

Journal of the Senate

SIXTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, May 1, 2006—10:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I have found that one way of coping with complex issues such as school finance is to try to put things in perspective.

Katie Wild has a short verse that helps put difficult challenges into context:

“Don’t get so involved with this world
That you cannot bear to leave.

Heed this warning:

‘Christian, don’t drive your stakes too deep;
We may be leaving in the morning.’”

Just recalling some familiar names from headlines has a way of throwing a different light on pressing problems:

KATRINA, TSUNAMI, NINE-ELEVEN

There is another quote of unsure origin which I think is appropriate.....

“The world is a bridge. The wise man will pass over it, but will not build his house upon it.”

Lord, while we are struggling with challenging issues, help us to put things in perspective by placing them against a backdrop of more serious experiences.

I pray in the name of Jesus Christ,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was referred to Committee as indicated:

Committee of the Whole: **HCR 5037**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub for SB 84; HB 2122, HB 2554**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Umbarger moved the Senate concur in house amendments to **H Sub for SB 84**.

H Sub for SB 84, An act concerning umbilical cord banks; relating to certain guidelines and procedures regarding the operations thereof; prescribing certain duties and functions for the department of health and environment and Kansas bioscience authority.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2122**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 1, by striking all in lines 20 through 43;

By striking all on pages 2 through 20;

On page 21, by striking all in lines 1 through 12; following line 12, by inserting:

“Section 1. K.S.A. 2005 Supp. 12-4117 is hereby amended to read as follows: 12-4117.

(a) In each case filed in municipal court charging a crime other than a nonmoving traffic violation, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a diversion, a sum in an amount of ~~\$9~~ \$19 shall be assessed and such assessment shall be credited as follows:

One dollar to the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, ~~\$4~~ \$11.50 to the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, \$2.50 to the *Kansas commission on peace officers' standards and training fund established by K.S.A. 74-5619, and amendments thereto*, \$2 to the juvenile detention facilities fund established pursuant to K.S.A. 79-4803, and amendments thereto, to be expended for operational costs of facilities for the detention of juveniles, \$.50 to the protection from abuse fund established pursuant to K.S.A. 74-7325, and amendments thereto, \$.50 to the crime victims assistance fund established pursuant to K.S.A. 74-7334, and amendments thereto and \$1 to the trauma fund established pursuant to K.S.A. 2005 Supp. 75-5670, and amendments thereto.

(b) The judge or clerk of the municipal court shall remit the appropriate assessments received pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the local law enforcement training reimbursement fund, the law enforcement training center fund, *the Kansas commission on peace officers' standards and training fund*, the juvenile detention facilities fund, the crime victims assistance fund and the trauma fund as provided in this section.

(c) For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed in the municipal court against one individual arising out of the same incident, all such complaints shall be considered as one case.

Sec. 2. K.S.A. 2005 Supp. 20-362 is hereby amended to read as follows: 20-362. The clerk of the district court shall remit all revenues received from docket fees as follows:

(a) At least monthly to the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments thereto, during the preceding calendar month;

(2) a sum equal to \$10 for each ~~\$36.50~~ \$46 or ~~\$61.50~~ \$76 docket fee paid pursuant to K.S.A. 61-4001, or K.S.A. 61-2704 or 61-2709, and amendments thereto; and

(3) a sum equal to \$5 for each ~~\$19.50~~ \$26 docket fee paid pursuant to K.S.A. 61-4001 or K.S.A. 61-2704, and amendments thereto, during the preceding calendar month.

(b) At least monthly to the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) At least monthly to the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to \$1 for each docket fee paid

pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month for cases filed in the county and for each fee paid pursuant to subsection (c) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month for cases filed in the county.

(d) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the indigents' defense services fund, a sum equal to \$.50 for each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month.

(e) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the law enforcement training center fund a sum equal to ~~\$9~~ \$15 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month.

(f) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and distribution according to K.S.A. 20-367, and amendments thereto, a sum equal to the balance which remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified in subsections (a), (b), (c), (d) and (e).

Sec. 3. K.S.A. 2005 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

Murder or manslaughter.....	\$164.50 \$170.50
Other felony.....	147.00 153.00
Misdemeanor.....	112.00 118.00
Forfeited recognizance	62.50
Appeals from other courts	62.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of ~~\$55~~ \$61 shall be charged. When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be ~~\$55~~ \$61.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of ~~\$55~~ \$61 shall be charged. When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be ~~\$55~~ \$61.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts

and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

Sec. 4. K.S.A. 12-1,120 is hereby amended to read as follows: 12-1,120. (a) ~~Before January 1, 1988;~~ Each person holding office as chief of police of any city in this state ~~on the effective date of this act~~ shall be fingerprinted as provided by this section.

(b) Before assuming the office of chief of police of any city in this state, a person shall be fingerprinted as provided by this section.

(c) Fingerprinting pursuant to this section shall be done by the law enforcement agency of the city in the presence of the city clerk. The city clerk shall forthwith forward the fingerprints to the Kansas bureau of investigation for a search of state and national fingerprint files to determine whether the person qualifies for admission to the law enforcement training center pursuant to subsection ~~(c)~~ (a)(3) of K.S.A. 74-5605 and amendments thereto. The Kansas bureau of investigation shall certify any conviction record of the person, or lack thereof, found as a result of such search to the city clerk and, if such a record is found, to the attorney general.

(d) Fingerprints taken and submitted pursuant to this section shall be on forms approved by the attorney general.

(e) The cost of a search of fingerprint files pursuant to this section shall be paid by the person being fingerprinted.

Sec. 5. K.S.A. 2005 Supp. 21-4619, as amended by section 21 of 2006 Senate Bill No. 418, is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

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

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

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

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amend-

ments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

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

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

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

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

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

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

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in the first degree as defined in K.S.A. 21-3401, and amendments thereto; (14) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; (15) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; (16) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; (17) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2005 Supp. 21-3442, and amendments thereto; (18) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed; (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; or (20) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

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

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

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

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

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

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

(e) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

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

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

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

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

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2005 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

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

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

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

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

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 2005 Supp. 17-12a102, and amendments thereto; or

(I) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

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

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional

release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

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

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
- (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
- (8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- (10) the Kansas sentencing commission;
- (11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;
- (12) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;
- (13) the Kansas ~~law enforcement training~~ *commission on peace officers' standards and training* and the request is accompanied by a statement that the request is being made to

aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

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

(15) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act.

