant to 8 U.S.C. 1373(c). If the alien is verified to be unlaw-  
19 fully present in the United States, the law enforcement officer shall co-  
20 operate with any request by federal immigration authorities to detain the  
21 alien or transfer the alien to the custody of the federal government.

22 (c) Pursuant to 8 U.S.C. 1373 and 1644, no official, personnel or  
23 agent of a city, county or state law enforcement agency may be prohibited  
24 or in any way restricted from sending, receiving or maintaining, infor-  
25 mation regarding the immigration status, lawful or unlawful, of any in-  
26 dividual, or exchanging such information with any other federal, state or  
27 local government entity. No city, county or state law enforcement agency  
28 may by ordinance, resolution, official policy or informal policy, prevent  
29 its officers from asking individuals their citizenship or immigration status.

30 (d) Any law enforcement agency shall be deemed to be in violation  
31 of this section if the attorney general determines that such a violation has  
32 occurred. An agency found to be in violation of this section shall be denied  
33 state funding until it can prove to the attorney general that it is in com-  
34 pliance with this act.

35 (e) The provisions of this section shall be part of and supplemental  
36 to the Kansas code of criminal procedure.

37 New Sec. 6. The attorney general shall as quickly as practicable enter  
38 into a cooperative agreement with the United States department of home-  
39 land security, pursuant to 8 U.S.C. 1357(g), to designate specific state law  
40 enforcement officers as officers qualified to exercise the enforcement  
41 powers of federal immigration officers in the United States. The attorney  
42 general may negotiate the cooperative agreement or participate in its  
43 implementation in partnership with other state or local law enforcement

1 agencies.

2 New Sec. 7. (a) No alien who is unlawfully present in the United  
3 States shall receive any state or local public benefit, except for state or  
4 local public benefits that are required to be offered by 8 U.S.C. 1621(b),  
5 or as provided in K.S.A. 2007 Supp. 76-731a, and amendments thereto.

6 (b) In addition to providing proof of other eligibility requirements,  
7 at the time of application for any state or local public benefit, an individual  
8 applicant who is 18 years of age or older shall provide affirmative proof  
9 that the individual applicant is a citizen or a permanent resident of the  
10 United States or is lawfully present in the United States. Such affirmative  
11 proof shall include documentary evidence recognized by the division of  
12 motor vehicles when processing an application for a driver's license, as  
13 established in K.S.A. 8-240, and amendments thereto, as well as any doc-  
14 ument issued by the federal government that confirms an alien's lawful  
15 presence in the United States.

16 (c) An individual applicant who cannot provide the proof required  
17 under this section at the time of application may alternatively sign an  
18 affidavit under oath, attesting to either United States citizenship or clas-  
19 sification by the United States as an alien lawfully admitted for permanent  
20 residence, in order to receive temporary benefits or temporary identifi-  
21 cation document as provided in this section. The affidavit shall include  
22 the individual applicant's social security number and an explanation of  
23 the penalties under state law for obtaining public assistance benefits  
24 fraudulently.

25 (d) An individual applicant who has provided the sworn affidavit re-  
26 quired under subsection (b) is eligible to receive temporary public ben-  
27 efits as follows:

28 (1) For 90 days or until such time that it is determined that the in-  
29 dividual applicant is not lawfully present in the United States, whichever  
30 is earlier; or

31 (2) indefinitely if the individual applicant provides a copy of a com-  
32 pleted application for a birth certificate that is pending in Kansas or some  
33 other state. An extension granted under this subsection shall terminate  
34 upon the individual applicant's receipt of a birth certificate or a deter-  
35 mination that a birth certificate does not exist because the individual  
36 applicant is not a United States citizen.

37 (e) An individual applicant who is an alien shall not receive any state  
38 or local public benefit unless the alien's lawful presence in the United  
39 States is first verified by the federal government, pursuant to 8 U.S.C.  
40 1373(c). State and local agencies administering public benefits in this state  
41 shall cooperate with the United States department of homeland security  
42 in achieving verification of aliens' lawful presence in the United States in  
43 furtherance of this section. The system utilized may include the system-



1 atic alien verification for entitlements program operated by the United  
2 States department of homeland security.

