

[As Amended by House Committee of the Whole]

Session of 2011

HOUSE BILL No. 2339

By Committee on Appropriations

2-15

1 AN ACT concerning crimes, punishment and criminal procedure;
2 amending K.S.A. 8-254, 8-285, 8-1450, 9-2004, 19-101d, 19-27,139,
3 19-4804, 20-369, 22-2411, 22-2615, 22-2307, 22-2908, 22-3008, 22-
4 3102, 22-3414, 22-3415, 22-3427, as amended by section 306 of
5 chapter 136 of the 2010 Session Laws of Kansas, 22-3429, 22-3436,
6 22-3439, 22-3602, 22-3701, 22-3725, 22-4807a, 34-228, 34-249a, 36-
7 602, 38-1132, 39-720, 39-785, 41-206, 44-1039, 46-920, 47-653c, 47-
8 1715, 50-618, 50-648, 50-651, 50-653, 57-227, 58-2573, 60-523, 60-
9 1620, 60-2610, 60-4111, 60-4402, 60-4404, 60-4405, 65-444, 65-1120,
10 65-2006, 65-2859, 65-28,108, 65-28a05, 65-4209, 65-6703, 65-6721,
11 68-422a, 74-7325, 74-7333, 75-4004, 75-5233 and 75-5269; **[K.S.A.**
12 **2009 Supp. 8-1567, as amended by section 3 of chapter 153 of the**
13 **2010 Session Laws of Kansas;]**K.S.A. 2010 Supp. 8-116a, 8-255, 8-
14 262, 8-287, 8-2,144, 8-1013, 8-1102, ~~8-1567~~, 8-2106, 8-2117, 8-2410,
15 12-16,119, 12-4104, 12-4516, 12-4516a, 12-4517, 17-12a508, 20-2207,
16 20-2208, 20-3207, 21-3212a, 21-3220, 21-3221, **[21-36a03,]** 22-2310,
17 22-2410, 22-2512, 22-2802, 22-2901, 22-2909, 22-3212, 22-3303, 22-
18 3426, 22-3716, 22-3717, 22-3727, 22-3727a, 22-4614, 22-4616, 22-
19 4617, 22-4902, 22-4906, 28-177, 32-1013, 32-1047, 32-1063, 36-604,
20 38-2202, 38-2255, 38-2271, 38-2302, 38-2303, 38-2309, 38-2310, 38-
21 2312, 38-2313, 38-2326, 38-2331, 38-2355, 38-2356, 38-2361, 38-
22 2364, 38-2365, 38-2371, 38-2377, 39-970, 40-252, 40-2,118, 40-1702,
23 40-3213, 41-346, 41-2611, 41-2708, 41-2905, 41-2906, 44-5,125, 44-
24 706, 44-719, 44-1131, 45-217, 45-221, 45-230, 47-1706, 47-1707, 58-
25 3043, 58-3068, 58-4505, 59-2132, 59-2948, 59-29a02, 59-29a07, 59-
26 29a14, 59-29b48, 60-312, 60-455, 60-1610, 60-1629, 60-3107, 60-
27 31a06, 60-4104, 60-4105, 60-4113, 60-4119, 60-4403, 60-5001, 65-
28 448, 65-516, 65-1436, 65-1627, 65-2434, 65-2836, 65-5117, 66-2304,
29 72-1397, 72-5445, 74-4924, 74-5602, 74-7301, 74-7305, 74-8702, 74-
30 9101, 75-452, 75-453, 75-755, 75-7b01, 75-7b13, 75-7c03, 75-7c04,
31 75-7c05, 75-7c09, 75-7c17, 75-7c19, 75-7c26, 75-1508, 75-4362, 75-
32 5133, 75-5218, 75-5291, 75-52,127, 75-52,144, 75-52,148 and 76-
33 11a13; and Sections 2, 11, 21, 22, 23, 24, 25, 26, 28, 33, 34, 35, 39, 47,
34 48, 49, 52, 53, 56, 57, 60, 61, 62, 64, 67, 68, 70, 74, 76, 78, **[79,]**88, 96,

1 98, 105, 136, 139, 141, 147, 158, 159, 164, 177, 183, 186, 187, 188,
2 189, 190, 192, 194, 198, 209, 212, 223, 225, [228,] 230, 232, 242, 243,
3 244, 247, 248, 254, 257, 259, 260, 262, 266, 267, 268, 269, 271, 285,
4 291, 292, 294, 298, 299 and 302 of chapter 136 of the 2010 Session
5 Laws of Kansas and repealing the existing sections; also repealing
6 K.S.A. 22-3220, K.S.A. 2009 Supp. 21-3110, as amended by section 5
7 of chapter 101 of the 2010 Session Laws of Kansas, 21-3412a, as
8 amended by section 6 of chapter 101 of the 2010 Session Laws of
9 Kansas, 21-4603d, as amended by Section 7 of chapter 101 of the 2010
10 Session Laws of Kansas, 21-4704, as amended by section 6 of chapter
11 147 of the 2010 Session Laws of Kansas; K.S.A. 2010 Supp. [8-1567,]
12 21-3105, 21-3211, 21-3212, 21-3213, 21-3214, 21-3215, 21-3216, 21-
13 3217, 21-3218, 21-3301, 21-3302, 21-3303, 21-3437, 21-3446, 21-
14 3447, 21-3449, 21-3450, 21-3502, 21-3504, 21-3506, 21-3513, 21-
15 3516, 21-3520, 21-3608a, 21-3826, 21-4018, 21-4201, 21-4203, 21-
16 4204, 21-4218, 21-4226, 21-4311, 21-4316, 21-4603d, 21-4610a, 21-
17 4619, 21-4623, 21-4624, 21-4632, 21-4634, 21-4642, 21-4643, 21-
18 4704, 21-4710, 21-4718, 22-3212a, 22-3717c, 38-2255a and 65-516b
19 and repealing the existing section.
20

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

22 New Section 1. (a) Maintenance of a common nuisance is
23 maintaining or assisting in the maintenance of a common nuisance as
24 described by K.S.A. 22-3901, and amendments thereto.

25 (b) Maintenance of a common nuisance is a class A, nonperson
26 misdemeanor. In addition to the sentence authorized by law, the defendant
27 may be fined in an amount not exceeding \$25,000.

28 (c) This section shall be part of and supplemental to article 39 of
29 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

30 Sec. 2. K.S.A. 2010 Supp. 21-3212a is hereby amended to read as
31 follows: 21-3212a. (a) For the purposes of K.S.A. 21-3211 and 21-3212,
32 *prior to their repeal, or sections 21 and 22 of chapter 136 of the 2010*
33 *Session Laws of Kansas*, and amendments thereto, a person is presumed to
34 have a reasonable belief that deadly force is necessary to prevent imminent
35 death or great bodily harm to such person or another person if:

36 (1) The person against whom the force is used, at the time the force is
37 used:

38 (A) Is unlawfully or forcefully entering, or has unlawfully or
39 forcefully entered, and is present within, the dwelling, place of work or
40 occupied vehicle of the person using force; or

41 (B) has removed or is attempting to remove another person against
42 such other person's will from the dwelling, place of work or occupied
43 vehicle of the person using force; and

1 (2) the person using force knows or has reason to believe that any of
2 the conditions set forth in paragraph (1) is occurring or has occurred.

3 (b) The presumption set forth in subsection (a) does not apply if, at
4 the time the force is used:

5 (1) The person against whom the force is used has a right to be in, or
6 is a lawful resident of, the dwelling, place of work or occupied vehicle of
7 the person using force, and is not subject to any order listed in K.S.A. 21-
8 3843, *prior to its repeal, or section 149 of chapter 136 of the 2010 Session*
9 *Laws of Kansas*, and amendments thereto, that would prohibit such
10 person's presence in the property;

11 (2) the person sought to be removed is a child, grandchild or is
12 otherwise in the lawful custody or under the lawful guardianship of the
13 person against whom the force is used;

14 (3) the person using force is engaged in the commission of a crime,
15 attempting to escape from a location where a crime has been committed, or
16 is using the dwelling, place of work or occupied vehicle to further the
17 commission of a crime; or

18 (4) the person against whom the force is used is a law enforcement
19 officer who has entered or is attempting to enter a dwelling, place of work
20 or occupied vehicle in the lawful performance of such officer's lawful
21 duties, and the person using force knows or reasonably should know that
22 the person who has entered or is attempting to enter is a law enforcement
23 officer.

24 Sec. 3. K.S.A. 2010 Supp. 21-3220 is hereby amended to read as
25 follows: 21-3220. The provisions of ~~this act~~ *sections 21 through 28 of*
26 *chapter 136 of the 2010 Session Laws of Kansas, and K.S.A. 2010 Supp.*
27 *21-3212a, 21-3220 and 21-3221, and amendments thereto*, are to be
28 construed and applied retroactively.

29 Sec. 4. K.S.A. 2010 Supp. 21-3221 is hereby amended to read as
30 follows: 21-3221. (a) As used in article 32 of chapter 21 of the Kansas
31 Statutes Annotated, *prior to their repeal, sections 13 through 19, and*
32 *sections 21 through 32 of chapter 136 of the 2010 Session Laws of*
33 *Kansas, and K.S.A. 2010 Supp. 21-3212a, 21-3220 and 21-3221*, and
34 amendments thereto:

35 (1) "Use of force" means any or all of the following directed at or
36 upon another person or thing: (A) Words or actions that reasonably convey
37 the threat of force, including threats to cause death or great bodily harm to
38 a person; (B) the presentation or display of the means of force; or (C) the
39 application of physical force, including by a weapon or through the actions
40 of another.

41 (2) "Use of deadly force" means the application of any physical force
42 described in paragraph (1) which is likely to cause death or great bodily
43 harm to a person. Any threat to cause death or great bodily harm,

1 including, but not limited to, by the display or production of a weapon,
2 shall not constitute use of deadly force, so long as the actor's purpose is
3 limited to creating an apprehension that the actor will, if necessary, use
4 deadly force in defense of such actor or another or to affect a lawful arrest.

5 (b) An actor who threatens deadly force as described in subsection (a)
6 (1) shall be subject to the determination in subsection (a) of K.S.A. 21-
7 3211, *prior to its repeal, or subsection (a) of section 21 of chapter 136 of*
8 *the 2010 Session Laws of Kansas*, and amendments thereto, and not to the
9 determination in subsection (b) of K.S.A. 21-3211, *prior to its repeal, or*
10 *subsection (b) of section 21 of chapter 136 of the 2010 Session Laws of*
11 *Kansas*, and amendments thereto.

12 Sec. 5. Section 2 of chapter 136 of the 2010 Session Laws of Kansas
13 is hereby amended to read as follows: Sec. 2. A crime is an act or omission
14 defined by law and for which, upon conviction, a sentence of death,
15 imprisonment or fine, or both imprisonment and fine, is authorized or, in
16 the case of a traffic infraction or a cigarette or tobacco infraction, a fine is
17 authorized. Crimes are classified as felonies, misdemeanors, traffic
18 infractions and cigarette or tobacco infractions.

19 (a) A felony is a crime punishable by death or by imprisonment in
20 any state correctional institution or a crime which is defined as a felony by
21 law.

22 (b) A traffic infraction is a violation of any of the statutory provisions
23 listed in subsection (c) of K.S.A. 8-2118, and amendments thereto.

24 (c) A cigarette or tobacco infraction is a violation of *K.S.A. 21-4009*
25 *through 21-4014 and* subsection (m) or (n) of K.S.A. 79-3321, and
26 amendments thereto.

27 (d) All other crimes are misdemeanors.

28 Sec. 6. Section 11 of chapter 136 of the 2010 Session Laws of Kansas
29 is hereby amended as follows: Sec. 11. The following definitions shall
30 apply when the words and phrases defined are used in this code, except
31 when a particular context clearly requires a different meaning.

32 (a) "Act" includes a failure or omission to take action.

33 (b) "Another" means a person or persons as defined in this code other
34 than the person whose act is claimed to be criminal.

35 (c) "Conduct" means an act or a series of acts, and the accompanying
36 mental state.

37 (d) "Conviction" includes a judgment of guilt entered upon a plea of
38 guilty.

39 (e) "Deception" means knowingly creating or reinforcing a false
40 impression, including false impressions as to law, value, intention or other
41 state of mind. Deception as to a person's intention to perform a promise
42 shall not be inferred from the fact alone that such person did not
43 subsequently perform the promise. Falsity as to matters having no

1 pecuniary significance, or puffing by statements unlikely to deceive
2 reasonable persons, is not deception.

3 (f) "Deprive permanently" means to:

4 (1) Take from the owner the possession, use or benefit of property,
5 without an intent to restore the same;

6 (2) retain property without intent to restore the same or with intent to
7 restore it to the owner only if the owner purchases or leases it back, or
8 pays a reward or other compensation for its return; or

9 (3) sell, give, pledge or otherwise dispose of any interest in property
10 or subject it to the claim of a person other than the owner.