Sec. 6. K.S.A. 2005 Supp. 22-4604 is hereby amended to read as follows: 22-4604. (a) The governor, with the assistance of the attorney general and the Kansas ~~law enforcement training~~ commission *on peace officers' standards and training*, shall develop a request for a proposal for a system to collect and report statistics relating to the race, ethnicity, gender, age and residency by county and state of those who come in contact with law enforcement activities.

(b) Proposals submitted pursuant to the request shall contain, at a minimum:

(1) A system to collect data on a statistically significant sample of those persons who:

(A) Are arrested;

(B) while operating a motor vehicle, are stopped by a law enforcement officer; and

(C) while a pedestrian, are stopped by a law enforcement officer;

(2) which contains the race, ethnicity, gender, age and residency by county and state of such persons;

(3) which has a schedule and plan of implementation, including training;

(4) other factors which may be relevant to law enforcement officers in stopping or arresting individuals;

(5) civilian complaints received by law enforcement agencies alleging bias based on race, ethnicity, gender, age or residency by county or state; and

(6) a survey of policies of law enforcement agencies relating to the investigation of complaints based on alleged race, ethnicity, gender, age or residency bias.

(c) Data acquired pursuant to this proposal shall not contain any information that may reveal the identity of any individual.

(d) The governor, with the assistance of the attorney general, shall select the most comprehensive proposal and implement such proposal, subject to the availability of any grant or grants for such purpose from the United States department of justice or any other governmental or private agency.

(e) The results of such study shall be submitted to the governor and attorney general within 90 days after conclusion of such study. The governor shall submit the study to the legislature with one or more of the following:

(1) An evaluation of the study;

(2) an implementation plan to expand the data collection and reporting system to other law enforcement agencies and whether such system should be made permanent; and

(3) recommendations to improve law enforcement training and operations to address racial, ethnic, gender, age or residency bias.

Sec. 7. K.S.A. 2005 Supp. 74-5602, as amended by section 5 of 2006 House Bill No. 2329, is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Commission" means the Kansas ~~law enforcement training~~ commission *on peace officers' standards and training*, created by K.S.A. 74-5606 and amendments thereto.

(c) "Dean" means the dean of ~~the division of~~ continuing education of the university of Kansas.

(d) "Director," ~~as created in K.S.A. 74-5603 and amendments thereto, of police training~~ means the director of police training at the law enforcement training center.

(e) "Director" means the executive director of the Kansas commission *on peace officers' standards and training*.

(f) "Law enforcement" means the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof.

~~(f)~~ (g) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858 and amendments thereto; conservation officers of the Kansas department of wildlife and parks; university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto; law enforcement agents of the director of alcoholic beverage control; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol police, existing under the authority of K.S.A. 75-4503 and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524 and amendments thereto; ~~and~~ school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222 and amendments thereto; *and the director of the Kansas commission on peace officers' standards and training and any other employee of such commission designated by the director pursuant to K.S.A. 74-5603, and amendments thereto, as a law enforcement officer.* Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the commissioner of juvenile justice, the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person's office or employment. Such term shall include any officer appointed or elected on a provisional basis.

~~(g)~~ (h) "Full-time" means employment requiring at least 1,000 hours of law enforcement related work per year.

~~(h)~~ (i) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of law enforcement related work per year.

~~(i)~~ (j) "Misdemeanor crime of domestic violence" means a violation of domestic battery as provided by K.S.A. 2005 Supp. 21-3412a and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

~~(j)~~ (k) "Auxiliary personnel" means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.

(l) "Active law enforcement certificate" means a certificate which attests to the qualification of a person to perform the duties of a law enforcement officer and which has not been suspended or revoked by action of the Kansas commission on peace officers' standards and training and has not lapsed by operation of law as provided in K.S.A. 74-5622, and amendments thereto.

Sec. 8. K.S.A. 74-5603 is hereby amended to read as follows: 74-5603. (a) There is hereby created within ~~the division of~~ continuing education of the university of Kansas a law enforcement training center, to be located at the former site of the U. S. naval air station

in Reno county. The purpose and function of such training center shall be the promotion and development of improved law enforcement personnel and procedures throughout the state, and the training center shall offer to qualified applicants, as defined in K.S.A. 74-5605 and amendments thereto, such programs and courses of instruction designed to fulfill this end. *No person shall enroll in a basic course of instruction at the Kansas law enforcement training center unless the person holds a provisional law enforcement certificate.*

(b) The dean, upon consultation with and approval of the commission, shall appoint a director of police training. The dean shall also appoint such additional personnel as deemed necessary to carry out the law enforcement training programs of the training center. Such personnel, whether administrative, instructional or research, shall be in the unclassified service under the Kansas civil service act.

~~(b)~~ *(c) The director of police training shall be responsible for the administration of the training center and for the operation of the programs thereunder. The director of police training shall be responsible for determining the curriculum of the program, subject to such changes and modification as are directed by the law enforcement training commission. In consultation with the law enforcement training commission, the director of police training may prescribe a code of conduct applicable to all trainees at the Kansas law enforcement training center. Upon consultation with and approval of the law enforcement training commission, the director of police training is authorized to adopt such rules and regulations as are necessary for the effective operation of the law enforcement training program.*

~~(c) The dean, upon consultation with and the approval of the commission, shall appoint a director of police training. The dean shall also appoint such additional personnel as is deemed necessary to carry out the law enforcement training programs of the training center, and such personnel, whether administrative, instructional or research, shall be in the unclassified service under the Kansas civil service act.~~

(d) Kansas commission on peace officers' standards and training shall appoint a director who shall be in the unclassified service under the Kansas civil service act.

(1) The director shall serve at the pleasure of the Kansas commission on peace officers' standards and training and shall be subject to removal by vote of $\frac{3}{4}$ of the entire commission membership.

(2) The director shall enter into contracts necessary to administer the provisions of the Kansas law enforcement training act.

(3) The director may appoint employees, agents and consultants as the director considers necessary and prescribe their duties.

(4) The director shall be a law enforcement officer. The director may designate any other employee of the Kansas commission on peace officers' standards and training as a law enforcement officer. The director and any employee designated as a law enforcement officer by the director shall possess all powers and privileges which are now or may hereafter be given to an agent of the Kansas bureau of investigation and may exercise such powers and privileges throughout the state.