3 (f) As used in this section, “public benefit” means: Any grant, con-  
4 tract, loan or commercial or professional license provided by an agency  
5 of state or local government; or any retirement, welfare, health, disability,  
6 housing, food assistance or unemployment benefit under which pay-  
7 ments, assistance, credits or reduced rates or fees are provided, except  
8 that in no event shall the term “public benefit” include any license issued  
9 by the department of wildlife and parks, or licenses and identification  
10 cards issued by the division of vehicles.

11 New Sec. 8. (a) Employment identity fraud is willfully presenting to  
12 an employer false or misleading identification documents for the purpose  
13 of obtaining employment in the state of Kansas.

14 (b) Employment identity fraud is a severity level 8, nonperson felony.

15 (c) This section shall be part of and supplemental to the Kansas crim-  
16 inal code.

17 Sec. 9. K.S.A. 2007 Supp. 8-240 is hereby amended to read as fol-  
18 lows: 8-240. (a) Every application for an instruction permit shall be made  
19 upon a form furnished by the division of vehicles and accompanied by a  
20 fee of \$2 for class A, B, C or M and \$5 for all commercial classes. Every  
21 other application shall be made upon a form furnished by the division  
22 and accompanied by an examination fee of \$3, unless a different fee is  
23 required by K.S.A. 8-241, and amendments thereto, and by the proper  
24 fee for the license for which the application is made. If the applicant is  
25 not required to take an examination the examination fee shall not be  
26 required. The examination shall consist of three tests, as follows: (1) Vi-  
27 sion; (2) written; and (3) driving. If the applicant fails the vision test, the  
28 applicant may have correction of vision made and take the vision test again  
29 without any additional fee. If an applicant fails the written test, the ap-  
30 plicant may take such test again upon the payment of an additional ex-  
31 amination fee of \$1.50. If an applicant fails the driving test, the applicant  
32 may take such test again upon the payment of an additional examination  
33 fee of \$1.50. If an applicant fails to pass all three of the tests within a  
34 period of six months from the date of original application and desires to  
35 take additional tests, the applicant shall file an application for reexami-  
36 nation upon a form furnished by the division, which shall be accompanied  
37 by a reexamination fee of \$3, except that any applicant who fails to pass  
38 the written or driving portion of an examination four times within a six-  
39 month period, shall be required to wait a period of six months from the  
40 date of the last failed examination before additional examinations may be  
41 given. Upon the filing of such application and the payment of such re-  
42 examination fee, the applicant shall be entitled to reexamination in like  
43 manner and subject to the additional fees and time limitation as provided

1 for examination on an original application. If the applicant passes the  
2 reexamination, the applicant shall be issued the classified driver's license  
3 for which the applicant originally applied, which license shall be issued  
4 to expire as if the applicant had passed the original examination.

5 (b) (1) For the purposes of obtaining any driver's license or instruc-  
6 tion permit, an applicant shall submit, with the application, proof of age  
7 and proof of identity as the division may require. The applicant also shall  
8 provide a photo identity document, except that a non-photo identity doc-  
9 ument is acceptable if it includes both the applicant's full legal name and  
10 date of birth, and documentation showing the applicant's name, the ap-  
11 plicant's address of principal residence and the applicant's social security  
12 number. The applicant's social security number shall remain confidential  
13 and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012,  
14 and amendments thereto. *If, after communication with the federal gov-*  
15 *ernment, the social security number is determined to be incorrect or*  
16 *fraudulent, the license or permit shall not be issued. If the license or permit*  
17 *has already been issued, the license or permit shall be revoked.* If the  
18 applicant does not have a social security number the applicant shall pro-  
19 vide proof of lawful presence and Kansas residency. The division shall  
20 assign a distinguishing number to the license or permit.