11 (g) "Distribute" means the actual or constructive transfer from one
12 person to another of some item whether or not there is an agency
13 relationship. "Distribute" includes, but is not limited to, sale, offer for sale,
14 furnishing, buying for, delivering, giving, or any act that causes or is
15 intended to cause some item to be transferred from one person to another.
16 "Distribute" does not include acts of administering, dispensing or
17 prescribing a controlled substance as authorized by the pharmacy act of the
18 state of Kansas, the uniform controlled substances act, or otherwise
19 authorized by law.

20 (h) "DNA" means deoxyribonucleic acid.

21 (i) *"Domestic violence" means an act or threatened act of violence*
22 *against a person with whom the offender is involved or has been involved*
23 *in a dating relationship, or an act or threatened act of violence against a*
24 *family or household member by a family or household member. Domestic*
25 *violence also includes any other crime committed against a person or*
26 *against property, or any municipal ordinance violation against a person*
27 *or against property, when directed against a person with whom the*
28 *offender is involved or has been involved in a dating relationship or when*
29 *directed against a family or household member by a family or household*
30 *member. For the purposes of this definition:*

31 (1) *"Dating relationship" means a social relationship of a romantic*
32 *nature. In addition to any other factors the court deems relevant, the trier*
33 *of fact may consider the following when making a determination of*
34 *whether a relationship exists or existed: Nature of the relationship, length*
35 *of time the relationship existed, frequency of interaction between the*
36 *parties and time since termination of the relationship, if applicable.*

37 (2) *"Family or household member" means persons 18 years of age or*
38 *older who are spouses, former spouses, parents or stepparents and*
39 *children or stepchildren, and persons who are presently residing together*
40 *or have resided together in the past, and persons who have a child in*
41 *common regardless of whether they have been married or have lived*
42 *together at any time. Family or household member also includes a man*
43 *and woman if the woman is pregnant and the man is alleged to be the*

1 *father, regardless of whether they have been married or have lived*
2 *together at any time.*

3 (j) *"Domestic violence offense" means any crime committed whereby*
4 *the underlying factual basis includes an act of domestic violence.*

5 (k) *"Dwelling" means a building or portion thereof, a tent, a vehicle*
6 *or other enclosed space which is used or intended for use as a human*
7 *habitation, home or residence.*

8 (l) *"Expungement" means the sealing of records such that the*
9 *records are unavailable except to the petitioner and criminal justice*
10 *agencies as provided by K.S.A. 22-4701 et seq., and amendments thereto,*
11 *and except as provided in this act.*

12 (m) *"Firearm" means any weapon designed or having the capacity*
13 *to propel a projectile by force of an explosion or combustion.*

14 (n) *"Forcible felony" includes any treason, murder, voluntary*
15 *manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated*
16 *battery, aggravated sodomy and any other felony which involves the use or*
17 *threat of physical force or violence against any person.*

18 (o) *"Intent to defraud" means an intention to deceive another*
19 *person, and to induce such other person, in reliance upon such deception,*
20 *to assume, create, transfer, alter or terminate a right, obligation or power*
21 *with reference to property.*

22 (p) *"Law enforcement officer" means:*

23 (1) *Any person who by virtue of such person's office or public*
24 *employment is vested by law with a duty to maintain public order or to*
25 *make arrests for crimes, whether that duty extends to all crimes or is*
26 *limited to specific crimes;*

27 (2) *any officer of the Kansas department of corrections or, for the*
28 *purposes of sections section 47 and subsection (d) of section 48 of chapter*
29 *136 of the 2010 Session Laws of Kansas, and amendments thereto, any*
30 *employee of the Kansas department of corrections; or*

31 (3) *any university police officer or campus police officer, as defined*
32 *in K.S.A. 22-2401a, and amendments thereto.*

33 (q) *"Obtain" means to bring about a transfer of interest in or*
34 *possession of property, whether to the offender or to another.*

35 (r) *"Obtains or exerts control" over property includes, but is not*
36 *limited to, the taking, carrying away, sale, conveyance, transfer of title to,*
37 *interest in, or possession of property.*

38 (s) *"Owner" means a person who has any interest in property.*

39 (t) *"Person" means an individual, public or private corporation,*
40 *government, partnership, or unincorporated association.*

41 (u) *"Personal property" means goods, chattels, effects, evidences of*
42 *rights in action and all written instruments by which any pecuniary*
43 *obligation, or any right or title to property real or personal, shall be*

1 created, acknowledged, assigned, transferred, increased, defeated,
2 discharged, or dismissed.

3 ~~(t)~~(v) "Possession" means having joint or exclusive control over an
4 item with knowledge of or intent to have such control or knowingly
5 keeping some item in a place where the person has some measure of
6 access and right of control.

7 ~~(u)~~(w) "Property" means anything of value, tangible or intangible,
8 real or personal.

9 ~~(v)~~(x) "Prosecution" means all legal proceedings by which a person's
10 liability for a crime is determined.

11 ~~(w)~~(y) "Prosecutor" means the same as prosecuting attorney in K.S.A.
12 22-2202, and amendments thereto.

13 ~~(x)~~(z) "Public employee" is a person employed by or acting for the
14 state or by or for a county, municipality or other subdivision or
15 governmental instrumentality of the state for the purpose of exercising
16 their respective powers and performing their respective duties, and who is
17 not a "public officer."

18 ~~(y)~~(aa) "Public officer" includes the following, whether elected or
19 appointed:

20 (1) An executive or administrative officer of the state, or a county,
21 municipality or other subdivision or governmental instrumentality of or
22 within the state;

23 (2) a member of the legislature or of a governing board of a county,
24 municipality, or other subdivision of or within the state;

25 (3) a judicial officer, which shall include a judge of the district court,
26 juror, master or any other person appointed by a judge or court to hear or
27 determine a cause or controversy;

28 (4) a hearing officer, which shall include any person authorized by
29 law or private agreement, to hear or determine a cause or controversy and
30 who is not a judicial officer;

31 (5) a law enforcement officer; and

32 (6) any other person exercising the functions of a public officer under
33 color of right.

34 ~~(z)~~(bb) "Real property" or "real estate" means every estate, interest,
35 and right in lands, tenements and hereditaments.

36 ~~(aa)~~(cc) "Solicit" or "solicitation" means to command, authorize,
37 urge, incite, request or advise another to commit a crime.

38 ~~(bb)~~(dd) "State" or "this state" means the state of Kansas and all land
39 and water in respect to which the state of Kansas has either exclusive or
40 concurrent jurisdiction, and the air space above such land and water.
41 "Other state" means any state or territory of the United States, the District
42 of Columbia and the Commonwealth of Puerto Rico.

43 ~~(ee)~~(ee) "Stolen property" means property over which control has

1 been obtained by theft.

2 ~~(dd)~~(ff) "Threat" means a communicated intent to inflict physical or
3 other harm on any person or on property.

4 ~~(ee)~~(gg) "Written instrument" means any paper, document or other
5 instrument containing written or printed matter or the equivalent thereof,
6 used for purposes of reciting, embodying, conveying or recording
7 information, and any money, token, stamp, seal, badge, trademark, or other
8 evidence or symbol of value, right, privilege or identification, which is
9 capable of being used to the advantage or disadvantage of some person.

10 Sec. 7. Section 21 of chapter 136 of the 2010 Session Laws of Kansas
11 is hereby amended to read as follows: Sec. 21. (a) A person is justified in
12 the use of force against another when and to the extent it appears to such
13 person and such person reasonably believes that such *use of* force is
14 necessary to defend such person or a third person against such other's
15 imminent use of unlawful force.

16 (b) A person is justified in the use of deadly force under
17 circumstances described in subsection (a) if such person reasonably
18 believes *that such use of* deadly force is necessary to prevent imminent
19 death or great bodily harm to such person or a third person.

20 (c) Nothing in this section shall require a person to retreat if such
21 person is using force to protect such person or a third person.

22 Sec. 8. Section 22 of chapter 136 of the 2010 Session Laws of Kansas
23 is hereby amended to read as follows: Sec. 22. (a) A person is justified in
24 the use of force against another when and to the extent that it appears to
25 such person and such person reasonably believes that such *use of* force is
26 necessary to prevent or terminate such other's unlawful entry into or attack
27 upon such person's dwelling, *place of work* or occupied vehicle.

28 (b) A person is justified in the use of deadly force to prevent or
29 terminate unlawful entry into or attack upon any dwelling, *place of work*
30 or occupied vehicle if such person reasonably believes *that such use of*
31 deadly force is necessary to prevent imminent death or great bodily harm
32 to such person or another.

33 (c) Nothing in this section shall require a person to retreat if such
34 person is using force to protect such person's dwelling, *place of work* or
35 occupied vehicle.

36 Sec. 9. Section 23 of chapter 136 of the 2010 Session Laws of Kansas
37 is hereby amended to read as follows: Sec. 23. A person who is lawfully in
38 possession of property other than a dwelling, *place of work* or occupied
39 vehicle is justified in the ~~threat or~~ use of force against another for the
40 purpose of preventing or terminating an unlawful interference with such
41 property. Only such ~~degree use of force or threat thereof~~ as a reasonable
42 person would deem necessary to prevent or terminate the interference may
43 intentionally be used.

1 Sec. 10. Section 24 of chapter 136 of the 2010 Session Laws of
2 Kansas is hereby amended to read as follows: Sec. 24. The justification
3 described in *K.S.A. 21-3211, 21-3212 and 21-3213, prior to their repeal,*
4 *or sections 21, 22 and 23 of chapter 136 of the 2010 Session Laws of*
5 *Kansas*, and amendments thereto, is not available to a person who:

6 (a) Is attempting to commit, committing or escaping from the
7 commission of a forcible felony;

8 (b) initially provokes the use of *any* force against such person or
9 another, with intent to use such force as an excuse to inflict bodily harm
10 upon the assailant; or

11 (c) otherwise initially provokes the use of *any* force against such
12 person or another, unless:

13 (1) Such person has reasonable ~~ground~~ *grounds* to believe that such
14 person is in imminent danger of death or great bodily harm, and has
15 exhausted every reasonable means to escape such danger other than the
16 use of *deadly* force ~~which is likely to cause death or great bodily harm to~~
17 ~~the assailant~~; or

18 (2) in good faith, such person withdraws from physical contact with
19 the assailant and indicates clearly to the assailant that such person desires
20 to withdraw and terminate the use of *such* force, but the assailant continues
21 or resumes the use of *such* force.

22 Sec. 11. Section 25 of chapter 136 of the 2010 Session Laws of
23 Kansas is hereby amended to read as follows: Sec. 25. (a) A law
24 enforcement officer, or any person whom such officer has summoned or
25 directed to assist in making a lawful arrest, need not retreat or desist from
26 efforts to make a lawful arrest because of resistance or threatened
27 resistance to the arrest. Such officer is justified in the use of any force
28 which such officer reasonably believes to be necessary to effect the arrest
29 and *the use* of any force which such officer reasonably believes to be
30 necessary to defend the officer's self or another from bodily harm while
31 making the arrest. However, such officer is justified in using *deadly* force
32 ~~likely to cause death or great bodily harm~~ only when such officer
33 reasonably believes that such force is necessary to prevent death or great
34 bodily harm to such officer or another person, or when such officer
35 reasonably believes that such force is necessary to prevent the arrest from
36 being defeated by resistance or escape and such officer has probable cause
37 to believe that the person to be arrested has committed or attempted to
38 commit a felony involving *death or* great bodily harm or is attempting to
39 escape by use of a deadly weapon, or otherwise indicates that such person
40 will endanger human life or inflict great bodily harm unless arrested
41 without delay.

42 (b) A law enforcement officer making an arrest pursuant to an invalid
43 warrant is justified in the use of any force which such officer would be

1 justified in using if the warrant were valid, unless such officer knows that
2 the warrant is invalid.

3 Sec. 12. Section 26 of chapter 136 of the 2010 Session Laws of
4 Kansas is hereby amended to read as follows: Sec. 26. (a) A private person
5 who makes, or assists another private person in making a lawful arrest is
6 justified in the use of any force which such person would be justified in
7 using if such person were summoned or directed by a law enforcement
8 officer to make such arrest, except that such person is justified in the use
9 of *deadly* force ~~likely to cause death or great bodily harm~~ only when such
10 person reasonably believes that such force is necessary to prevent death or
11 great bodily harm to such person or another.

12 (b) A private person who is summoned or directed by a law
13 enforcement officer to assist in making an arrest which is unlawful, is
14 justified in the use of any force which such person would be justified in
15 using if the arrest were lawful.

16 Sec. 13. Section 28 of chapter 136 of the 2010 Session Laws of
17 Kansas is hereby amended to read as follows: Sec. 28. A person who is not
18 engaged in an unlawful activity and who is attacked in a place where such
19 person has a right to be has no duty to retreat and has the right to stand
20 such person's ground and ~~meet force with force~~ *use any force which such*
21 *person would be justified in using under article 32 of chapter 21 of the*
22 *Kansas Statute Annotated, prior to their repeal, or sections 13 through 19*
23 *and sections 21 through 32 of chapter 136 of the 2010 Session Laws of*
24 *Kansas, and K.S.A. 2010 Supp. 21-3212a, 21-3220 and 21-3221, and*
25 *amendments thereto.*

26 Sec. 14. Section 33 of chapter 136 of the 2010 Session Laws of
27 Kansas is hereby amended to read as follows: Sec. 33. (a) An attempt is
28 any overt act toward the perpetration of a crime done by a person who
29 intends to commit such crime but fails in the perpetration thereof or is
30 prevented or intercepted in executing such crime.