Sec. 9. K.S.A. 74-5604a is hereby amended to read as follows: 74-5604a. (a) The director of police training may establish a program for periodically extending the law enforcement training and instruction of the training center throughout the state on a regional basis. The director ~~also shall~~ of police training also may certify annually the training schools of state and local law enforcement agencies providing a course of law enforcement training for full-time police officers or law enforcement officers ~~of not less than 320 hours of instruction, and whose when such~~ training programs also satisfy the qualifications and standards promulgated by the director of police training after approval of the commission and when such programs satisfy a demonstrated training need not met by existing programs. The director of police training shall establish a course in basic law enforcement training ~~of not less than 80 hours~~ for part-time police officers or law enforcement officers, approved by the commission, to be provided at the training center and certified state and local law enforcement training schools. In addition, after the general election of each election year and prior to January 1 of the next succeeding year, and at such other times as the director of police training deems necessary, the director of police training shall commence a training course for persons elected to the office of sheriff at the preceding general election.

(b) The director of *police training* shall conduct a pretraining evaluation of applicants for admission to the course for law enforcement officers conducted by the training center or to any certified state or local law enforcement training school to assure that each applicant is qualified to serve as a law enforcement officer. The director of *police training* shall adopt minimum standards, which shall receive prior approval by the commission, to be considered in the pretraining evaluation. The director of *police training* shall advise the city, county or state agency, railroad, school district or community college authorizing the applicant to attend the training center or certified state or local law enforcement training school of the results of the pretraining evaluation. The director of *police training*, with approval of the commission, may reject an applicant to the training center who does not meet the minimum pretraining standards.

Sec. 10. K.S.A. 2005 Supp. 74-5605 is hereby amended to read as follows: 74-5605. (a) Every applicant for admission to a course for police officers or law enforcement officers conducted by the training center certification shall be an employee of a state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto; an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state; or a school security officer designated as a school law enforcement officer pursuant to K.S.A. 72-8222, and amendments thereto. Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant shall furnish to the director of *police training* a statement from the applicant's appointing authority or agency head certifying the applicant's fulfillment of the following requirements. The applicant:

- (1) Is a United States citizen;
- (2) has been fingerprinted and a search of local, state and national fingerprint files has been made to determine whether the applicant has a criminal record;
- (3) has not been convicted, does not have an expunged conviction, and on and after July 1, 1995, has not been placed on diversion by any state or the federal government for a crime which is a felony or its equivalent under the uniform code of military justice;
- (4) has not been convicted, does not have an expunged conviction, has not been placed on diversion by any state or the federal government for a misdemeanor crime of domestic violence or its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act;
- (5) is the holder of a high-school diploma or furnishes evidence of successful completion of an examination indicating an equivalent achievement;
- (6) is of good moral character;
- (7) has completed a psychological test approved by the commission;
- (8) is free of any physical or mental condition which might adversely affect the applicant's performance of a police officer's or law enforcement officer's duties; and
- (9) is at least 21 years of age.

~~(b) The provisions of paragraph (1) of subsection (a) shall not apply to a Canadian citizen with prior law enforcement experience who resides in Stevens county. This subsection shall expire on July 1, 2006.~~

~~(c) (b) The provisions of paragraph (1) of subsection (a) shall not apply to a citizen of the United Kingdom with prior law enforcement experience who resides in Finney county. This subsection shall expire on July 1, 2007.~~

Sec. 11. K.S.A. 74-5606 is hereby amended to read as follows: 74-5606. (a) There is hereby created the Kansas law enforcement training commission on peace officers' standards and training which shall consist of 12 members which shall include:

- (1) The superintendent of the Kansas highway patrol, or the superintendent's designee;
- (2) the director of the Kansas bureau of investigation, or the director's designee;
- (3) a sheriff of a county having a population of 50,000 or more, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;
- (4) a sheriff of a county having a population of less than 50,000 and more than 10,000, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;

(5) a sheriff of a county having a population of 10,000 or less, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;

(6) a chief of police of a city of the first class, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police;

(7) a chief of police of a city of the second class, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police;

(8) a chief of police of a city of the third class, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police;

(9) a training officer from a certified state or local law enforcement training school, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas peace officers association;

(10) a full-time, commissioned law enforcement officer employed by either a state, county or city agency, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the fraternal order of police;

(11) a county or district attorney, or an assistant county or district attorney, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the county and district attorneys' association; and

(12) a member representing the public at large who is not associated with law enforcement, selected by the governor to serve as chairperson.

(b) Each person initially appointed to a position described in subsection (a)(6), (a)(7), (a)(8), (a)(9) or (a)(12) shall serve for a two-year term and thereafter the term of members appointed to such positions shall be four years. Each person appointed to a position described in subsection (a)(3), (a)(4), (a)(5), (a)(10) or (a)(11) shall serve for a four-year term. A person appointed to a position on the commission shall resign such position upon vacating the office or position which qualified such person to be appointed as a member of the commission in that position. Vacancies in any position shall be filled in the same manner as original appointments.

(c) Membership on the commission shall not constitute holding a public office, and members of the commission shall not be required to take and file oaths of office before serving on the commission and shall not be required to be bonded. No member of the commission shall be disqualified from holding any public office or employment by reason of the member's appointment to or membership on the commission and no such member shall forfeit any such office or employment by reason of the member's appointment under this section, notwithstanding the provision of any law or ordinance. *Membership of members employed by a city or county shall be deemed for all purposes a duty of the member's employment by such city or county.*

Sec. 12. K.S.A. 2005 Supp. 74-5607 is hereby amended to read as follows: 74-5607. (a) In addition to other powers and duties prescribed by law, the commission shall adopt, in accordance with the provisions of K.S.A. 77-415 et seq., and amendments thereto, rules and regulations necessary to carry out the provisions of subsection (c) of K.S.A. 74-5616, and amendments thereto, and such other rules and regulations as necessary to administer this act. The commission may also adopt such rules of procedure as are necessary for conducting the business of the commission.

(b) In all matters pending before the commission, the commission shall have the power to:

- (1) Administer oaths and take testimony;
- (2) issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of the failure of any person to comply with any subpoena issued on behalf of the commission, or on the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of a member of the commission, may require

compliance by proceedings for contempt, as in the case of failure to comply with a subpoena issued from such court or a refusal to testify in such court. Each witness who appears before the commission by its order or subpoena, other than a state officer or employee, shall receive for such attendance the fees and mileage provided for witnesses in civil cases in courts of record which shall be audited and paid upon presentation of proper vouchers sworn to by such witnesses and approved by the chairperson of the commission or by a person or persons designated by the chairperson;

(3) enter into contracts necessary to administer the provisions of this act and the certification of law enforcement officers; and

(4) assess the costs of such matters pending before the commission under this section against the governmental entity employing the police officer or law enforcement officer.