21 (2) The division shall not issue any driver's license or instruction per-  
22 mit to any person who fails to provide proof that the person is lawfully  
23 present in the United States. Before issuing a driver's license or instruc-  
24 tion permit to a person, the division shall require valid documentary ev-  
25 idence that the applicant: (A) Is a citizen or national of the United States;  
26 (B) is an alien lawfully admitted for permanent or temporary residence  
27 in the United States; (C) has conditional permanent resident status in the  
28 United States; (D) has an approved application for asylum in the United  
29 States or has entered into the United States in refugee status; (E) has a  
30 valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry  
31 into the United States; (F) has a pending application for asylum in the  
32 United States; (G) has a pending or approved application for temporary  
33 protected status in the United States; (H) has approved deferred action  
34 status; or (I) has a pending application for adjustment of status to that of  
35 an alien lawfully admitted for permanent residence in the United States  
36 or conditional permanent resident status in the United States.

37 (3) If an applicant provides evidence of lawful presence set out in  
38 subsections (b)(2)(E) through (2)(I), or is an alien lawfully admitted for  
39 temporary residence under subsection (b)(2)(B), the division may only  
40 issue a driver's license to the person under the following conditions: (A)  
41 A driver's license issued pursuant to this subparagraph shall be valid only  
42 during the period of time of the applicant's authorized stay in the United  
43 States or, if there is no definite end to the period of authorized stay, a

1 period of one year; (B) a drivers' license issued pursuant to this subpar-  
2 agraph shall clearly indicate that it is temporary and shall state the date  
3 on which it expires; (C) no driver's license issued pursuant to this sub-  
4 paragraph shall be for a longer period of time than the time period per-  
5 mitted by subsection (a) of K.S.A. 8-247, and amendments thereto; and  
6 (D) a driver's license issued pursuant to this subparagraph may be re-  
7 newed, subject at the time of renewal, to the same requirements and  
8 conditions as set out in this subsection (b) for the issuance of the original  
9 driver's license.

10 (4) The division shall not issue any driver's license or instruction per-  
11 mit to any person who is not a resident of the state of Kansas, except as  
12 provided in K.S.A. 8-2,148, and amendments thereto.

13 (5) The division shall not issue a driver's license to a person holding  
14 a driver's license issued by another state without making reasonable ef-  
15 forts to confirm that the person is terminating or has terminated the  
16 driver's license in the other state.

17 (6) The parent or guardian of an applicant under 16 years of age shall  
18 sign the application for any driver's license submitted by such applicant.

19 (c) Every application shall state the full legal name, date of birth,  
20 gender and address of principal residence of the applicant, and briefly  
21 describe the applicant, and shall state whether the applicant has been  
22 licensed as a driver prior to such application, and, if so, when and by what  
23 state or country. Such application shall state whether any such license has  
24 ever been suspended or revoked, or whether an application has ever been  
25 refused, and, if so, the date of and reason for such suspension, revocation  
26 or refusal. In addition, applications for commercial drivers' licenses and  
27 instruction permits for commercial licenses must include the following:  
28 The applicant's social security number; the person's signature; the per-  
29 son's colored digital photograph; certifications, including those required  
30 by 49 C.F.R. 383.71(a), effective January 1, 1991; a consent to release  
31 driving record information; and, any other information required by the  
32 division.

33 (d) When an application is received from a person previously licensed  
34 in another jurisdiction, the division shall request a copy of the driver's  
35 record from the other jurisdiction. When received, the driver's record  
36 shall become a part of the driver's record in this state with the same force  
37 and effect as though entered on the driver's record in this state in the  
38 original instance.

39 (e) When the division receives a request for a driver's record from  
40 another licensing jurisdiction the record shall be forwarded without  
41 charge.

42 (f) A fee shall be charged as follows:

43 (1) For a class C driver's license issued to a person at least 21 years

- 1 of age, but less than 65 years of age, \$18;
- 2 (2) for a class C driver's license issued to a person 65 years of age or  
3 older, \$12;
- 4 (3) for a class M driver's license issued to a person at least 21 years  
5 of age, but less than 65 years of age, \$12.50;
- 6 (4) for a class M driver's license issued to a person 65 years of age or  
7 older, \$9;
- 8 (5) for a class A or B driver's license issued to a person who is at least  
9 21 years of age, but less than 65 years of age, \$24;
- 10 (6) for a class A or B driver's license issued to a person 65 years of  
11 age or older, \$16;
- 12 (7) for any class of commercial driver's license issued to a person 21  
13 years of age or older, \$18; or
- 14 (8) for class A, B, C or M, or a farm permit, or any commercial driver's  
15 license issued to a person less than 21 years of age, \$20.
- 16 A fee of \$10 shall be charged for each commercial driver's license  
17 endorsement, except air brake endorsements which shall have no charge.
- 18 A fee of \$3 per year shall be charged for any renewal of a license issued  
19 prior to the effective date of this act to a person less than 21 years of age.
- 20 If one fails to make an original application or renewal application for a  
21 driver's license within the time required by law, or fails to make appli-  
22 cation within 60 days after becoming a resident of Kansas, a penalty of  
23 \$1 shall be added to the fee charged for the driver's license.
- 24 (g) Any person who possesses an identification card as provided in  
25 K.S.A. 8-1324, and amendments thereto, shall surrender such identifi-  
26 cation card to the division upon being issued a valid Kansas driver's license  
27 or upon reinstatement and return of a valid Kansas driver's license.
- 28 (h) The division shall require that any person applying for a driver's  
29 license submit to a mandatory facial image capture.
- 30 (i) The director of vehicles may issue a temporary driver's license to  
31 an applicant who cannot provide valid documentary evidence as defined  
32 by subsection (b)(2), if the applicant provides compelling evidence prov-  
33 ing current lawful presence. Any temporary license issued pursuant to  
34 this subsection shall be valid for one year.
- 35 (j) *No driver's license shall be issued to any alien until the alien has*  
36 *been verified by the United States department of homeland security to be*  
37 *lawfully present in the United States, pursuant to 8 U.S.C. 1373(c). Such*  
38 *verification shall occur through the systematic alien verification for en-*  
39 *titlements program operated by the United States department of home-*  
40 *land security.*
- 41 Sec. 10. K.S.A. 2007 Supp. 8-1324 is hereby amended to read as  
42 follows: 8-1324. (a) Any resident who does not hold a current valid Kansas  
43 driver's license may make application to the division of vehicles and be

1 issued one identification card.

2 (b) For the purpose of obtaining an identification card, an applicant  
3 shall submit, with the application, proof of age, proof of identity and proof  
4 of lawful presence. An applicant shall submit with the application a photo  
5 identity document, except that a non-photo identity document is accept-  
6 able if it includes both the applicant's full legal name and date of birth,  
7 and documentation showing the applicant's name, the applicant's address  
8 of principal residence and the applicant's social security account number.  
9 *If, after communication with the federal government, the social security*  
10 *number is determined to be incorrect or fraudulent, the identification card*  
11 *shall not be issued. If the card has already been issued, the card shall be*  
12 *revoked.* The applicant's social security number shall remain confidential  
13 and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012,  
14 and amendments thereto. If the applicant does not have a social security  
15 number, the applicant shall provide proof of lawful presence and Kansas  
16 residency. The division shall assign a distinguishing number to the iden-  
17 tification card. Before issuing an identification card to a person, the di-  
18 vision shall make reasonable efforts to verify with the issuing agency the  
19 issuance, validity and completeness of each document required to be pre-  
20 sented by the applicant to prove age, identity and lawful presence.

21 (c) The division shall not issue an identification card to any person  
22 who fails to provide proof that the person is lawfully present in the United  
23 States. If an applicant provides evidence of lawful presence as set out in  
24 subsections (b)(2)(E) through (2)(I) of K.S.A. 8-240, and amendments  
25 thereto, or is an alien lawfully admitted for temporary residence under  
26 subsection (b)(2)(B) of K.S.A. 8-240, and amendments thereto, the divi-  
27 sion may only issue a temporary identification card to the person under  
28 the following conditions: (A) A temporary identification card issued pur-  
29 suant to this subparagraph shall be valid only during the period of time  
30 of the applicant's authorized stay in the United States or, if there is no  
31 definite end to the period of authorized stay, a period of one year; (B) a  
32 temporary identification card issued pursuant to this subparagraph shall  
33 clearly indicate that it is temporary and shall state the date upon which  
34 it expires; (C) no temporary identification card issued pursuant to this  
35 subparagraph shall be for a longer period of time than the time period  
36 permitted by K.S.A. 8-1325, and amendments thereto; and (D) a tem-  
37 porary identification card issued pursuant to this subparagraph may be  
38 renewed, subject at the time of renewal, to the same requirements and  
39 conditions set forth in this subsection (c) for the issuance of the original  
40 temporary identification card.