31 (b) It shall not be a defense to a charge of attempt that the
32 circumstances under which the act was performed or the means employed
33 or the act itself were such that the commission of the crime was not
34 possible.

35 (c) (1) An attempt to commit an off-grid felony shall be ranked at
36 nondrug severity level 1. An attempt to commit any other nondrug felony
37 shall be ranked on the nondrug scale at two severity levels below the
38 appropriate level for the underlying or completed crime. The lowest
39 severity level for an attempt to commit a nondrug felony shall be a severity
40 level 10.

41 (2) The provisions of this subsection shall not apply to a violation of
42 attempting to commit the crime of:

43 (A) *Aggravated human trafficking, as defined in subsection (b) of*

1 *section 61 of chapter 136 of the 2010 Session Laws of Kansas, and*
 2 *amendments thereto, if the offender is 18 years of age or older and the*
 3 *victim is less than 14 years of age;*

4 *(B) terrorism pursuant to section 56 as defined in section 56 of chapter*
 5 *136 of the 2010 Session Laws of Kansas, and amendments thereto; or of*

6 *(C) illegal use of weapons of mass destruction pursuant to section 57*
 7 *as defined in section 57 of chapter 136 of the 2010 Session Laws of*
 8 *Kansas, and amendments thereto;*

9 *(D) rape, as defined in subsection (a)(3) of section 67 of chapter 136*
 10 *of the 2010 Session Laws of Kansas, and amendments thereto, if the*
 11 *offender is 18 years of age or older;*

12 *(E) aggravated indecent liberties with a child, as defined in*
 13 *subsection (b)(3) of section 70 of chapter 136 of the 2010 Session Laws of*
 14 *Kansas, and amendments thereto, if the offender is 18 years of age or*
 15 *older;*

16 *(F) aggravated criminal sodomy, as defined in subsection (b)(1) or*
 17 *(b)(2) of section 68 of chapter 136 of the 2010 Session Laws of Kansas,*
 18 *and amendments thereto, if the offender is 18 years of age or older;*

19 *(G) promoting prostitution, as defined in section 230 of chapter 136*
 20 *of the 2010 Session Laws of Kansas, and amendments thereto, if the*
 21 *offender is 18 years of age or older and the prostitute is less than 14 years*
 22 *of age; or*

23 *(H) sexual exploitation of a child, as defined in subsection (a)(1) or*
 24 *(a)(4) of section 74 of chapter 136 of the 2010 Session Laws of Kansas,*
 25 *and amendments thereto, if the offender is 18 years of age or older and the*
 26 *child is less than 14 years of age.*

27 *(d) (1) An attempt to commit a felony which prescribes a sentence*
 28 *on the drug grid shall reduce the prison term prescribed in the drug grid*
 29 *block for an underlying or completed crime by six months.*

30 *(2) The provisions of this subsection shall not apply to a violation of*
 31 *attempting to commit a violation of K.S.A. 2010 Supp. 21-36a03, and*
 32 *amendments thereto.*

33 *(e) An attempt to commit a class A person misdemeanor is a class B*
 34 *person misdemeanor. An attempt to commit a class A nonperson*
 35 *misdemeanor is a class B nonperson misdemeanor.*

36 *(f) An attempt to commit a class B or C misdemeanor is a class C*
 37 *misdemeanor.*

38
 39 *Sec. 15. Section 34 of chapter 136 of the 2010 Session Laws of*
 40 *Kansas is hereby amended to read as follows: Sec. 34. (a) A conspiracy is*
 41 *an agreement with another person to commit a crime or to assist in*
 42 *committing a crime. No person may be convicted of a conspiracy unless an*
 43 *overt act in furtherance of such conspiracy is alleged and proved to have*

1 been committed by such person or by a co-conspirator.

2 (b) It shall be a defense to a charge of conspiracy that the accused
3 voluntarily and in good faith withdrew from the conspiracy, and
4 communicated the fact of such withdrawal to one or more of the accused
5 person's co-conspirators, before any overt act in furtherance of the
6 conspiracy was committed by the accused or by a co-conspirator.

7 (c) (1) Conspiracy to commit an off-grid felony shall be ranked at
8 nondrug severity level 2. Conspiracy to commit any other nondrug felony
9 shall be ranked on the nondrug scale at two severity levels below the
10 appropriate level for the underlying or completed crime. The lowest
11 severity level for conspiracy to commit a nondrug felony shall be a
12 severity level 10.

13 (2) The provisions of this subsection shall not apply to a violation of
14 conspiracy to commit the crime of:

15 (A) *Aggravated human trafficking, as defined in subsection (b) of*
16 *section 61 of chapter 136 of the 2010 Session Laws of Kansas, and*
17 *amendments thereto, if the offender is 18 years of age or older and the*
18 *victim is less than 14 years of age;*

19 (B) *terrorism pursuant to as defined in section 56 of chapter 136 of the*
20 *2010 Session Laws of Kansas, and amendments thereto;* ~~or of~~

21 (C) *illegal use of weapons of mass destruction pursuant to as defined in*
22 *section 57 of chapter 136 of the 2010 Session Laws of Kansas, and*
23 *amendments thereto;*

24 (D) *rape, as defined in subsection (a)(3) of section 67 of chapter 136*
25 *of the 2010 Session Laws of Kansas, and amendments thereto, if the*
26 *offender is 18 years of age or older;*

27 (E) *aggravated indecent liberties with a child, as defined in*
28 *subsection (b)(3) of section 70 of chapter 136 of the 2010 Session Laws of*
29 *Kansas, and amendments thereto, if the offender is 18 years of age or*
30 *older;*

31 (F) *aggravated criminal sodomy, as defined in subsection (b)(1) or*
32 *(b)(2) of section 68 of chapter 136 of the 2010 Session Laws of Kansas,*
33 *and amendments thereto, if the offender is 18 years of age or older;*

34 (G) *promoting prostitution, as defined in section 230 of chapter 136*
35 *of the 2010 Session Laws of Kansas, and amendments thereto, if the*
36 *offender is 18 years of age or older and the prostitute is less than 14 years*
37 *of age; or*

38 (H) *sexual exploitation of a child, as defined in subsection (a)(1) or*
39 *(a)(4) of section 74 of chapter 136 of the 2010 Session Laws of Kansas,*
40 *and amendments thereto, if the offender is 18 years of age or older and the*
41 *child is less than 14 years of age.*

42 (d) Conspiracy to commit a felony which prescribes a sentence on the
43 drug grid shall reduce the prison term prescribed in the drug grid block for

1 an underlying or completed crime by six months.

2 (e) A conspiracy to commit a misdemeanor is a class C misdemeanor.

3 Sec. 16. Section 35 of chapter 136 of the 2010 Session Laws of
4 Kansas is hereby amended to read as follows: Sec. 35. (a) Criminal
5 solicitation is commanding, encouraging or requesting another person to
6 commit a felony, attempt to commit a felony or aid and abet in the
7 commission or attempted commission of a felony for the purpose of
8 promoting or facilitating the felony.

9 (b) It is immaterial under subsection (a) that the actor fails to
10 communicate with the person solicited to commit a felony if the person's
11 conduct was designed to effect a communication.

12 (c) It is an affirmative defense that the actor, after soliciting another
13 person to commit a felony, persuaded that person not to do so or otherwise
14 prevented the commission of the felony, under circumstances manifesting
15 a complete and voluntary renunciation of the actor's criminal purposes.

16 (d) (1) Criminal solicitation to commit an off-grid felony shall be
17 ranked at nondrug severity level 3. Criminal solicitation to commit any
18 other nondrug felony shall be ranked on the nondrug scale at three severity
19 levels below the appropriate level for the underlying or completed crime.
20 The lowest severity level for criminal solicitation to commit a nondrug
21 felony shall be a severity level 10.

22 (2) The provisions of this subsection shall not apply to a violation of
23 criminal solicitation to commit the crime of:

24 (A) *Aggravated human trafficking, as defined in subsection (b) of*
25 *section 61 of chapter 136 of the 2010 Session Laws of Kansas, and*
26 *amendments thereto, if the offender is 18 years of age or older and the*
27 *victim is less than 14 years of age;*

28 (B) *terrorism pursuant to as defined in section 56 of chapter 136 of the*
29 *2010 Session Laws of Kansas, and amendments thereto;* ~~or of~~

30 (C) *illegal use of weapons of mass destruction pursuant to as defined*
31 *in section 57 of chapter 136 of the 2010 Session Laws of Kansas, and*
32 *amendments thereto;*

33 (D) *rape, as defined in subsection (a)(3) of section 67 of chapter 136*
34 *of the 2010 Session Laws of Kansas, and amendments thereto, if the*
35 *offender is 18 years of age or older;*

36 (E) *aggravated indecent liberties with a child, as defined in*
37 *subsection (b)(3) of section 70 of chapter 136 of the 2010 Session Laws of*
38 *Kansas, and amendments thereto, if the offender is 18 years of age or*
39 *older;*

40 (F) *aggravated criminal sodomy, as defined in subsection (b)(1) or*
41 *(b)(2) of section 68 of chapter 136 of the 2010 Session Laws of Kansas,*
42 *and amendments thereto, if the offender is 18 years of age or older;*

43 (G) *promoting prostitution, as defined in section 230 of chapter 136*

1 of the 2010 Session Laws of Kansas, and amendments thereto, if the
2 offender is 18 years of age or older and the prostitute is less than 14 years
3 of age; or

4 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
5 (a)(4) of section 74 of chapter 136 of the 2010 Session Laws of Kansas,
6 and amendments thereto, if the offender is 18 years of age or older and the
7 child is less than 14 years of age.

8 (e) Criminal solicitation to commit a felony which prescribes a
9 sentence on the drug grid shall reduce the prison term prescribed in the
10 drug grid block for an underlying or completed crime by six months.

11 Sec. 17. Section 39 of chapter 136 of the 2010 Session Laws of
12 Kansas is hereby amended to read as follows: Sec. 39. (a) Voluntary
13 manslaughter is knowingly killing a human being committed:

14 (1) Upon a sudden quarrel or in the heat of passion; or

15 (2) upon an unreasonable but honest belief that circumstances existed
16 that justified *use of* deadly force under section 21, 22 or 23 of *chapter 136*
17 *of the 2010 Session Laws of Kansas*, and amendments thereto.

18 (b) Voluntary manslaughter is a severity level 3, person felony.

19 Sec. 18. Section 47 of chapter 136 of the 2010 Session Laws of
20 Kansas is hereby amended to read as follows: Sec. 47. (a) Assault is
21 knowingly placing another person in reasonable apprehension of
22 immediate bodily harm;

23 (b) Aggravated assault is assault, as ~~described~~ *defined* in subsection
24 (a), committed:

25 (1) With a deadly weapon;

26 (2) while disguised in any manner designed to conceal identity; or

27 (3) with intent to commit any felony.

28 (c) Assault of a law enforcement officer is assault, as defined in
29 subsection (a), committed against:

30 (1) A uniformed or properly identified state, county or city law
31 enforcement officer while such officer is engaged in the performance of
32 such officer's duty; or

33 (2) a uniformed or properly identified university or campus police
34 officer while such officer is engaged in the performance of such officer's
35 duty.

36 (d) Aggravated assault of a law enforcement officer is assault of a law
37 enforcement officer, as defined in subsection (c), committed:

38 (1) With a deadly weapon;

39 (2) while disguised in any manner designed to conceal identity; or

40 (3) with intent to commit any felony.

41 (e) (1) Assault is a class C person misdemeanor.

42 (2) Aggravated assault is a severity level 7, person felony.

43 (3) Assault of a law enforcement officer is a class A person

1 misdemeanor.

2 (4) Aggravated assault of a law enforcement officer is a severity level
3 6, person felony. A person convicted of aggravated assault of a law
4 enforcement officer shall be subject to the provisions of subsection (g) of
5 section 285 *of chapter 136 of the 2010 Session Laws of Kansas*, and
6 amendments thereto.

7 Sec. 19. Section 48 of chapter 136 of the 2010 Session Laws of
8 Kansas is hereby amended to read as follows: Sec. 48. (a) Battery is:

9 (1) Knowingly or recklessly causing bodily harm to another person;
10 or

11 (2) knowingly causing physical contact with another person when
12 done in a rude, insulting or angry manner;

13 (b) Aggravated battery is:

14 (1) (A) Knowingly causing great bodily harm to another person or
15 disfigurement of another person;

16 (B) knowingly causing bodily harm to another person with a deadly
17 weapon, or in any manner whereby great bodily harm, disfigurement or
18 death can be inflicted; or

19 (C) knowingly causing physical contact with another person when
20 done in a rude, insulting or angry manner with a deadly weapon, or in any
21 manner whereby great bodily harm, disfigurement or death can be
22 inflicted;

23 (2) (A) recklessly causing great bodily harm to another person or
24 disfigurement of another person; or

25 (B) recklessly causing bodily harm to another person with a deadly
26 weapon, or in any manner whereby great bodily harm, disfigurement or
27 death can be inflicted.