(c) Members of the ~~law enforcement training~~ commission attending meetings of the commission, or attending a subcommittee meeting authorized by the commission, shall be paid amounts provided for in subsection (e) of K.S.A. 75-3223, and amendments thereto. The director ~~and the chairperson of the commission~~ shall be responsible for approving all expense vouchers of members.

(d) The commission shall meet at least once each year at the training center and may hold ~~special~~ other meetings whenever they are called by the chairperson.

(e) The commission shall adopt the rules and regulations that are necessary to ensure that law enforcement officers are adequately trained and to enforce the provisions of this act. Such rules and regulations shall include, but are not limited to, the establishment of a course of fire as a standard qualification for active law enforcement officers to carry firearms that may also be used for qualified retired officers to carry firearms pursuant to federal law. The director shall provide qualification opportunities for qualified retired officers at least twice a year at the times and places the director determines to be necessary. The training center shall charge and collect a fee from retired state, local and federal officers for the qualification opportunities, but these fees shall be limited to the actual costs of presenting the standard qualifications course.

Sec. 13. K.S.A. 74-5607a is hereby amended to read as follows: 74-5607a. (a) ~~No person shall receive a permanent appointment~~ *The commission shall not issue a certification* as a full-time police officer or law enforcement officer; unless such officer has been awarded a certificate attesting to satisfactory completion of a *full-time officer basic* course ~~of not less than 320 hours~~ of accredited instruction at the training center or at a certified state or local law enforcement training school or has been awarded such a certificate for not less than the number of hours of instruction required by the Kansas law enforcement training act at the time such certificate was issued or received a permanent appointment as a full-time police officer or law enforcement officer prior to July 1, 1969, or was appointed a railroad policeman pursuant to K.S.A. 66-524, and amendments thereto, on or before January 1, 1982. No person shall receive a ~~permanent appointment~~ *certification* as a part-time police officer or law enforcement officer; unless such officer has been awarded a certificate attesting to the satisfactory completion of ~~the basic course of not less than 80 hours of accredited~~ *a part-time officer basic course of* instruction in law enforcement at the training center or at a certified state or local law enforcement training school.

(b) Beginning the second year after certification, every full-time police officer or law enforcement officer shall complete annually 40 hours of law enforcement education or training in subjects relating directly to law enforcement. Failure to complete such training shall be grounds for suspension from work without pay until such training is completed. The director with the approval of the commission shall adopt rules and regulations regarding such education or training. Every city, county and state agency shall ~~annually~~ send to the director certified reports of the completion of such education or training. The director shall maintain a record of the reports in the central registry.

(c) Subject to the provisions of subsection (d):

(1) Any person who is appointed or elected as a police officer or law enforcement officer and who does not hold a certificate as required by subsection (a) may be ~~elected or appointed~~ as an officer on a provisional basis for a period of not more than one year. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following the date of

the person's original election or appointment shall forfeit such office or position at the end of such one-year period. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following such original appointment shall not be reappointed as a police officer or law enforcement officer on a provisional basis within one year following the date on which such person last served as a police officer or law enforcement officer issued a provisional certificate for a period of one year. The director may extend the one-year period for the provisional certificate if in the director's determination the extension would not constitute an intentional avoidance of the requirements of subsection (a). If a person's provisional certificate expires or is revoked, the person shall not be issued another provisional certificate within one year of the expiration or revocation. A provisional certificate shall be revoked upon dismissal from any basic training program authorized by K.S.A. 74-5604a, and amendments thereto. A provisional certificate may be revoked upon voluntary withdrawal from any basic training program authorized by K.S.A. 74-5604a, and amendments thereto.

(2) Any police officer or law enforcement officer who does not complete the education or training required by subsection (b) by the date such education or training is required to have been completed shall be subject to revocation or suspension of certification and loss of the officer's office or position.

(d) The director may extend the one-year time period for the 320-hour basic-reciprocity school or 80-hour part-time school and may extend, waive or modify the annual continuing education requirement, when it is shown that the failure to comply with the requirements of subsection (a) or (b) was not due to the intentional avoidance of the law.

Sec. 14. K.S.A. 74-5608a is hereby amended to read as follows: 74-5608a. (a) The director may, in the exercise of discretion, award a certificate attesting to the satisfactory completion of a basic course of instruction to any person who has been duly certified under the laws of another state or territory if, in the opinion of the director, the requirements for certification in such other jurisdiction equal or exceed the qualifications required to complete satisfactorily the basic course of instruction at the training center.

(b) The director may waive any number of the hours or courses required to complete the basic course of instruction at the training center, 80-hour part-time school, reciprocity school or for the hours required for annual continuing education for any person who, in the opinion of the director, has received sufficient training or experience that such hours of instruction at the training center would be, unless waived, unduly burdensome or duplicious.

Sec. 15. K.S.A. 74-5611 is hereby amended to read as follows: 74-5611. The director of the law enforcement academy police training shall annually report to the attorney general of the state of Kansas the names of all persons who attended said academy law enforcement training center during each training year.

Sec. 16. K.S.A. 2005 Supp. 74-5611a is hereby amended to read as follows: 74-5611a. (a) The director commission shall establish and maintain a central registry of all Kansas police officers or law enforcement officers. The purpose of the registry is to be a resource for all agencies who appoint or elect police or law enforcement officers to use when reviewing employment applications of such officers. The registry shall be made available only to those agencies who appoint or elect police or law enforcement officers.

(b) The director shall provide forms for registration and shall refuse any registration not submitted on such form in full detail.

(c) Within 30 days of appointment, election or termination, every city, county and state agency, every school district and every community college shall submit the name of any person appointed or elected to or terminated from the position of police officer or law enforcement officer within its jurisdiction.

(d) Upon termination, the agency head shall include a report explaining the circumstances under which the officer resigned or was terminated. Such termination report shall be available to the terminated officer and any law enforcement agency to which the terminated officer later applies for a position as a police officer or law enforcement officer. The terminated officer may submit a written statement in response to the termination and

any such statement shall be included in the registry file concerning such officer. The director shall adopt a format for the termination report.

(e) The agency, agency head and any officer or employee of the agency shall be absolutely immune from civil liability:

(1) For the report made in accordance with subsection (d); and

(2) when responding in writing to a written request concerning a current or former officer from a prospective law enforcement agency of that officer for the report made in accordance with subsection (d) and for the disclosure of such report.