41 (d) The division shall not issue an identification card to any person  
42 who holds a current valid Kansas driver's license unless such driver's li-  
43 cense has been physically surrendered pursuant to the provisions of sub-

1 section (e) of K.S.A. 8-1002, and amendments thereto.

2 (e) The division shall refuse to issue an identification card to a person  
3 holding a driver's license or identification card issued by another state  
4 without confirmation that the person is terminating or has terminated the  
5 license or identification card.

6 (f) The parent or guardian of an applicant under 16 years of age shall  
7 sign the application for an identification card submitted by such applicant.

8 (g) The division shall require payment of a fee of \$14 at the time  
9 application for an identification card is made, except that persons who  
10 are 65 or more years of age or who are handicapped, as defined in K.S.A.  
11 8-1,124, and amendments thereto, shall be required to pay a fee of only  
12 \$10.

13 (h) All Kansas identification cards shall have physical security features  
14 designed to prevent tampering, counterfeiting or duplication for fraud-  
15 ulent purposes.

16 (i) For the purposes of K.S.A. 8-1324 through 8-1328, and amend-  
17 ments thereto, a person shall be deemed to be a resident of the state if:

- 18 (1) The person owns, leases or rents a place of domicile in this state;
- 19 (2) the person engages in a trade, business or profession in this state;
- 20 (3) the person is registered to vote in this state;
- 21 (4) the person enrolls the person's child in a school in this state; or
- 22 (5) the person registers the person's motor vehicle in this state.

23 (j) The division shall require that any person applying for an identi-  
24 fication card submit to a mandatory facial image capture.

25 (k) The director of vehicles may issue a temporary identification card  
26 to an applicant who cannot provide valid documentary evidence as de-  
27 fined by subsection (c), if the applicant provides compelling evidence  
28 proving current lawful presence. Any temporary identification card issued  
29 pursuant to this subparagraph shall be valid for one year.

30 (l) Upon payment of the required fee, the division shall issue to every  
31 applicant qualifying under the provisions of this act an identification card.  
32 Such identification card shall bear a distinguishing number assigned to  
33 the cardholder, the full legal name, date of birth, address of principal  
34 residence, a brief description of the cardholder, a colored digital photo-  
35 graph of the cardholder, and a facsimile of the signature of the cardholder.  
36 An identification card which does not contain the address of principal  
37 residence of the cardholder as required may be issued to persons who  
38 are program participants pursuant to K.S.A. 2007 Supp. 75-455, and  
39 amendments thereto.

40 (m) *No identification card shall be issued to any alien until the alien*  
41 *has been verified by the United States department of homeland security*  
42 *to be lawfully present in the United States, pursuant to 8 U.S.C. 1373(c).*  
43 *Such verification shall occur through the systematic alien verification for*