28 (c) Battery against a law enforcement officer is:

29 (1) Battery, as defined in subsection (a)(2), committed against a:

30 (A) Uniformed or properly identified university or campus police
31 officer while such officer is engaged in the performance of such officer's
32 duty; or

33 (B) uniformed or properly identified state, county or city law
34 enforcement officer, other than a state correctional officer or employee, a
35 city or county correctional officer or employee, a juvenile correctional
36 facility officer or employee or a juvenile detention facility ~~office~~ *officer*, or
37 employee, while such officer is engaged in the performance of such
38 officer's duty; or

39 (2) battery, as defined in subsection (a)(1), committed against a:

40 (A) Uniformed or properly identified university or campus police
41 officer while such officer is engaged in the performance of such officer's
42 duty; or

43 (B) uniformed or properly identified state, county or city law

1 enforcement officer, other than a state correctional officer or employee, a
2 city or county correctional officer or employee, a juvenile correctional
3 facility officer or employee or a juvenile detention facility office, or
4 employee, while such officer is engaged in the performance of such
5 officer's duty; or

6 (3) battery, as defined in subsection (a) committed against a:

7 (A) State correctional officer or employee by a person in custody of
8 the secretary of corrections, while such officer or employee is engaged in
9 the performance of such officer's or employee's duty;

10 (B) juvenile correctional facility officer or employee by a person
11 confined in such juvenile correctional facility, while such officer or
12 employee is engaged in the performance of such officer's or employee's
13 duty;

14 (C) juvenile detention facility officer or employee by a person
15 confined in such juvenile detention facility, while such officer or employee
16 is engaged in the performance of such officer's or employee's duty; or

17 (D) city or county correctional officer or employee by a person
18 confined in a city holding facility or county jail facility, while such officer
19 or employee is engaged in the performance of such officer's or employee's
20 duty.

21 (d) Aggravated battery against a law enforcement officer is:

22 (1) An aggravated battery, as defined in subsection (b)(1)(~~a~~)(A)
23 committed against a:

24 (A) Uniformed or properly identified state, county or city law
25 enforcement officer while the officer is engaged in the performance of the
26 officer's duty; or

27 (B) uniformed or properly identified university or campus police
28 officer while such officer is engaged in the performance of such officer's
29 duty;

30 (2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)
31 (C), committed against a:

32 (A) Uniformed or properly identified state, county or city law
33 enforcement officer while the officer is engaged in the performance of the
34 officer's duty; or

35 (B) uniformed or properly identified university or campus police
36 officer while such officer is engaged in the performance of such officer's
37 duty; or

38 (3) knowingly causing, with a motor vehicle, bodily harm to a:

39 (A) Uniformed or properly identified state, county or city law
40 enforcement officer while the officer is engaged in the performance of the
41 officer's duty; or

42 (B) uniformed or properly identified university or campus police
43 officer while such officer is engaged in the performance of such officer's

1 duty.

2 (e) Battery against a school employee is a battery, as defined in
3 subsection (a), committed against a school employee in or on any school
4 property or grounds upon which is located a building or structure used by a
5 unified school district or an accredited nonpublic school for student
6 instruction or attendance or extracurricular activities of pupils enrolled in
7 kindergarten or any of the grades one through 12 or at any regularly
8 scheduled school sponsored activity or event, while such employee is
9 engaged in the performance of such employee's duty.

10 (f) Battery against a mental health employee is a battery, as defined in
11 subsection (a), committed against a mental health employee by a person in
12 the custody of the secretary of social and rehabilitation services, while
13 such employee is engaged in the performance of such employee's duty.

14 (g) (1) Battery is a class B person misdemeanor.

15 (2) Aggravated battery as defined in:

16 (A) Subsection (b)(1)(A) is a severity level 4, person felony;

17 (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person
18 felony;

19 (C) subsection (b)(2)(A) is a severity level 5, person felony; and

20 (D) subsection (b)(2)(B) is a severity level 8, person felony.

21 (3) Battery against a law enforcement officer as defined in:

22 (A) Subsection (c)(1) is a class A person misdemeanor;

23 (B) subsection (c)(2) is a severity level 7, person felony; and

24 (C) subsection (c)(3) is a severity level 5, person felony.

25 (4) Aggravated battery against a law enforcement officer as defined
26 in:

27 (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony;

28 and

29 (B) subsection (d)(2) is a severity level 4, person felony.

30 (5) Battery against a school employee is a class A person
31 misdemeanor.

32 (6) Battery against a mental health employee is a severity level 7,
33 person felony.

34 (h) As used in this section:

35 (1) "Correctional institution" means any institution or facility under
36 the supervision and control of the secretary of corrections;

37 (2) "state correctional officer or employee" means any officer or
38 employee of the Kansas department of corrections or any independent
39 contractor, or any employee of such contractor, working at a correctional
40 institution;

41 (3) "juvenile correctional facility officer or employee" means any
42 officer or employee of the juvenile justice authority or any independent
43 contractor, or any employee of such contractor, working at a juvenile

1 correctional facility, as defined in K.S.A. ~~2009~~2010 Supp. 38-2302, and
2 amendments thereto;

3 (4) "juvenile detention facility officer or employee" means any officer
4 or employee of a juvenile detention facility as defined in K.S.A. ~~2009~~2010
5 Supp. 38-2302, and amendments thereto;

6 (5) "city or county correctional officer or employee" means any
7 correctional officer or employee of the city or county or any independent
8 contractor, or any employee of such contractor, working at a city holding
9 facility or county jail facility;

10 (6) "school employee" means any employee of a unified school
11 district or an accredited nonpublic school for student instruction or
12 attendance or extracurricular activities of pupils enrolled in kindergarten or
13 any of the grades one through 12; and

14 (7) "mental health employee" means an employee of the department
15 of social and rehabilitation services working at Larned state hospital,
16 Osawatomie state hospital and Rainbow mental health facility, Kansas
17 neurological institute and Parsons state hospital and training center and the
18 treatment staff as defined in K.S.A. 59-29a02, and amendments thereto.

19 Sec. 20. Section 49 of chapter 136 of the 2010 Session Laws of
20 Kansas is hereby amended to read as follows: Sec. 49. (a) Domestic
21 battery is:

22 (1) *Knowingly or* recklessly causing bodily harm by a family or
23 household member against a family or household member; or

24 (2) knowingly causing physical contact with a family or household
25 member by a family or household member when done in a rude, insulting
26 or angry manner.

27 (b) Domestic battery is a:

28 (1) Class B person misdemeanor and the offender shall be sentenced
29 to not less than 48 consecutive hours nor more than six months'
30 imprisonment and fined not less than \$200, nor more than \$500 or in the
31 court's discretion the court may enter an order which requires the offender
32 enroll in and successfully complete a domestic violence prevention
33 program, except as provided in subsection (b)(2) or (b)(3);

34 (2) class A person misdemeanor, if, within five years immediately
35 preceding commission of the crime, an offender is convicted of domestic
36 battery a second time and the offender shall be sentenced to not less than
37 90 days nor more than one year's imprisonment and fined not less than
38 \$500 nor more than \$1,000, except as provided in subsection (b)(3). The
39 five days imprisonment mandated by this paragraph may be served in a
40 work release program only after such offender has served 48 consecutive
41 hours imprisonment, provided such work release program requires such
42 offender to return to confinement at the end of each day in the work
43 release program. The offender shall serve at least five consecutive days

1 imprisonment before the offender is granted probation, suspension or
2 reduction of sentence or parole or is otherwise released. As a condition of
3 any grant of probation, suspension of sentence or parole or of any other
4 release, the offender shall be required to enter into and complete a
5 treatment program for domestic violence prevention; and

6 (3) person felony, if, within five years immediately preceding
7 commission of the crime, an offender is convicted of domestic battery a
8 third or subsequent time, and the offender shall be sentenced to not less
9 than 90 days nor more than one year's imprisonment and fined not less
10 than \$1,000 nor more than \$7,500. The offender convicted shall not be
11 eligible for release on probation, suspension or reduction of sentence or
12 parole until the offender has served at least 90 days imprisonment. The
13 court shall require as a condition of parole that such offender enter into
14 and complete a treatment program for domestic violence. If the offender
15 does not enter into and complete a treatment program for domestic
16 violence, the offender shall serve not less than 180 days nor more than one
17 year's imprisonment. The 90 days imprisonment mandated by this
18 paragraph may be served in a work release program only after such
19 offender has served 48 consecutive hours imprisonment, provided such
20 work release program requires such offender to return to confinement at
21 the end of each day in the work release program.

22 (c) As used in this section:

23 (1) "Family or household member" means persons 18 years of age or
24 older who are spouses, former spouses, parents or stepparents and children
25 or stepchildren, and persons who are presently residing together or who
26 have resided together in the past, and persons who have a child in common
27 regardless of whether they have been married or who have lived together
28 at any time. "Family or household member" also includes a man and
29 woman if the woman is pregnant and the man is alleged to be the father,
30 regardless of whether they have been married or have lived together at any
31 time; and

32 (2) for the purpose of determining whether a conviction is a first,
33 second, third or subsequent conviction in sentencing under this section:

34 (A) "Conviction" includes being convicted of a violation of K.S.A.
35 21-3412a, prior to its repeal, this section or entering into a diversion or
36 deferred judgment agreement in lieu of further criminal proceedings on a
37 complaint alleging a violation of this section;

38 (B) "conviction" includes being convicted of a violation of a law of
39 another state, or an ordinance of any city, or resolution of any county,
40 which prohibits the acts that this section prohibits or entering into a
41 diversion or deferred judgment agreement in lieu of further criminal
42 proceedings in a case alleging a violation of such law, ordinance or
43 resolution;

1 (C) only convictions occurring in the immediately preceding five
2 years including prior to ~~the effective date of this act~~ *July 1, 2001* shall be
3 taken into account, but the court may consider other prior convictions in
4 determining the sentence to be imposed within the limits provided for a
5 first, second, third or subsequent offender, whichever is applicable; and

6 (D) it is irrelevant whether an offense occurred before or after
7 conviction for a previous offense.

8 (d) A person may enter into a diversion agreement in lieu of further
9 criminal proceedings for a violation of this section or an ordinance of any
10 city or resolution of any county which prohibits the acts that this section
11 prohibits only twice during any ~~three-year~~ *five-year* period.

12 Sec. 21. Section 52 of chapter 136 of the 2010 Session Laws of
13 Kansas is hereby amended to read as follows: Sec. 52. (a) Mistreatment of
14 a dependent adult is knowingly committing one or more of the following
15 acts:

16 (1) Infliction of physical injury, unreasonable confinement or ~~eruel~~
17 *unreasonable* punishment upon a dependent adult;

18 (2) taking unfair advantage of a dependent adult's physical or
19 financial resources for another individual's personal or financial advantage
20 by the use of undue influence, coercion, harassment, duress, deception,
21 false representation or false pretense ~~by a caretaker or another person~~; or

22 (3) ~~omitting or depriving~~ *omission or deprivation* of treatment, goods
23 or services ~~by a caretaker or another person~~ *which* ~~that~~ are necessary to
24 maintain physical or mental health of a dependent adult.

25 (b) Mistreatment of a dependent adult as defined in:

26 (1) Subsection (a)(1) is a severity level 6, person felony;

27 (2) subsection (a)(2) is ~~a severity level 6, person felony~~ if the
28 aggregate amount of the value of the resources is \$100,000 or more;

29 (3) ~~subsection (a)(2) is a severity level 7, person felony if the~~
30 ~~aggregate amount of the value of the resources is at least \$25,000 but less~~
31 ~~than \$100,000;~~

32 (4) ~~subsection (a)(2) is a severity level 9, person felony if the~~
33 ~~aggregate amount of the value of the resources is at least \$1,000 but less~~
34 ~~than \$25,000;~~

35 (5) ~~subsection (a)(2) is a:~~

36 (A) ~~Class A person misdemeanor if the aggregate amount of the value~~
37 ~~of the resources is less than \$1,000, except as provided in subsection (b)(5)~~
38 ~~(B); and~~

39 (B) ~~severity level 9, person felony, if:~~

40 (A) *\$1,000,000 or more is a severity level 2, person felony;*

41 (B) *at least \$250,000 but less than \$1,000,000 is a severity level 3,*
42 *person felony;*

43 (C) *at least \$100,000 but less than \$250,000 is a severity level 4,*

1 *person felony;*

2 (D) *at least \$25,000 but less than \$100,000 is a severity level 5,*
3 *person felony;*

4 (E) *at least \$1,000 but less than \$25,000 is a severity level 7, person*
5 *felony;*

6 (F) *less than \$1,000 is a class A person misdemeanor, except as*
7 *provided in subsection (b)(2)(G); and*

8 (G) *less than \$1,000 and committed by a person who has, within five*
9 *years immediately preceding commission of the crime, the offender has*
10 *been convicted of mistreatment of a dependent adult two or more times is*
11 *a severity level 7, person felony; and*

12 ~~(6)(3) subsection (a)(3) is a class A person misdemeanor severity~~
13 ~~level 8, person felony.~~

14 (c) No dependent adult is considered to be mistreated for the sole
15 reason that such dependent adult relies upon or is being furnished
16 treatment by spiritual means through prayer in lieu of medical treatment in
17 accordance with the tenets and practices of a recognized church or
18 religious denomination of which such dependent adult is a member or
19 adherent.