Sec. 17. K.S.A. 74-5616 is hereby amended to read as follows: 74-5616. (a) ~~To be eligible for permanent appointment as a police officer or law enforcement officer, a person must first be certified to perform the function of law enforcement by the Kansas law enforcement training commission~~ *No person shall be appointed as a full-time law enforcement officer unless the person holds a full-time active law enforcement certificate or a provisional law enforcement certificate. No person shall be appointed as a part-time officer unless the person holds a full-time active law enforcement certificate, a part-time active law enforcement certificate or a provisional certificate.* The commission's certification shall be awarded to persons who:

(1) ~~Are at least 21 years of age, have successfully completed or satisfied the training requirements specified by subsection (a) of K.S.A. 74-5607a and amendments thereto and meet the requirements of K.S.A. 74-5605 and amendments thereto;~~ (2) Received a permanent appointment as a police officer or law enforcement officer prior to July 1, 1969; or (3)

(2) hold a permanent appointment as a police officer or law enforcement officer on July 1, 1983.

(b) The commission may suspend, revoke, *reprimand, censure* or deny the certification of a police officer or law enforcement officer who:

(1) Fails to meet the requirements of K.S.A. 74-5605 or 74-5607a, and amendments thereto, or has met such requirements by falsifying documents or failing to disclose information required for certification;

(2) *fails to meet and maintain the minimum standards for certification adopted by the commission;*

(3) *provides false information or otherwise fails to cooperate in a commission investigation to determine a person's suitability for law enforcement certification;*

(4) *fails to complete the annual continuing education required by K.S.A. 74-5607a, and amendments thereto, and implementing rules and regulations or otherwise fails to comply with the requirements of this act; or*

(5) *fails to maintain the requirements for initial certification as set forth in K.S.A. 74-5605, and amendments thereto, and any implementing rules and regulations.*

(c) The commission shall immediately institute proceedings to revoke the certification of any police officer or law enforcement officer convicted of, or on or after July 1, 1995, diverted for a felony under the laws of this state, another state or the United States or of its equivalent under the uniform code of military justice or convicted of or diverted for a misdemeanor crime of domestic violence under the laws of this state, another state or the United States or of its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act.

(d) The procedure for the public or private censure, reprimand, probation, suspension, revocation and denial of certification of a person as a police officer or law enforcement officer or an applicant for certification shall be in accordance with the Kansas administrative procedure act.

(e) Any action of the commission pursuant to subsection (d) is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. *Upon request of the commission, the attorney general shall prosecute or defend any action for review on behalf of the state, but the county or district attorney of the county where the police or law enforcement officer has been employed as such shall appear and prosecute or defend such action upon request of the attorney general or commission. The commission*

may elect to retain the services of a private attorney to appear and prosecute or defend any action on behalf of the commission.

Sec. 18. K.S.A. 74-5617 is hereby amended to read as follows: 74-5617. (a) Every candidate for permanent appointment to a position as a police officer or law enforcement officer shall meet the minimum training criteria specified in K.S.A. 74-5605 and amendments thereto and shall have attained 21 years of age hold permanent or provisional certification.

(b) For the purpose of determining the eligibility of an individual for certification under this act, the commission may require the submission of training and education records, and experience history, medical history, medical examination reports and records, and interview appraisal forms.

(c) Law enforcement agencies in Kansas shall be responsible for their agency's observance of the hiring requirements of this section.

(d) No law enforcement agency head or other appointing authority shall knowingly permit the hiring of any person in violation of the requirements of this act, or knowingly permit the continued employment of any person as a law enforcement officer after receiving written notice from the commission that the person has had such person's certification revoked as provided for under this act does not hold an active law enforcement certificate. No law enforcement agency head or other appointing authority shall knowingly permit any auxiliary personnel who have been convicted of a felony offense under the laws of Kansas or any other jurisdiction access to law enforcement records or communication systems that are restricted under state or federal law or appoint as a reserve officer auxiliary personnel any person who does not meet the requirements of K.S.A. 74-5605 and amendments thereto. Any violation of the requirements of this act shall be deemed to constitute misconduct in office and shall subject the agency head or appointing authority to:

(1) Removal from office pursuant to K.S.A. 60-1205 and amendments thereto; or (2) a civil penalty in a sum set by the court of not to exceed \$500 for each occurrence of non-compliance in an action brought in the district court by the attorney general or by the county or district attorney, which penalty shall be paid to the state treasurer for deposit in the state treasury and credit to the state general fund, if the action is brought by the attorney general, or paid to the county treasurer for deposit in the county treasury and credit to the county general fund, if the action is brought by the county or district attorney *Kansas commission on peace officers' standards and training fund.*

(e) Whenever in the judgment of the commission any person has engaged in any acts or practices which constitute a violation of this act, or any rules and regulations of the commission, the commission may make application to the district court, without giving bond, for civil enforcement of this act or rules and regulations in accordance with the act for judicial review and civil enforcement of agency actions. The district or county attorney of any county shall at the request of the commission render such legal assistance as necessary in carrying out the provisions of this act. Upon the request of the commission, the district or county attorney of the proper county shall institute in the name of the state or commission proceedings for appropriate relief, whether mandatory, injunctive or declaratory, preliminary or final, temporary or permanent, equitable or legal, against any person regarding whom a complaint has been made charging such person with the violation of any provision of this act.

(f) The commission shall make such inquiry as necessary to determine compliance with the requirements of this section and the rules and regulations adopted under it.

(g) It shall be the responsibility of the agency head to ensure that every police officer or law enforcement officer under their supervision has the opportunity to receive the mandatory training as prescribed in K.S.A. 74-5604a and amendments thereto.

Sec. 19. K.S.A. 74-5619 is hereby amended to read as follows: 74-5619. (a) (1) There is hereby created in the state treasury the law enforcement training center fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose and in the manner prescribed by law, including the expenditures for the operation of the Kansas law enforcement training commission to carry out its powers and duties as mandated by law.

(b) (2) All moneys received for assessments as provided pursuant to K.S.A. 74-5607, and amendments thereto, shall be remitted to the state treasurer in accordance with the

provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the law enforcement training center fund.

(b) *There is hereby created in the state treasury the Kansas commission on peace officers' standards and training fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose of the operation of the commission to carry out its powers and duties as mandated by law. The director may apply for and receive public or private grants, gifts and donations of money for the commission. All moneys received from grants, gifts and donations shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas commission on peace officers' standards and training fund.*

(c) This section shall be part of and supplemental to the Kansas law enforcement training act.