- 1 *entitlements program operated by the United States department of home-*  
2 *land security.*
- 3 Sec. 11. K.S.A. 21-3830 is hereby amended to read as follows: 21-  
4 3830. (a) Dealing in false identification documents is reproducing, man-  
5 ufacturing, selling or offering for sale any identification document which:  
6 (1) Simulates, purports to be or is designed so as to cause others  
7 reasonably to believe it to be an identification document; and  
8 (2) bears a fictitious name or other false information.
- 9 (b) As used in this section, “identification document” means any card,  
10 certificate or document or banking instrument including, but not limited  
11 to, credit or debit card, which identifies or purports to identify the bearer  
12 of such document, whether or not intended for use as identification, and  
13 includes, but is not limited to, documents purporting to be drivers’ li-  
14 censes, nondrivers’ identification cards, certified copies of birth, death,  
15 marriage and divorce certificates, social security cards and employee iden-  
16 tification cards.
- 17 (c) Dealing in false identification documents is a severity level § 6,  
18 nonperson felony.
- 19 (d) Vital records identity fraud related to birth, death, marriage and  
20 divorce certificates is:  
21 (1) Willfully and knowingly supplying false information intending that  
22 the information be used to obtain a certified copy of a vital record;  
23 (2) making, counterfeiting, altering, amending or mutilating any cer-  
24 tified copy of a vital record:  
25 (A) Without lawful authority; and  
26 (B) with the intent to deceive; or  
27 (3) willfully and knowingly obtaining, possessing, using, selling or fur-  
28 nishing or attempting to obtain, possess or furnish to another for any  
29 purpose of deception a certified copy of a vital record.
- 30 (e) Vital records identity fraud is a severity level § 7, nonperson  
31 felony.
- 32 (f) The prohibitions in subsections (a) and (b) do not apply to:  
33 (1) A person less than 21 years of age who uses the identification  
34 document of another person to acquire an alcoholic beverage, as defined  
35 in K.S.A. 8-1599, and amendments thereto;  
36 (2) a person less than 18 years of age who uses the identification  
37 documents of another person to acquire:  
38 (A) Cigarettes or tobacco products, as defined in K.S.A. 79-3301, and  
39 amendments thereto;  
40 (B) a periodical, videotape or other communication medium that con-  
41 tains or depicts nudity;  
42 (C) admittance to a performance, live or film, that prohibits the at-  
43 tendance of the person based on age; or

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

3 (g) This section shall be part of and supplemental to the Kansas crim-  
4 inal code.

5 Sec. 12. K.S.A. 22-2802 is hereby amended to read as follows: 22-  
6 2802. (1) Any person charged with a crime shall, at the person's first  
7 appearance before a magistrate, be ordered released pending preliminary  
8 examination or trial upon the execution of an appearance bond in an  
9 amount specified by the magistrate and sufficient to assure the appear-  
10 ance of such person before the magistrate when ordered and to assure  
11 the public safety. *If the person charged with a crime is not a citizen or*  
12 *national of the United States, such person's immigration status shall be*  
13 *verified with the federal government pursuant to 8 U.S.C. 1373(c). For*  
14 *the purposes of determining the grant of or issuance of an appearance*  
15 *bond, it shall be a rebuttable presumption that a person who has been*  
16 *verified by the federal government to be an alien unlawfully present in*  
17 *the United States is at risk of flight. If the person is being bound over for*  
18 *a felony, the bond shall also be conditioned on the person's appearance*  
19 *in the district court or by way of a two-way electronic audio-video com-*  
20 *munication as provided in subsection (14) at the time required by the*  
21 *court to answer the charge against such person and at any time thereafter*  
22 *that the court requires. Unless the magistrate makes a specific finding*  
23 *otherwise, if the person is being bonded out for a person felony or a*  
24 *person misdemeanor, the bond shall be conditioned on the person being*  
25 *prohibited from having any contact with the alleged victim of such offense*  
26 *for a period of at least 72 hours. The magistrate may impose such of the*  
27 *following additional conditions of release as will reasonably assure the*  
28 *appearance of the person for preliminary examination or trial:*

29 (a) Place the person in the custody of a designated person or organ-  
30 ization agreeing to supervise such person;

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

33 (c) impose any other condition deemed reasonably necessary to as-  
34 sure appearance as required, including a condition requiring that the  
35 person return to custody during specified hours;

36 (d) place the person under a house arrest program pursuant to K.S.A.  
37 21-4603b, and amendments thereto; or

38 (e) place the person under the supervision of a court services officer  
39 responsible for monitoring the person's compliance with any conditions  
40 of release ordered by the magistrate.

41 (2) In addition to any conditions of release provided in subsection (1),  
42 for any person charged with a felony, the magistrate may order such  
43 person to submit to a drug abuse examination and evaluation in a public



1 or private treatment facility or state institution and, if determined by the  
2 head of such facility or institution that such person is a drug abuser or  
3 incapacitated by drugs, to submit to treatment for such drug abuse, as a  
4 condition of release.