20 (d) As used in this section, "dependent adult" means an individual 18
21 years of age or older who is unable to protect the individual's own interest.
22 Such term shall include, but is not limited to, any:

23 (1) Resident of an adult care home including, but not limited to, those
24 facilities defined by K.S.A. 39-923, and amendments thereto;

25 (2) adult cared for in a private residence;

26 (3) individual kept, cared for, treated, boarded, confined or otherwise
27 accommodated in a medical care facility;

28 (4) individual with mental retardation or a developmental disability
29 receiving services through a community mental retardation facility or
30 residential facility licensed under K.S.A. 75-3307b, and amendments
31 thereto;

32 (5) individual with a developmental disability receiving services
33 provided by a community service provider as provided in the
34 developmental disability reform act; or

35 (6) individual kept, cared for, treated, boarded, confined or otherwise
36 accommodated in a state psychiatric hospital or state institution for the
37 mentally retarded.

38 (e) An offender who violates the provisions of this section may also
39 be prosecuted for, convicted of, and punished for any other offense in
40 sections 36 through 125 of chapter 136 of the 2010 Session Laws of
41 Kansas, and amendments thereto.

42 Sec. 22. Section 53 of chapter 136 of the 2010 Session Laws of
43 Kansas is hereby amended as follows: Sec. 53. (a) Hazing is recklessly

1 coercing, demanding or encouraging another person to perform, as a
2 condition of membership in a social or fraternal organization, any act
3 which could reasonably be expected to result in great bodily harm,
4 disfigurement or death or which is done in a manner whereby great bodily
5 harm, disfigurement or death could be inflicted.

6 (b) ~~Promoting or permitting~~ Hazing is a class B nonperson
7 misdemeanor.

8 Sec. 23. Section 56 of chapter 136 of the 2010 Session Laws of
9 Kansas is hereby amended to read as follows: Sec. 56. (a) Terrorism is the
10 commission of, the attempt to commit, the conspiracy to commit, or the
11 criminal solicitation to commit any felony with the intent to:

12 (1) Intimidate or coerce the civilian population;

13 (2) influence government policy by intimidation or coercion; or

14 (3) affect the operation of any unit of government.

15 (b) *Terrorism or attempt, conspiracy or criminal solicitation to*
16 *commit terrorism* is an off-grid person felony.

17 (c) The provisions of subsection (c) of section 33 *of chapter 136 of*
18 *the 2010 Session Laws of Kansas*, and amendments thereto, shall not apply
19 to a violation of attempting to commit the crime of terrorism pursuant to
20 this section. The provisions of subsection (c) of section 34 *of chapter 136*
21 *of the 2010 Session Laws of Kansas*, and amendments thereto, shall not
22 apply to a violation of conspiracy to commit the crime of terrorism
23 pursuant to this section. The provisions of subsection (d) of section 35 *of*
24 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
25 shall not apply to a violation of criminal solicitation to commit the crime
26 of terrorism pursuant to this section.

27 Sec. 24. Section 57 of chapter 136 of the 2010 Session Laws of
28 Kansas is hereby amended to read as follows: Sec. 57. (a) The illegal use
29 of weapons of mass destruction is:

30 (1) Knowingly and without lawful authority, developing, producing,
31 stockpiling, transferring, acquiring, retaining or possessing any:

32 (A) Biological agent, toxin or delivery system for use as a weapon;

33 (B) chemical weapon; or

34 (C) nuclear materials or nuclear byproduct materials for use as a
35 weapon;

36 (2) knowingly assisting a foreign state or any organization to do any
37 such activities as specified in subsection (a)(1); or

38 (3) ~~attempting, threatening, conspiring or criminally soliciting~~ to do
39 any such activities as specified in subsection (a)(1) or (a)(2).

40 (b) Illegal use of weapons of mass destruction *or attempt, conspiracy*
41 *or criminal solicitation to commit illegal use of weapons of mass*
42 *destruction* is an off-grid person felony.

43 (c) The provisions of subsection (c) of section 33 *of chapter 136 of*

1 *the 2010 Session Laws of Kansas*, and amendments thereto, shall not apply
2 to a violation of attempting to commit the crime of illegal use of weapons
3 of mass destruction pursuant to this section. The provisions of subsection
4 (c) of section 34 *of chapter 136 of the 2010 Session Laws of Kansas*, and
5 amendments thereto, shall not apply to a violation of conspiracy to commit
6 the crime of illegal use of weapons of mass destruction pursuant to this
7 section. The provisions of subsection (d) of section 35 *of chapter 136 of*
8 *the 2010 Session Laws of Kansas*, and amendments thereto, shall not apply
9 to a violation of criminal solicitation to commit the crime of illegal use of
10 weapons of mass destruction pursuant to this section.

11 (d) The following shall not be prohibited under the provisions of this
12 section:

13 (1) Any peaceful purpose related to an industrial, agricultural,
14 research, medical or pharmaceutical activity or other activity;

15 (2) any purpose directly related to protection against toxic chemicals
16 and to protection against chemical weapons;

17 (3) any military purpose of the United States that is not connected
18 with the use of a chemical weapon or that is not dependent on the use of
19 the toxic or poisonous properties of the chemical weapon to cause death or
20 other harm;

21 (4) any law enforcement purpose, including any domestic riot control
22 purpose and including imposition of capital punishment; or

23 (5) any individual self-defense device, including those using a pepper
24 spray or chemical mace.

25 (e) As used in this section:

26 (1) "Biological agent" means any microorganism, virus, infectious
27 substance or biological product that may be engineered as a result of
28 biotechnology, or any naturally occurring or bioengineered component of
29 any such microorganism, virus, infectious substance, or biological product,
30 capable of causing:

31 (A) Death, disease or other biological malfunction in a human, an
32 animal, a plant or another living organism;

33 (B) deterioration of food, water, equipment, supplies or material of
34 any kind; or

35 (C) deleterious alteration of the environment;

36 (2) "chemical weapon" means the following together or separately:

37 (A) A toxic chemical and its precursors, except where intended for a
38 purpose not prohibited under this section, as long as the type and quantity
39 is consistent with such a purpose;

40 (B) a munition or device, specifically designed to cause death or other
41 harm through toxic properties of those toxic chemicals specified in
42 subparagraph (A), which would be released as a result of the employment
43 of such munition or device; or

1 (C) any equipment specifically designed for use directly in
2 connection with the employment of munitions or devices specified in
3 subparagraph (B);

4 (3) "key component of a binary or multicomponent chemical system"
5 means the precursor which plays the most important role in determining
6 the toxic properties of the final product and reacts rapidly with other
7 chemicals in the binary or multicomponent system;

8 (4) "delivery system" means:

9 (A) Any apparatus, equipment, device or means of delivery
10 specifically designed to deliver or disseminate a biological agent, toxin or
11 vector; or

12 (B) any vector;

13 (5) "for use as a weapon" does not include the development,
14 production, transfer, acquisition, retention or possession of any biological
15 agent, toxin or delivery system for prophylactic, protective or other
16 peaceful purposes;

17 (6) "nuclear material" means material containing any:

18 (A) Plutonium;

19 (B) uranium not in the form of ore or ore residue that contains the
20 mixture of isotopes as occurring in nature;

21 (C) enriched uranium, defined as uranium that contains the isotope
22 233 or 235 or both in such amount that the abundance ratio of the sum of
23 those isotopes to the isotope 238 is greater than the ratio of the isotope 235
24 to the isotope 238 occurring in nature; or

25 (D) uranium 233;

26 (7) "nuclear byproduct material" means any material containing any
27 radioactive isotope created through an irradiation process in the operation
28 of a nuclear reactor or accelerator;

29 (8) "precursor" means any chemical reactant which takes part at any
30 stage in the production by whatever method of a toxic chemical.
31 "Precursor" includes any key component of a binary or multicomponent
32 chemical system;

33 (9) "toxic chemical" means any chemical which through its chemical
34 action on life processes can cause death, temporary incapacitation or
35 permanent harm to humans or animals. "Toxic chemical" includes all such
36 chemicals, regardless of their origin or of their method of production, and
37 regardless of whether they are produced in facilities, in munitions or
38 elsewhere;

39 (10) "toxin" means the toxic material of plants, animals,
40 microorganisms, viruses, fungi or infectious substances, or a recombinant
41 molecule, whatever its origin or method of production, including:

42 (A) Any poisonous substance or biological product that may be
43 engineered as a result of biotechnology produced by a living organism; or

1 (B) any poisonous isomer or biological product, homolog or
2 derivative of such a substance; and

3 (11) "vector" means a living organism or molecule, including a
4 recombinant molecule, or biological product that may be engineered as a
5 result of biotechnology, capable of carrying a biological agent or toxin to a
6 host.

7 Sec. 25. Section 60 of chapter 136 of the 2010 Session Laws of
8 Kansas is hereby amended to read as follows: Sec. 60. (a) Unlawful
9 administration of a substance is the administration of a substance to
10 another person without consent with the intent to impair such other
11 person's physical or mental ability to appraise or control such person's
12 conduct.

13 (b) Unlawful administration of a substance is a class A person
14 misdemeanor.

15 (c) This section shall not prohibit administration of any substance
16 described in subsection ~~(b)~~(d) for lawful medical or therapeutic treatment.

17 (d) As used in this section, "administration of a substance" means any
18 method of causing the ingestion by another person of a controlled
19 substance, including gamma hydroxybutyric acid, or any controlled
20 substance analog, as defined in K.S.A. 65-4101, *and amendments thereto*,
21 of gamma hydroxybutyric acid, including gamma butyrolactone;
22 butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone
23 dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
24 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-
25 hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with CAS
26 No. 96-48-0; 1,4 butanediol; butanediol; butane-1,4-diol; 1,4-butylene
27 glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol;
28 tetramethylene glycol; tetramethylene 1,4-diol.

29 Sec. 26. Section 61 of chapter 136 of the 2010 Session Laws of
30 Kansas is hereby amended to read as follows: Sec. 61. (a) *Human*
31 *trafficking* is:

32 ~~(1) Recruiting, harboring, transporting, providing or obtaining, by any~~
33 ~~means, another person with knowledge that force, fraud, threat or coercion~~
34 ~~will be used to cause the person to engage in forced labor or involuntary~~
35 ~~servitude; or~~ *The intentional recruitment, harboring, transportation,*
36 *provision or obtaining of a person for labor or services, through the use of*
37 *force, fraud or coercion for the purpose of subjecting the person to*
38 *involuntary servitude or forced labor;*

39 (2) *intentionally* benefitting financially or by receiving anything of
40 value from participation in a venture that the person has reason to know
41 has engaged in acts set forth in subsection (a)(1);;

42 (3) *knowingly* coercing employment by obtaining or maintaining
43 *labor or services that are performed or provided by another person*

1 through any of the following:

2 (A) Causing or threatening to cause physical injury to any person;

3 (B) physically restraining or threatening to physically restrain
4 another person;

5 (C) abusing or threatening to abuse the law or legal process;

6 (D) threatening to withhold food, lodging or clothing; or

7 (E) knowingly destroying, concealing, removing, confiscating or
8 possessing any actual or purported government identification document of
9 another person; or

10 (4) knowingly holding another person in a condition of peonage in
11 satisfaction of a debt owed the person who is holding such other person.

12 (b) Aggravated human trafficking is:

13 (1) Human trafficking, as defined in subsection (a):

14 (A) Involving the commission or attempted commission of
15 kidnapping, as defined in subsection (a) of section 43 of chapter 136 of the
16 2010 Session Laws of Kansas, and amendments thereto;

17 (B) committed in whole or in part for the purpose of the sexual
18 gratification of the defendant or another; or

19 (C) resulting in a death; or

20 (2) recruiting, harboring, transporting, providing or obtaining, by any
21 means, a person under 18 years of age knowing that the person, with or
22 without force, fraud, threat or coercion, will be used to engage in forced
23 labor, involuntary servitude or sexual gratification of the defendant or
24 another.

25 (c) (1) Human trafficking is a severity level 2, person felony.

26 (2) Aggravated human trafficking is a:

27 ~~(A)~~ severity level 1, person felony, except as provided in subsection
28 (c)(2)(~~B~~); and (3).