Sec. 20. K.S.A. 74-5620 is hereby amended to read as follows: 74-5620. (a) There is hereby created in the state treasury the local law enforcement training reimbursement fund. All expenditures from the local law enforcement training fund shall: ~~(a)~~ (1) Be distributed to municipalities which participated in local law enforcement training programs, certified by the ~~law enforcement training~~ commission, which existed prior to January 1, 1992, in accordance with a distribution formula developed by the commission; ~~(b)~~ (2) not exceed more than 100% of the actual training costs incurred by the municipality in participating in the local law enforcement training program; and ~~(c)~~ (3) be distributed for basic law enforcement training and not be for any type of continuing law enforcement training education programs. No money shall be expended from this fund prior to January 1, 1993. Such distribution formula shall provide that distribution be based on the number of individuals trained and the cost per individual trained of each such municipality. Any such distributions shall be reviewed on a year-to-year basis and adjusted accordingly pursuant to the criteria specified in this section. The ~~law enforcement training~~ commission shall conduct a review of all local law enforcement training programs in which municipalities receiving expenditures pursuant to this act are participating and shall require that all such law enforcement training programs report their costs in a standardized format prescribed by the commission.

(b) *This section shall be part of and supplemental to the Kansas law enforcement training act.*

New Sec. 21. (a) (1) Notwithstanding the provisions of K.S.A. 74-4971, and amendments thereto, on or after the effective date of this act, the Kansas commission on peace officers' standards and training shall affiliate with the Kansas police and firemen's retirement system established under the provisions of K.S.A. 74-4951 et seq., and amendments thereto, pursuant to the provisions of this act for membership in the system of members of the staff of the Kansas commission on peace officers' standards and training who have been designated as law enforcement officers by the executive director pursuant to K.S.A. 74-5603, and amendments thereto, and successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center or are certified pursuant to the provisions of K.S.A. 74-5607a, and amendments thereto. For purposes of such affiliation for membership in the system of such members, the Kansas commission on peace officers' standards and training shall be considered a new participating employer. The Kansas commission on peace officers' standards and training shall make application for affiliation with such system in the manner provided by K.S.A. 74-4954, and amendments thereto, to be effective on July 1 next following application. The Kansas commission on peace officers' standards and training shall affiliate for membership in the system of such members for participating service credit.

(2) The Kansas commission on peace officers' standards and training shall pay a sum sufficient to satisfy any obligations as certified by the board of trustees of the retirement system and the employer contributions of the Kansas commission on peace officers' standards and training shall be as provided in subsection (1) of K.S.A. 74-4967, and amendments thereto.

(b) (1) Each such member of the staff employed by the Kansas commission on peace officers' standards and training on the date of affiliation, may become a member of the

Kansas police and firemen's retirement system on the first day of the payroll period of such member, coinciding with or following the entry date of the Kansas commission on peace officers' standards and training as provided in this section, only by filing with the board of trustees of the system, on or before the entry date of the Kansas commission on peace officers' standards and training as provided in this section, a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become or not to become a member, shall be irrevocable.

(2) Each such member of the staff of the Kansas commission on peace officers' standards and training who is on an authorized leave of absence or is in the military service on the entry date of the Kansas commission on peace officers' standards and training as provided in this section may become a member of the Kansas police and firemen's retirement system on the first day of the first payroll period of such member, coinciding with such member's return to active employment and payroll of the Kansas commission on peace officers' standards and training, only by filing with the board of trustees of the system within 10 days after such return to active employment a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become a member or not to become a member, shall be irrevocable.

(c) Each such member who is employed as a member of the staff of the Kansas commission on peace officers' standards and training on or after the entry date of the Kansas commission on peace officers' standards and training into the Kansas police and firemen's retirement system as provided in this section shall become a member of the Kansas police and firemen's retirement system on the first day of such employment.

(d) If the Kansas commission on peace officers' standards and training affiliates as provided in this act, the Kansas commission on peace officers' standards and training and each member of the staff who elects to become a member shall be subject to the provisions of K.S.A. 74-4951 et seq., and amendments thereto, as applicable.

(e) The division of the budget of the department of administration and the governor shall include in the budget and in the budget request for appropriations for personnel services the amount required to satisfy the employer's obligation under this act as certified by the board of trustees of the system, and shall present the same to the legislature for allowance and appropriations.

(f) The determination of retirement, death or disability benefits shall be computed upon the basis of "credited service" as used in K.S.A. 74-4951 et seq., and amendments thereto, but shall include only participating service with the person's participating employer, commencing on and after the effective date of affiliation by the participating employer with the Kansas police and firemen's retirement system.

New Sec. 22. For tax years commencing after December 31, 2005, any business firm which contributes, gifts or donates to the Kansas law enforcement training center to be used by the center for the purpose of providing programs and courses of instruction for full-time police officers and law enforcement officers designed to fulfill the continuing education and training requirements of such officers pursuant to K.S.A. 74-5607a, and amendments thereto, shall be allowed a credit against the tax imposed by the Kansas income tax act. The amount of such credit shall not exceed 50% of the total amount contributed, gifted or donated during the taxable year by the business firm pursuant to this section. In no event shall the total amount of credits allowed under this section in any one tax year exceed the amount of money that the director of police training at the Kansas law enforcement training center has certified is necessary to provide such continuing education and training programs and courses of instruction for the fiscal year following such tax year. Such certification shall be submitted to the secretary of revenue prior to the commencement of the applicable tax year. The credit allowed by this section shall be deducted from the taxpayer's income tax liability imposed by the Kansas income tax act for the taxable year in which the contributions are made by the taxpayer. If the amount of the credit allowed by this section exceeds the taxpayers' income tax liability imposed by the Kansas income tax act for such taxable year, such excess may be carried over for credit in the same manner in the succeeding taxable years until the total amount of such credit is used. As used in this section, "business firm"

means any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the Kansas income tax act and any individual subject to the state income tax imposed by the Kansas income tax act.

Sec. 23. K.S.A. 12-1,120, 74-5603, 74-5604a, 74-5606, 74-5607a, 74-5608a, 74-5611, 74-5616, 74-5617, 74-5619 and 74-5620 and K.S.A. 2005 Supp. 12-4117, 20-362, 21-4619, as amended by section 21 of 2006 Senate Bill No. 418, 22-4604, 28-172a, 74-5602, as amended by section 5 of 2006 House Bill No. 2329, 74-5605, 74-5607 and 74-5611a are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 12, by striking all after “concerning”; by striking all in lines 13 through 16; in line 17, by striking all before the period and inserting “the Kansas law enforcement training act; relating to the Kansas commission on peace officers’ standards and training; relating to docket fees; income tax credits; amending K.S.A. 12-1,120, 74-5603, 74-5604a, 74-5606, 74-5607a, 74-5608a, 74-5611, 74-5616, 74-5617, 74-5619 and 74-5620 and K.S.A. 2005 Supp. 12-4117, 20-362, 21-4619, as amended by section 21 of 2006 Senate Bill No. 418, 22-4604, 28-172a, 74-5602, as amended by section 5 of 2006 House Bill No. 2329, 74-5605, 74-5607 and 74-5611a and repealing the existing sections”;

And your committee on conference recommends the adoption of this report.