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

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

20 (5) Except as provided further, the amount of the appearance bond  
21 shall be the same whether executed as described in subsection (3) or  
22 posted with a deposit of cash as described in subsection (4). When the  
23 appearance bond has been set at \$2,500 or less and the most serious  
24 charge against the person is a misdemeanor, a severity level 8, 9 or 10  
25 nonperson felony, a drug severity level 4 felony or a violation of K.S.A.  
26 8-1567, and amendments thereto, the magistrate may allow the person  
27 to deposit cash with the clerk in the amount of 10% of the bond, provided  
28 the person meets at least the following qualifications:

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

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

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

43 (8) In determining which conditions of release will reasonably assure

1 appearance and the public safety, the magistrate shall, on the basis of  
2 available information, take into account the nature and circumstances of  
3 the crime charged; the weight of the evidence against the defendant; the  
4 defendant's family ties, employment, financial resources, character, men-  
5 tal condition, length of residence in the community, record of convictions,  
6 record of appearance or failure to appear at court proceedings or of flight  
7 to avoid prosecution; the likelihood or propensity of the defendant to  
8 commit crimes while on release, including whether the defendant will be  
9 likely to threaten, harass or cause injury to the victim of the crime or any  
10 witnesses thereto; and whether the defendant is on probation or parole  
11 from a previous offense at the time of the alleged commission of the  
12 subsequent offense.

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

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

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

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

30 (13) The appearance bond and any security required as a condition  
31 of the defendant's release shall be deposited in the office of the magistrate  
32 or the clerk of the court where the release is ordered. If the defendant  
33 is bound to appear before a magistrate or court other than the one or-  
34 dering the release, the order of release, together with the bond and se-  
35 curity shall be transmitted to the magistrate or clerk of the court before  
36 whom the defendant is bound to appear.

37 (14) Proceedings before a magistrate as provided in this section to  
38 determine the release conditions of a person charged with a crime in-  
39 cluding release upon execution of an appearance bond may be conducted  
40 by two-way electronic audio-video communication between the defend-  
41 ant and the judge in lieu of personal presence of the defendant or de-  
42 fendant's counsel in the courtroom in the discretion of the court. The  
43 defendant may be accompanied by the defendant's counsel. The defend-

1 ant shall be informed of the defendant's right to be personally present in  
2 the courtroom during such proceeding if the defendant so requests. Ex-  
3 exercising the right to be present shall in no way prejudice the defendant.  
4 (15) The magistrate may order the person to pay for any costs asso-  
5 ciated with the supervision of the conditions of release of the appearance  
6 bond in an amount not to exceed \$10 per week of such supervision.  
7 Sec. 13. K.S.A. 25-2416 is hereby amended to read as follows: 25-  
8 2416. (a) Voting without being qualified is knowingly and willfully: ~~(a)~~ (1)  
9 Voting or attempting to vote at any election when not a lawfully registered  
10 voter.  
11 ~~(b)~~ (2) Voting or offering to vote more than once at the same election.  
12 ~~(c)~~ (3) Inducing or aiding any person to vote more than once at the  
13 same election.  
14 (4) *Inducing or aiding any person to vote who is not a lawfully reg-*  
15 *istered voter.*  
16 (b) Voting without being qualified *pursuant to subsection (2) or (3)*  
17 *is a class A misdemeanor. Voting without being qualified pursuant to*  
18 *subsection (1) or (4) is a severity level 9, nonperson felony.*  
19 New Sec. 14. This act shall be construed so as to be fully consistent  
20 with federal immigration and labor laws.  
21 New Sec. 15. This act shall not be construed to require an employer  
22 to take any action that the employer believes in good faith would violate  
23 federal or state law.  
24 New Sec. 16. If any section, subsection, paragraph or provision of  
25 this act shall be held to be invalid by any court for any reason, it shall be  
26 presumed that this act would have been passed by the legislature without  
27 such invalid section, subsection, paragraph or provision, and such finding  
28 or construction shall not in any way affect the remainder of this act.  
29 Sec. 17. K.S.A. 21-3830, 22-2802 and 25-2416 and K.S.A. 2007 Supp.  
30 8-240 and 8-1324 are hereby repealed.  
31 Sec. 18. This act shall take effect and be in force from and after its  
32 publication in the statute book.