29 ~~(B)~~(3) Aggravated human trafficking or attempt, conspiracy or
30 criminal solicitation to commit aggravated human trafficking is an off-grid
31 person felony, when the offender is 18 years of age or older and the victim
32 is less than 14 years of age.

33 (d) If the offender is 18 years of age or older and the victim is less
34 than 14 years of age, the provisions of:

35 (1) Subsection (c) of section 33 of chapter 136 of the 2010 Session
36 Laws of Kansas, and amendments thereto, shall not apply to a violation of
37 attempting to commit the crime of aggravated human trafficking pursuant
38 to this section;

39 (2) subsection (c) of section 34 of chapter 136 of the 2010 Session
40 Laws of Kansas, and amendments thereto, shall not apply to a violation of
41 conspiracy to commit the crime of aggravated human trafficking pursuant
42 to this section; and

43 (3) subsection (d) of section 35 of chapter 136 of the 2010 Session

1 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
2 *criminal solicitation to commit the crime of aggravated human trafficking*
3 *pursuant to this section.*

4 *(e) The provisions of this section shall not apply to the use of the*
5 *labor of any person incarcerated in a state or county correctional facility*
6 *or city jail.*

7 *(f) As used in this section, "peonage" means a condition of*
8 *involuntary servitude in which the victim is forced to work for another*
9 *person by the use or threat of physical restraint or physical injury, or by*
10 *the use or threat of coercion through law or the legal process.*

11 Sec. 27. Section 62 of chapter 136 of the 2010 Session Laws of
12 Kansas is hereby amended to read as follows: Sec. 62. (a) Stalking is:

13 (1) Recklessly engaging in a course of conduct targeted at a specific
14 person which would cause a reasonable person in the circumstances of the
15 targeted person to fear for such person's safety, or the safety of a member
16 of such person's immediate family and the targeted person is actually
17 placed in such fear;

18 (2) engaging in a course of conduct targeted at a specific person with
19 knowledge that the course of conduct will place the targeted person in fear
20 for such person's safety or the safety of a member of such person's
21 immediate family; or

22 (3) after being served with, or otherwise provided notice of, any
23 protective order included in K.S.A. 21-3843, prior to its repeal or section
24 149 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
25 thereto, that prohibits contact with a targeted person, recklessly engaging
26 in at least one act listed in subsection (f)(1) that violates the provisions of
27 the order and would cause a reasonable person to fear for such person's
28 safety, or the safety of a member of such person's immediate family and
29 the targeted person is actually placed in such fear.

30 (b) Stalking as defined in:

31 (1) Subsection (a)(1) is a:

32 (A) Class A person misdemeanor, except as provided in subsection
33 (b)(1)(B); and

34 (B) severity level 7, person felony upon a second or subsequent
35 conviction;

36 (2) subsection (a)(2) is a:

37 (A) Class A person misdemeanor, except as provided in subsection
38 (b)(2)(B); and

39 (B) severity level 5, person felony upon a second or subsequent
40 conviction; and

41 (3) subsection (a)(3) is a:

42 (A) Severity level 9, person felony, except as provided in subsection
43 (b)(3)(B); and

1 (B) severity level 5, person felony, upon a second or subsequent
2 conviction.

3 (c) For the purposes of this section, a person served with a protective
4 order as defined by K.S.A. 21-3843, prior to its repeal ~~and~~ *or* section 149
5 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
6 thereto, or a person who engaged in acts which would constitute stalking,
7 after having been advised by a law enforcement officer, that such person's
8 actions were in violation of this section, shall be presumed to have acted
9 knowingly as to any like future act targeted at the specific person or
10 persons named in the order or as advised by the officer.

11 (d) In a criminal proceeding under this section, a person claiming an
12 exemption, exception or exclusion has the burden of going forward with
13 evidence of the claim.

14 (e) The present incarceration of a person alleged to be violating this
15 section shall not be a bar to prosecution under this section.

16 (f) As used in this section:

17 (1) "Course of conduct" means two or more acts over a period of
18 time, however short, which evidence a continuity of purpose. A course of
19 conduct shall not include constitutionally protected activity nor conduct
20 that was necessary to accomplish a legitimate purpose independent of
21 making contact with the targeted person. A course of conduct shall include,
22 but not be limited to, any of the following acts or a combination thereof:

23 (A) Threatening the safety of the targeted person or a member of such
24 person's immediate family;

25 (B) following, approaching or confronting the targeted person or a
26 member of such person's immediate family;

27 (C) appearing in close proximity to, or entering the targeted person's
28 residence, place of employment, school or other place where such person
29 can be found, or the residence, place of employment or school of a
30 member of such person's immediate family;

31 (D) causing damage to the targeted person's residence or property or
32 that of a member of such person's immediate family;

33 (E) placing an object on the targeted person's property or the property
34 of a member of such person's immediate family, either directly or through
35 a third person;

36 (F) causing injury to the targeted person's pet or a pet belonging to a
37 member of such person's immediate family;

38 (G) any act of communication;

39 (2) "communication" means to impart a message by any method of
40 transmission, including, but not limited to: Telephoning, personally
41 delivering, sending or having delivered, any information or material by
42 written or printed note or letter, package, mail, courier service or electronic
43 transmission, including electronic transmissions generated or

1 communicated via a computer;

2 (3) "computer" means a programmable, electronic device capable of
3 accepting and processing data;

4 (4) "conviction" includes being convicted of a violation of K.S.A. 21-
5 3438, prior to its repeal, this section or a law of another state which
6 prohibits the acts that this section prohibits; and

7 (5) "immediate family" means father, mother, stepparent, child,
8 stepchild, sibling, spouse or grandparent of the targeted person; any person
9 residing in the household of the targeted person; or any person involved in
10 an intimate relationship with the targeted person.

11 Sec. 28. Section 64 of chapter 136 of the 2010 Session Laws of
12 Kansas is hereby amended to read as follows: Sec. 64. (a) Blackmail is
13 *intentionally* gaining or attempting to gain anything of value or compelling
14 or attempting to compel another to act against such person's will, by
15 threatening to communicate accusations or statements, about any person
16 that would subject such person or any other person to public ridicule,
17 contempt or degradation.

18 (b) Blackmail is a severity level 7, nonperson felony.

19 Sec. 29. Section 67 of chapter 136 of the 2010 Session Laws of
20 Kansas is hereby amended to read as follows: Sec. 67. (a) Rape is:

21 (1) Knowingly engaging in sexual intercourse with a victim who does
22 not consent to the sexual intercourse under any of the following
23 circumstances:

24 (A) When the victim is overcome by force or fear; or

25 (B) when the victim is unconscious or physically powerless;:

26 (2) Knowingly engaging in sexual intercourse with a victim when the
27 victim is incapable of giving consent because of mental deficiency or
28 disease, or when the victim is incapable of giving consent because of the
29 effect of any alcoholic liquor, narcotic, drug or other substance, which
30 condition was known by the offender or was reasonably apparent to the
31 offender;

32 (3) sexual intercourse with a child who is under 14 years of age;

33 (4) sexual intercourse with a victim when the victim's consent was
34 obtained through a knowing misrepresentation made by the offender that
35 the sexual intercourse was a medically or therapeutically necessary
36 procedure; or

37 (5) sexual intercourse with a victim when the victim's consent was
38 obtained through a knowing misrepresentation made by the offender that
39 the sexual intercourse was a legally required procedure within the scope of
40 the offender's authority.

41 (b)(1) Rape as defined in:

42 ~~(1)~~(A) Subsection (a)(1) or (a)(2) is a severity level 1, person felony;

43 ~~(2)~~(B) subsection (a)(3) is a

1 (A) severity level 1, person felony, except as provided in subsection
2 (b)(2)(B); and

3 ~~(B) off-grid person felony, when the offender is 18 years of age or~~
4 ~~older; and~~

5 ~~(C)~~ (C) subsection (a)(4) or (a)(5) is a severity level 2, person felony.

6 (2) Rape as defined in subsection (a)(3) or attempt, conspiracy or
7 criminal solicitation to commit rape as defined in subsection (a)(3) is an
8 off-grid person felony, when the offender is 18 years of age or older.

9 (c) If the offender is 18 years of age or older, the provisions of:

10 (1) Subsection (c) of section 33 of chapter 136 of the 2010 Session
11 Laws of Kansas, and amendments thereto, shall not apply to a violation of
12 attempting to commit the crime of rape as defined in subsection (a)(3);

13 (2) subsection (c) of section 34 of chapter 136 of the 2010 Session
14 Laws of Kansas, and amendments thereto, shall not apply to a violation of
15 conspiracy to commit the crime of rape as defined in subsection (a)(3);
16 and

17 (3) subsection (d) of section 35 of chapter 136 of the 2010 Session
18 Laws of Kansas, and amendments thereto, shall not apply to a violation of
19 criminal solicitation to commit the crime of rape as defined in subsection
20 (a)(3).

21 ~~(e)(d)~~ (d) It shall be a defense to a prosecution of rape under subsection
22 (a)(3) that the child was married to the accused at the time of the offense.

23 ~~(e)~~ (e) Except as provided in subsection (a)(2), it shall not be a
24 defense that the offender did not know or have reason to know that the
25 victim did not consent to the sexual intercourse, that the victim was
26 overcome by force or fear, or that the victim was unconscious or
27 physically powerless.

28 Sec. 30. Section 68 of chapter 136 of the 2010 Session Laws of
29 Kansas is hereby amended to read as follows: Sec. 68. (a) Criminal
30 sodomy is:

31 (1) Sodomy between persons who are 16 or more years of age and
32 members of the same sex;

33 (2) sodomy between a person and an animal;

34 (3) sodomy with a child who is 14 or more years of age but less than
35 16 years of age; or

36 (4) causing a child 14 or more years of age but less than 16 years of
37 age to engage in sodomy with any person or animal.

38 (b) Aggravated criminal sodomy is:

39 (1) Sodomy with a child who is under 14 years of age;

40 (2) causing a child under 14 years of age to engage in sodomy with
41 any person or an animal; or

42 (3) sodomy with a victim who does not consent to the sodomy or
43 causing a victim, without the victim's consent, to engage in sodomy with

- 1 any person or an animal under any of the following circumstances:
- 2 (A) When the victim is overcome by force or fear;
- 3 (B) when the victim is unconscious or physically powerless; or
- 4 (C) when the victim is incapable of giving consent because of mental
- 5 deficiency or disease, or when the victim is incapable of giving consent
- 6 because of the effect of any alcoholic liquor, narcotic, drug or other
- 7 substance, which condition was known by, or was reasonably apparent to,
- 8 the offender.
- 9 (c) (1) Criminal sodomy as defined in:
- 10 (A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor;
- 11 and
- 12 (B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.
- 13 ~~(e)~~ (2) Aggravated criminal sodomy as defined in:
- 14 (A) Subsection (b)(3) is a severity level 1, person felony; and
- 15 (B) subsection (b)(1) or (b)(2) is a:
- 16 ~~(i)~~ severity level 1, person felony, except as provided in subsection
- 17 ~~(c)(2)(B)(ii); and (3).~~
- 18 ~~(ii) off-grid person felony, when the offender is 18 years of age or~~
- 19 ~~older.~~
- 20 (3) *Aggravated criminal sodomy as defined in subsection (b)(1) or*
- 21 *(b)(2) or attempt, conspiracy or criminal solicitation to commit*
- 22 *aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) is an*
- 23 *off-grid person felony, when the offender is 18 years of age or older.*
- 24 (d) *If the offender is 18 years of age or older, the provisions of:*
- 25 (1) *Subsection (c) of section 33 of chapter 136 of the 2010 Session*
- 26 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
- 27 *attempting to commit the crime of aggravated criminal sodomy as defined*
- 28 *in subsection (b)(1) or (b)(2);*
- 29 (2) *subsection (c) of section 34 of chapter 136 of the 2010 Session*
- 30 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
- 31 *conspiracy to commit the crime of aggravated criminal sodomy as defined*
- 32 *in subsection (b)(1) or (b)(2); and*
- 33 (3) *subsection (d) of section 35 of chapter 136 of the 2010 Session*
- 34 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
- 35 *criminal solicitation to commit the crime of aggravated criminal sodomy*
- 36 *as defined in subsection (b)(1) or (b)(2).*
- 37 ~~(d)~~(e) It shall be a defense to a prosecution of criminal sodomy, as
- 38 defined in subsection (a)(3), and aggravated criminal sodomy, as defined
- 39 in subsection (b)(1), that the child was married to the accused at the time
- 40 of the offense.
- 41 ~~(e)~~(f) Except as provided in subsection (b)(3)(C), it shall not be a
- 42 defense that the offender did not know or have reason to know that the
- 43 victim did not consent to the sodomy, that the victim was overcome by

1 force or fear, or that the victim was unconscious or physically powerless.