JOHN VRATIL
TERRY BRUCE
GRETA GOODWIN
Conferees on part of Senate

MICHAEL O’NEAL
LANCE KINZER
JANICE L. PAULS
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2122**.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, McGinn, Morris, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Journey, O’Connor, Ostmeyer, Palmer, Pyle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2554**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, following line 21, by inserting:

“Section 1. K.S.A. 2005 Supp. 12-4516, as amended by section 19 of 2006 Senate Bill No. 418, is hereby amended to read as follows: 12-4516. (a) (1) Except as provided in subsection (b) *or* (c), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction and related arrest records if three or more years have elapsed since the person:

(A) Satisfied the sentence imposed; or

(B) was discharged from probation, parole or a suspended sentence.

(2) Except as provided in subsection (b) *or* (c), any person who has fulfilled the terms of a diversion agreement based on a violation of a city ordinance of this state may petition the court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was

discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

- (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto;
- ~~(2) a violation of K.S.A. 8-1567, and amendments thereto;~~
- ~~(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto;~~
- ~~(4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto;~~
- ~~(5) a violation of the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications;~~
- ~~(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;~~
- ~~(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;~~
- ~~(8) a violation of the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or~~
- ~~(9) a violation of K.S.A. 21-3405b, and amendments thereto.~~

~~(c) There shall be no expungement of convictions or diversions for a violation of a city ordinance which would also constitute a violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto.~~

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

- ~~(2) the full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;~~
- ~~(3) the defendant's sex, race and date of birth;~~
- ~~(4) the crime for which the defendant was arrested, convicted or diverted;~~
- ~~(5) the date of the defendant's arrest, conviction or diversion; and~~
- ~~(6) the identity of the convicting court, arresting law enforcement agency or diverting authority. A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.~~

~~(e) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:~~

- ~~(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;~~
- ~~(2) the circumstances and behavior of the petitioner warrant the expungement; and~~
- ~~(3) the expungement is consistent with the public welfare.~~

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

- ~~(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;~~
- ~~(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:~~

~~(A) In any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-~~

tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

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

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

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

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

~~or~~

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 2005 Supp. 17-12a102, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the arrest, conviction or diversion is to be disclosed; and

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

(I) *in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto.*

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

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

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

(1) The person whose record was expunged;

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

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

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

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

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

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

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

(10) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(11) the Kansas securities commissioner, or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged; ~~or~~

(12) the attorney general, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act;

(13) *the Kansas sentencing commission;*

(14) *the Kansas law enforcement training commission and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;*
or

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

And by renumbering sections accordingly;

On page 3, in line 42, by striking “then upon the person’s request, the” and inserting “the court shall send a copy of such order to the Kansas bureau of investigation. The”;

On page 4, in line 4, by striking “, then upon the person’s request, the” and inserting “the prosecutor shall send documentation of such expiration to the Kansas bureau of investigation. The”;

On page 5, in line 41, after the period, by inserting and beginning a new paragraph as follows:

“(m)”;

On page 6, in line 2, by striking all after “sample”; by striking all in line 3; in line 4, by striking all before “upon” and inserting “pursuant to subsection (e) of K.S.A. 21-2511, and amendments thereto.”; following line 26, by inserting:

“Sec. 4. K.S.A. 2005 Supp. 21-4619, as amended by section 21 of 2006 Senate Bill No. 418, is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

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

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

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

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

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

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

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

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

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

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

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in the first degree as defined in K.S.A. 21-3401, and amendments thereto; (14) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; (15) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; (16) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; (17) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2005 Supp. 21-3442, and amendments thereto; (18) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed; (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; ~~(20) a violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation;~~ (21) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or ~~(22) any conviction~~

for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

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

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

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

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

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

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

(e) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

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

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

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

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

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2005 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

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

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

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

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

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 2005 Supp. 17-12a102, and amendments thereto; or

(I) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

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

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

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

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

(1) The person whose record was expunged;

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

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

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

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

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

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

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

(10) the Kansas sentencing commission;

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

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

(13) the Kansas law enforcement training commission and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

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

(15) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act.”;

And by renumbering the remaining sections accordingly;

Also on page 6, in line 27, by striking “is” and inserting “and K.S.A. 2005 Supp. 12-4516, as amended by section 19 of 2006 Senate Bill No. 418, and 21-4619, as amended by section 21 of 2006 Senate Bill No. 418, are”;

In the title, in line 17, by striking “the” and inserting “expungements;”; in line 19, after “and”, by inserting “K.S.A. 2005 Supp. 12-4516, as amended by section 19 of 2006 Senate Bill No. 418, and 21-4619, as amended by section 21 of 2006 Senate Bill No. 418, and”; also in line 19, by striking “section” and inserting “sections”;

And your committee on conference recommends the adoption of this report.

JOHN VRATIL
TERRY BRUCE
GRETA GOODWIN
Conferees on part of Senate

MICHAEL O'NEAL
LANCE KINZER
JANICE L. PARKS
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2554**.

On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Jordan, Kelly, McGinn, Morris, O'Connor, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barone, Betts, Francisco, Haley, Hensley, Huelskamp, Journey, Lee, Ostmeyer, Palmer, Pyle.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: **HB 2554** is necessary and **HB 2554** could have been a bill I could support. Had the amendments I proposed, which are testing after a judicial finding of

probable cause and contempt of court for refusal to submit to testing rather than a new crime, been adopted I would be voting in support. I know DNA provides a valuable tool to law enforcement. This bill is without effective safeguards of liberty and privacy. Third party contractors have lost millions of American's DNA data to hackers. Wichita law enforcement's refusal to abide by a Court order to destroy 1300 DNA samples demonstrates the temptation this information presents to Kansas Law Enforcement. They now may ignore with impunity the lawful order of the court and are immune from civil or criminal prosecution in collecting it.—PHILLIP B. JOURNEY

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Pine introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1851—

A RESOLUTION recognizing the 150th anniversary of the Battle of Black Jack.