2 Sec. 31. Section 70 of chapter 136 of the 2010 Session Laws of
3 Kansas is hereby amended to read as follows: Sec. 70. (a) Indecent
4 liberties with a child is engaging in any of the following acts with a child
5 who is 14 *or more* years of age but less than 16 years of age:

6 (1) Any lewd fondling or touching of the person of either the child or
7 the offender, done or submitted to with the intent to arouse or to satisfy the
8 sexual desires of either the child or the offender, or both; or

9 (2) soliciting the child to engage in any lewd fondling or touching of
10 the person of another with the intent to arouse or satisfy the sexual desires
11 of the child, the offender or another.

12 (b) Aggravated indecent liberties with a child is:

13 (1) Sexual intercourse with a child who is 14 or more years of age but
14 less than 16 years of age;

15 (2) engaging in any of the following acts with a child who is 14 or
16 more years of age but less than 16 years of age and who does not consent
17 thereto:

18 (A) Any lewd fondling or touching of the person of either the child or
19 the offender, done or submitted to with the intent to arouse or to satisfy the
20 sexual desires of either the child or the offender, or both; or

21 (B) causing the child to engage in any lewd fondling or touching of
22 the person of another with the intent to arouse or satisfy the sexual desires
23 of the child, the offender or another; or

24 (3) engaging in any of the following acts with a child who is under 14
25 years of age:

26 (A) Any lewd fondling or touching of the person of either the child or
27 the offender, done or submitted to with the intent to arouse or to satisfy the
28 sexual desires of either the child or the offender, or both; or

29 (B) soliciting the child to engage in any lewd fondling or touching of
30 the person of another with the intent to arouse or satisfy the sexual desires
31 of the child, the offender or another.

32 (c) (1) Indecent liberties with a child is a severity level 5, person
33 felony.

34 (2) Aggravated indecent liberties with a child as defined in:

35 (A) Subsection (b)(1) is a severity level 3, person felony;

36 (B) subsection (b)(2) is a severity level 4, person felony; and

37 (C) subsection (b)(3) is a:

38 (i) severity level 3, person felony, except as provided in subsection
39 (c)(2)(C)(ii); and (3).

40 (ii) ~~off-grid person felony, when the offender is 18 years of age or~~
41 ~~older.~~

42 (3) *Aggravated indecent liberties with a child as defined in*
43 *subsection (b)(3) or attempt, conspiracy or criminal solicitation to commit*

1 *aggravated indecent liberties with a child as defined in subsection (b)(3)*
 2 *is an off-grid person felony, when the offender is 18 years of age or older.*

3 *(d) If the offender is 18 years of age or older, the provisions of:*

4 *(1) Subsection (c) of section 33 of chapter 136 of the 2010 Session*
 5 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
 6 *attempting to commit the crime of aggravated indecent liberties with a*
 7 *child as defined in subsection (b)(3);*

8 *(2) subsection (c) of section 34 of chapter 136 of the 2010 Session*
 9 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
 10 *conspiracy to commit the crime of aggravated indecent liberties with a*
 11 *child as defined in subsection (b)(3);*

12 *(3) subsection (d) of section 35 of chapter 136 of the 2010 Session*
 13 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
 14 *criminal solicitation to commit the crime of aggravated indecent liberties*
 15 *with a child as defined in subsection (b)(3).*

16 ~~(d)~~(e) *It shall be a defense to a prosecution of indecent liberties with a*
 17 *child, as defined in subsection (a)(1), and aggravated indecent liberties*
 18 *with a child, as defined in subsections (b)(1), (b)(2)(A) and (b)(3)(A) that*
 19 *the child was married to the accused at the time of the offense.*

20 *Sec. 32. Section 74 of chapter 136 of the 2010 Session Laws of*
 21 *Kansas is hereby amended to read as follows: Sec. 74. (a) Sexual*
 22 *exploitation of a child is:*

23 *(1) Employing, using, persuading, inducing, enticing or coercing a*
 24 *child under 18 years of age to engage in sexually explicit conduct with the*
 25 *intent to promote any performance;*

26 *(2) possessing any visual depiction of a child under 18 years of age*
 27 *shown or heard engaging in sexually explicit conduct with intent to arouse*
 28 *or satisfy the sexual desires or appeal to the prurient interest of the*
 29 *offender or any other person;*

30 *(3) being a parent, guardian or other person having custody or control*
 31 *of a child under 18 years of age and knowingly permitting such child to*
 32 *engage in, or assist another to engage in, sexually explicit conduct for any*
 33 *purpose described in subsection (a)(1) or (2); or*

34 *(4) promoting any performance that includes sexually explicit*
 35 *conduct by a child under 18 years of age, knowing the character and*
 36 *content of the performance.*

37 *(b) (1) Sexual exploitation of a child as defined in:*

38 ~~(1)~~(A) *Subsection (a)(2) or (a)(3) is a severity level 5, person felony;*
 39 *and*

40 ~~(2)~~(B) *subsection (a)(1) or (a)(4) is a:*

41 ~~(A)~~ *severity level 5, person felony, except as provided in subsection*
 42 ~~(b)(2)(B); and(2).~~

43 ~~(B) off-grid person felony, when the offender is 18 years of age or~~

1 ~~older and the child is under 14 years of age.~~

2 (2) *Sexual exploitation of a child as defined in subsection (a)(1) or*
3 *(a)(4) or attempt, conspiracy or criminal solicitation to commit sexual*
4 *exploitation of a child as defined in subsection (a)(1) or (a)(4) is an off-*
5 *grid person felony, when the offender is 18 years of age or older and the*
6 *child is under 14 years of age.*

7 (c) *If the offender is 18 years of age or older and the child is under*
8 *14 years of age, the provisions of:*

9 (1) *Subsection (c) of section 33 of chapter 136 of the 2010 Session*
10 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
11 *attempting to commit the crime of sexual exploitation of a child as defined*
12 *in subsection (a)(1) or (a)(4);*

13 (2) *subsection (c) of section 34 of chapter 136 of the 2010 Session*
14 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
15 *conspiracy to commit the crime of sexual exploitation of a child as defined*
16 *in subsection (a)(1) or (a)(4); and*

17 (3) *subsection (d) of section 35 of chapter 136 of the 2010 Session*
18 *Laws of Kansas, and amendments thereto, shall not apply to a violation of*
19 *criminal solicitation to commit the crime of sexual exploitation of a child*
20 *as defined in subsection (a)(1) or (a)(4).*

21 ~~(e)~~(d) *As used in this section:*

22 (1) "Sexually explicit conduct" means actual or simulated: Exhibition
23 in the nude; sexual intercourse or sodomy, including genital-genital, oral-
24 genital, anal-genital or oral-anal contact, whether between persons of the
25 same or opposite sex; masturbation; sado-masochistic abuse with the intent
26 of sexual stimulation; or lewd exhibition of the genitals, female breasts or
27 pubic area of any person;

28 (2) "promoting" means procuring, transmitting, distributing,
29 circulating, presenting, producing, directing, manufacturing, issuing,
30 publishing, displaying, exhibiting or advertising:

31 (A) For pecuniary profit; or

32 (B) with intent to arouse or gratify the sexual desire or appeal to the
33 prurient interest of the offender or any other person;

34 (3) "performance" means any film, photograph, negative, slide, book,
35 magazine or other printed or visual medium, any audio tape recording or
36 any photocopy, video tape, video laser disk, computer hardware, software,
37 floppy disk or any other computer related equipment or computer
38 generated image that contains or incorporates in any manner any film,
39 photograph, negative, photocopy, video tape or video laser disk or any
40 play or other live presentation;

41 (4) "nude" means any state of undress in which the human genitals,
42 pubic region, buttock or female breast, at a point below the top of the
43 areola, is less than completely and opaquely covered; *and*

1 (5) "visual depiction" means any photograph, film, video picture,
2 digital or computer-generated image or picture, whether made or produced
3 by electronic, mechanical or other means.

4 Sec. 33. Section 76 of chapter 136 of the 2010 Session Laws of
5 Kansas is hereby amended to read as follows: Sec. 76. (a) Unlawful sexual
6 relations is engaging in consensual sexual intercourse, lewd fondling or
7 touching, or sodomy with a person who is not married to the offender if:

8 (1) The offender is an employee or volunteer of the department of
9 corrections, or the employee or volunteer of a contractor who is under
10 contract to provide services for a correctional institution, and the person
11 with whom the offender is engaging in consensual sexual intercourse, lewd
12 fondling or touching, or sodomy is a person 16 years of age or older who
13 is an inmate;

14 (2) the offender is a parole officer, volunteer for the department of
15 corrections or the employee or volunteer of a contractor who is under
16 contract to provide supervision services for persons on parole, conditional
17 release or postrelease supervision and the person with whom the offender
18 is engaging in consensual sexual intercourse, lewd fondling or touching, or
19 sodomy is a person 16 years of age or older who is an inmate who has
20 been released on parole, ~~or~~ conditional release or postrelease supervision
21 ~~under the direct supervision and control of the offender;~~ *and the offender*
22 *has knowledge that the person with whom the offender is engaging in*
23 *consensual sexual intercourse, lewd fondling or touching, or sodomy is an*
24 *inmate who has been released and is currently on parole, conditional*
25 *release or postrelease supervision;*

26 (3) the offender is a law enforcement officer, an employee of a jail, or
27 the employee of a contractor who is under contract to provide services in a
28 jail and the person with whom the offender is engaging in consensual
29 sexual intercourse, lewd fondling or touching, or sodomy is a person 16
30 years of age or older who is confined to such jail;

31 (4) the offender is a law enforcement officer, an employee of a
32 juvenile detention facility or sanctions house, or the employee of a
33 contractor who is under contract to provide services in such facility or
34 sanctions house and the person with whom the offender is engaging in
35 consensual sexual intercourse, lewd fondling or touching, or sodomy is a
36 person 16 years of age or older who is confined to such facility or
37 sanctions house;

38 (5) the offender is an employee of the juvenile justice authority or the
39 employee of a contractor who is under contract to provide services in a
40 juvenile correctional facility and the person with whom the offender is
41 engaging in consensual sexual intercourse, lewd fondling or touching, or
42 sodomy is a person 16 years of age or older who is confined to such
43 facility;

1 (6) the offender is an employee of the juvenile justice authority or the
2 employee of a contractor who is under contract to provide direct
3 supervision and offender control services to the juvenile justice authority
4 and the person with whom the offender is engaging in consensual sexual
5 intercourse, lewd fondling or touching, or sodomy is 16 years of age or
6 older and:

7 (A) Released on conditional release from a juvenile correctional
8 facility under the supervision and control of the juvenile justice authority
9 or juvenile community supervision agency; or

10 (B) placed in the custody of the juvenile justice authority under the
11 supervision and control of the juvenile justice authority or juvenile
12 community supervision agency and the offender has knowledge that the
13 person with whom the offender is engaging in consensual sexual
14 intercourse, lewd fondling or touching, or sodomy is currently under
15 supervision;

16 (7) the offender is an employee of the department of social and
17 rehabilitation services or the employee of a contractor who is under
18 contract to provide services in a social and rehabilitation services
19 institution and the person with whom the offender is engaging in
20 consensual sexual intercourse, not otherwise subject to subsection (a)(2) of
21 section 67 of chapter 136 of the 2010 Session Laws of Kansas, and
22 amendments thereto, lewd fondling or touching, or sodomy, not otherwise
23 subject to subsection ~~(3)(b)(C)~~(b)(3)(C) of section 68 of chapter 136 of the
24 2010 Session Laws of Kansas, and amendments thereto, is a person 16
25 years of age or older who is a patient in such institution;

26 (8) the offender is a teacher or a person in a position of authority and
27 the person with whom the offender is engaging in consensual sexual
28 intercourse, not otherwise subject to subsection (a)(3) of section 67 of
29 chapter 136 of the 2010 Session Laws of Kansas, or subsection (b)(1) of
30 section 70 of chapter 136 of the 2010 Session Laws of Kansas, and
31 amendments thereto, lewd fondling or touching, not otherwise subject to
32 subsection (a) of section 70 of chapter 136 of the 2010 Session Laws of
33 Kansas, or subsection (b)(2) or (b)(3) of section 70 of chapter 136 of the
34 2010 Session Laws of Kansas, and amendments thereto, or sodomy, not
35 otherwise subject to subsection (a) of section 68 of chapter 136 of the
36 2010 Session Laws of Kansas, or subsection (b)(1) or (b)(2) of section 68
37 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
38 thereto, is a student enrolled at the school where the offender is employed.
39 If the offender is the parent of the student, the provisions of subsection (b)
40 of section 81 of chapter 136 of the 2010 Session Laws of Kansas, and
41 amendments thereto, shall apply, not this subsection;

42 (9) the offender is a court services officer or the employee of a
43 contractor who is under contract to provide supervision services for

1 persons under court services supervision and the person with whom the
2 offender is engaging in consensual sexual intercourse, lewd fondling or
3 touching, or sodomy is a person 16 years of age or older who has been
4 placed on probation under the supervision and control of court services
5 and the offender has knowledge that the person with whom the offender is
6 engaging in consensual sexual intercourse, lewd fondling or touching, or
7 sodomy is currently under the supervision of court services; or

8 (10) the offender is a community correctional services officer or the
9 employee of a contractor who is under contract to provide supervision
10 services for persons under community corrections supervision and the
11 person with whom the offender is engaging in consensual sexual
12 intercourse, lewd fondling or touching, or sodomy is a person 16 years of
13 age or older who has been assigned to a community correctional services
14 program under the supervision and control of community corrections and
15 the offender has knowledge that the person with whom the offender is
16 engaging in consensual sexual intercourse, lewd fondling or touching, or
17 sodomy is currently under *the* supervision of community corrections.