WHEREAS, The State of Kansas was born in the struggle between pro- and anti-slavery factions in the United States; and

WHEREAS, Because of this struggle, the armed conflict that was the American Civil War began in Kansas; and

WHEREAS, The first incident in that armed conflict took place along Black Jack Creek in southeastern Douglas County, Kansas Territory, on June 2, 1856, between a free-state militia lead by John Brown and a pro-slavery militia led by Henry Clay Pate; and

WHEREAS, John Brown called this action, that has come to be called the Battle of Black Jack, “the first regular battle between free-state and pro-slavery forces in Kansas”; and

WHEREAS, The first use of the term “civil war” by national newspapers to describe the armed conflict between pro- and anti-slavery forces was in the coverage of the Battle of Black Jack; and

WHEREAS, Being the first recorded battle in the American Civil War, the Battle of BlackJack is important to the history of Douglas County, the State of Kansas, and the United States of America; and

WHEREAS, The 150th anniversary of the battle is June 2, 2006: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the senate recognizes both the unique position held by the Battle of Black Jack in the history of Douglas County, the State of Kansas, and the United States of America, and the importance of preserving the site of the battle for future generations; and

Be it further resolved: That all citizens of the State of Kansas are urged to observe the sesquicentennial commemoration of the battle on June 2, 2006.

On emergency motion of Senator Pine **SR 1851** was adopted unanimously.

Guests in the chamber for the resolution were Ramon Powers, Mary Lynn Stewart and Carol von Tersch.

REPORT ON ENGROSSED BILLS

SB 261 reported correctly re-engrossed April 28, 2006.

SB 434, SB 584 reported correctly engrossed May 1, 2006.

REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Pooled Money Investment Board: K.S.A. 75-4221a

John Lehman, term expires March 15, 2010

John Cleland, term expires March 15, 2010

Also, Committee on **Financial Institutions and Insurance** begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:
 State Banking Board: K.S.A. 74-3004
 Joseph Smith, term expires March 15, 2009
 Jane Schnellbacher, term expires March 15, 2009
 Mark Parman, term expires March 15, 2009
 On motion of Senator D. Schmidt, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Morris in the chair.

CHANGE OF REFERENCE

The President withdrew **HB 2573** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Assessment and Taxation.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 3021**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 3021 was thereupon introduced and read by title.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills:

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2366**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2366 as amended by Senate Committee of the Whole, as follows:

On page 1, by striking all in lines 19 through 43;

By striking all on pages 2, 3, 5, 6 and 7;

On page 8, by striking all in lines 1 through 36;

By renumbering the remaining sections accordingly;

On page 14, by striking all in lines 28 through 43;

By striking all on page 15;

On page 16, by striking all in lines 1 through 37;

By renumbering the remaining sections accordingly;

Also on page 16, in line 38, by striking all following "K.S.A." where it appears the first time; in line 39, by striking all preceding "hereby" and inserting "40-3104 is";

In the title, in line 10, by striking all following the semicolon; by striking all in line 11; in line 12, by striking "ums;"; in line 13, by striking all following the semicolon; in line 14, by striking all preceding "amend."; in line 15, by striking "40-955 and"; also in line 15, by striking "K.S.A. 2005 Supp. 40-216"; in line 16, by striking "sections" and inserting "section";

And your committee on conference recommends the adoption of this report.

RUTH TEICHMAN
 DAVID WYSONG
 CHRIS STEINEGER

Conferees on part of Senate

CLARK SHULTZ
 ERIC CARTER
 NILE DILLMORE

Conferees on part of House

Senator Teichman moved the Senate adopt the Conference Committee Report on **S Sub for HB 2366**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2710**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 1, preceding line 34, by inserting:

“(3) State conservation commission expenditures for permanent partial water right retirements shall not exceed 30% of the total amount of funds for the water right transition assistance pilot project program.”;

Also on page 1, in line 37, by striking “all” and inserting “part or all of”; in line 43, following “funding” by inserting a period;

On page 2, in line 3, following “(e)” by inserting “Permanent retirement of partial water rights shall only be approved by the Kansas department of agriculture division of water resources when the groundwater management district has the metering and monitoring capabilities necessary to ensure compliance with the program.”;

On page 4, preceding line 23, by inserting:

“(o) The state conservation commission shall hold at least two meetings in each water right transition assistance pilot project program area prior to entering into any water right transition assistance pilot project program contract for the permanent retirement of part or all of landowner historic consumptive use water rights. Such meetings shall inform the public of the possible economic and hydrologic impacts of the program. The state conservation commission shall provide notice of such meetings through publication in local newspapers of record and in the Kansas register.”;

Also on page 4, by striking all in lines 41 through 43;

On page 5, by striking all in lines 1 through 7 and by inserting:

“New Sec. 3. (a) During the fiscal year ending June 30, 2007, no expenditures shall be made for the conservation reserve enhancement program unless authorized by the 2007 session of the legislature.

(b) The state conservation commission and Kansas water office shall prepare a program for the retirement of water rights under the conservation reserve enhancement program to be submitted to the senate committee on natural resources and the house committee on environment during the 2007 regular session prior to expenditure of any funds for such program.”;

And your committee on conference recommends the adoption of this report.

CAROLYN MCGINN
RALPH OSTMEYER
MARCI FRANCISCO
Conferees on part of Senate

JOANN LEE FREEBORN
MICHAEL BURGESS
VAUGHN L. FLORA
Conferees on part of House

Senator McGinn moved the Senate adopt the Conference Committee Report on **HB 2710**.

On roll call, the vote was: Yeas 38, Nays 2, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeier, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schoendorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Bruce, Pyle.

The Conference Committee report was adopted.

REPORT ON ENROLLED BILLS

H Sub for SB 47; H Sub for SB 243; SB 546 reported correctly enrolled, properly signed and presented to the governor on May 1, 2006.

SR 1847, SR 1848, SR 1849, SR 1850 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 1, 2006

REPORTS OF STANDING COMMITTEES

Committee on Commerce begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Kansas Technology Enterprise Corporation:

Kansas Bioscience Authority: K.S.A. 2005 Supp. 74-99b04

Dr. Raymond W. Smilor, Ph.D, term expires March 15, 2010

Committee on **Public Health and Welfare** recommends **Substitute for HB 2088**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for Substitute for HOUSE BILL No. 2088," as follows:

"SENATE Substitute for Substitute for HOUSE BILL No. 2088

By Committee on Public Health and Welfare

"AN ACT concerning abandonment of certain infants; making certain conduct unlawful and providing penalties therefor; amending K.S.A. 38-15,100 and repealing the existing section.";

and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Tuesday, May 2, 2006.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