18 (b) Unlawful sexual relations ~~is a severity level 10, person felony as~~
19 *defined in:*

20 (1) *Subsection (a)(5) is a severity level 4, person felony; and*

21 (2) *subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)*
22 *(9), or (a)(10) is a severity level 5, person felony.*

23 (c) As used in this section:

24 (1) "Correctional institution" means the same as in K.S.A. 75-5202,
25 and amendments thereto;

26 (2) "inmate" means the same as in K.S.A. 75-5202, and amendments
27 thereto;

28 (3) "parole officer" means the same as in K.S.A. 75-5202, and
29 amendments thereto;

30 (4) "postrelease supervision" means the same as in section 284 of
31 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

32 (5) "juvenile detention facility" means the same as in K.S.A.
33 ~~2009~~2010 Supp. 38-2302, and amendments thereto;

34 (6) "juvenile correctional facility" means the same as in K.S.A.
35 ~~2009~~2010 Supp. 38-2302, and amendments thereto;

36 (7) "sanctions house" means the same as in K.S.A. ~~2009~~2010 Supp.
37 38-2302, and amendments thereto;

38 (8) "institution" means the same as in K.S.A. 76-12a01, and
39 amendments thereto;

40 (9) "teacher" means and includes teachers, supervisors, principals,
41 superintendents and any other professional employee in any public or
42 private school offering any of grades kindergarten through 12;

43 (10) "community corrections" means the entity responsible for

1 supervising adults and juvenile offenders for confinement, detention, care
2 or treatment, subject to conditions imposed by the court pursuant to the
3 community corrections act, K.S.A. 75-5290, and amendments thereto, and
4 the revised Kansas juvenile justice code, K.S.A. ~~2009~~2010 Supp. 38-2301
5 et seq., and amendments thereto;

6 (11) "court services" means the entity appointed by the district court
7 that is responsible for supervising adults and juveniles placed on probation
8 and misdemeanants placed on parole by district courts of this state; and

9 (12) "juvenile community supervision agency" means an entity that
10 receives grants for the purpose of providing direct supervision to juveniles
11 in the custody of the juvenile justice authority.

12 Sec. 34. Section 78 of chapter 136 of the 2010 Session Laws of
13 Kansas is hereby amended to read as follows: Sec. 78. (a) Endangering a
14 child is knowingly and unreasonably causing or permitting a child under
15 the age of 18 years to be placed in a situation in which the child's life,
16 body or health may be endangered.

17 (b) Aggravated endangering a child is:

18 (1) Recklessly causing or permitting a child under the age of 18 years
19 to be placed in a situation in which the child's life, body or health is
20 endangered;

21 (2) causing or permitting such child to be in an environment where
22 the person knows or reasonably should know that any person is
23 distributing, possessing with intent to distribute, manufacturing or
24 attempting to manufacture any methamphetamine, or analog thereof, as
25 defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments
26 thereto; or

27 (3) causing or permitting such child to be in an environment where
28 the person knows or reasonably should know that drug paraphernalia or
29 volatile, toxic or flammable chemicals are stored for the purpose of
30 manufacturing or attempting to manufacture any methamphetamine, or
31 analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107,
32 and amendments thereto.

33 (c) (1) Endangering a child is a class A person misdemeanor.

34 (2) Aggravated endangering a child is a severity level 9, person
35 felony. *The sentence for a violation of aggravated endangering a child*
36 *shall be served consecutively to any other term or terms of imprisonment*
37 *imposed. Such sentence shall not be considered a departure and shall not*
38 *be subject to appeal.*

39 (d) Nothing in subsection (a) shall be construed to mean a child is
40 endangered for the sole reason the child's parent or guardian, in good faith,
41 selects and depends upon spiritual means alone through prayer, in
42 accordance with the tenets and practice of a recognized church or religious
43 denomination, for the treatment or cure of disease or remedial care of such

1 child.

2 (e) As used in this section:

3 (1) "Manufacture" means the same as in K.S.A. 20092010 Supp. 21-
4 36a01, and amendments thereto; and

5 (2) "drug paraphernalia" means the same as in K.S.A. 20092010
6 Supp. 21-36a01, and amendments thereto.

7 Sec. 35. Section 88 of chapter 136 of the 2010 Session Laws of
8 Kansas is hereby amended to read as follows: Sec. 88. (a) Theft of
9 property lost, mislaid or delivered by mistake is obtaining control of
10 property of another by a person who:

11 (1) Knows or learns the identity of the owner thereof;

12 (2) fails to take reasonable measures to restore to the owner lost
13 property, mislaid property or property delivered by a mistake; and

14 (3) intends to permanently deprive the owner of the possession, use
15 or benefit of the property.

16 (b) Theft of ~~lost or mislaid~~ property *lost, mislaid or delivered by*
17 *mistake* of the value of:

18 (1) \$100,000 or more is a severity level 5, nonperson felony;

19 (2) at least \$25,000 but less than \$100,000 is a severity level 7,
20 nonperson felony;

21 (3) at least \$1,000 but less than \$25,000 is a severity level 9,
22 nonperson felony; and

23 (4) less than \$1,000 is a class A nonperson misdemeanor.

24 (c) As used in this section, "property delivered by mistake" includes,
25 but is not limited to, a mistake as to the:

26 (1) Nature or amount of the property; or

27 (2) identity of the recipient of the property.

28 Sec. 36. Section 96 of chapter 136 of the 2010 Session Laws of
29 Kansas is hereby amended to read as follows: Sec. 96. (a) Criminal
30 hunting is knowingly hunting, shooting, fur harvesting, pursuing any bird
31 or animal, or fishing:

32 (1) Upon any land or nonnavigable body of water of another, without
33 having first obtained permission of the owner or person in possession of
34 such premises;

35 (2) upon or from any public road, public road right-of-way or railroad
36 right-of-way that adjoins occupied or improved premises, without having
37 first obtained permission of the owner or person in possession of such
38 premises; or

39 (3) upon any land or nonnavigable body of water of another by a
40 person who knows such person is not authorized or privileged to do so,
41 and:

42 (A) Such person remains therein and continues to hunt, shoot, fur
43 harvest, pursue any bird or animal or fish in defiance of an order not to

1 enter or to leave such premises or property personally communicated to
2 such person by the owner thereof or other authorized person; or

3 (B) such premises or property are posted in a manner consistent with
4 K.S.A. 32-1013, and amendments thereto.

5 (b) Criminal hunting as defined in:

6 (1) Subsection (a)(1) or (a)(2) is a class C misdemeanor. Upon the
7 first conviction of subsection (a)(1) or (a)(2), in addition to any authorized
8 sentence imposed by the court, such court may require the forfeiture of the
9 convicted person's hunting, fishing or fur harvesting license, or all, or, in
10 any case where such person has a combination license, the court may
11 require forfeiture of a part or all of such license and the court may order
12 such person to refrain from hunting, fishing or fur harvesting, or all, for up
13 to one year from the date of such conviction. Upon a second or subsequent
14 conviction of subsection (a)(1) or (a)(2), in addition to any authorized
15 sentence imposed by the court, such court shall require the forfeiture of the
16 convicted person's hunting, fishing or fur harvesting license, or all, or, in
17 any case where such person has a combination license, the court shall
18 require the forfeiture of a part or all of such license and the court shall
19 order such person to refrain from hunting, fishing or fur harvesting, or all,
20 for one year from the date of such conviction. A person licensed to hunt
21 and following or pursuing a wounded game bird or animal upon any land
22 of another without permission of the landowner or person in lawful
23 possession thereof shall not be deemed to be in violation of this provision
24 while in such pursuit, except that this provision shall not authorize a
25 person to remain on such land if instructed to leave by the owner thereof
26 or other authorized person. *For the purpose of determining whether a*
27 *conviction is a first, second or subsequent conviction of subsection (a)(1)*
28 *or (a)(2), "conviction" or "convicted" includes being convicted of a*
29 *violation of subsection (a) of K.S.A. 21-3728, prior to its repeal, or*
30 *subsection (a)(1) or (a)(2); and*

31 (2) subsection (a)(3) is a class B misdemeanor. Upon the first
32 conviction or a diversion agreement of subsection (a)(3), in addition to
33 any authorized sentence imposed by the court, the court shall require
34 forfeiture of such person's hunting, fishing or fur harvesting license, or all,
35 or in the case where such person has a combination license, the court shall
36 require forfeiture of a part or all of such license for six months. Upon the
37 second conviction of subsection (a)(3), in addition to any authorized
38 sentence imposed by the court, such court shall require the forfeiture of the
39 convicted person's hunting, fishing or fur harvesting license, or all, or in
40 the case where such person has a combination license, the court shall
41 require forfeiture of a part or all of such license for one year. Upon the
42 third or subsequent conviction of subsection (a)(3), in addition to any
43 authorized sentence imposed by the court, such court shall require

1 forfeiture of the convicted person's hunting, fishing or fur harvesting
2 license, or all, or in the case where such person has a combination license,
3 the court shall require forfeiture of a part or all of such license for five
4 years. *For the purpose of determining whether a conviction is a first,*
5 *second, third or subsequent conviction of subsection (a)(3), "conviction"*
6 *or "convicted" includes being convicted of a violation of subsection (b) of*
7 *K.S.A. 21-3728, prior to its repeal, or subsection (a)(3).*

8 (c) The court shall notify the department of wildlife and parks of any
9 conviction or diversion for a violation of this section.

10 Sec. 37. Section 98 of chapter 136 of the 2010 Session Laws of
11 Kansas is hereby amended to read as follows: Sec. 98. (a) Arson is:

12 (1) Knowingly, by means of fire or explosive damaging any building
13 or property which:

14 (A) Is a dwelling in which another person has any interest without the
15 consent of such other person;

16 (B) is a dwelling with intent to injure or defraud an insurer or
17 lienholder;

18 (C) is not a dwelling in which another person has any interest without
19 the consent of such other person; or

20 (D) is not a dwelling with intent to injure or defraud an insurer or
21 lienholder;

22 (2) accidentally, by means of fire or explosive, as a result of
23 manufacturing or attempting to manufacture a controlled substance or
24 controlled substance analog in violation of K.S.A. ~~2009~~ 2010Supp. 21-
25 36a03, and amendments thereto, damaging any building or property which
26 is a dwelling; or

27 (3) accidentally, by means of fire or explosive as a result of
28 manufacturing or attempting to manufacture a controlled substance or
29 controlled substance analog in violation of K.S.A. ~~2009~~ 2010 Supp. 21-
30 36a03, and amendments thereto, damaging any building or property which
31 is not a dwelling.

32 (b) Aggravated arson is arson, as ~~described~~ defined in subsection (a):

33 (1) Committed upon a building or property in which there is a human
34 being; or

35 (2) which results in great bodily harm or disfigurement to a firefighter
36 or law enforcement officer in the course of fighting or investigating the
37 fire.

38 (c) (1) Arson as defined in:

39 (A) Subsection (a)(1)(A) or (a)(1)(B) is a severity level 6, person
40 felony;

41 (B) subsection (a)(1)(C) ~~or~~, (a)(1)(D) or (a)(3) is a severity level 7,
42 nonperson felony; and

43 (C) subsection (a)(2) is a severity level 7, person felony.

- 1 (2) Aggravated arson as defined in:
- 2 (A) Subsection (b)(1) is a:
- 3 (i) Severity level 3, person felony, if such crime results in a
- 4 substantial risk of bodily harm; and
- 5 (ii) severity level 6, person felony, if such crime results in no
- 6 substantial risk of bodily harm; and
- 7 (B) subsection (b)(2) is a severity level 3, person felony.

8 Sec. 38. Section 105 of chapter 136 of the 2010 Session Laws of
9 Kansas is hereby amended to read as follows: Sec. 105. (a) It is unlawful
10 for any person to:

11 (1) Recklessly throw, push, pitch or otherwise cast any rock, stone or
12 other object, matter or thing onto a street, road, highway, railroad right-of-
13 way, or upon any vehicle, engine or car or any train, locomotive, railroad
14 car, caboose, rail-mounted work equipment or rolling stock thereon;

15 (2) violate subsection (a) and damage any vehicle, engine or car or
16 any train, locomotive, railroad car, caboose, rail-mounted work equipment
17 or rolling stock lawfully on the street, highway or railroad right-of-way by
18 the thrown or cast rock, stone or other object;

19 (3) violate subsection (a) and injure another person on the street,
20 road, highway or railroad right-of-way; or

21 (4) violate subsection (a), damage a vehicle, engine or car or any
22 train, locomotive, railroad car, caboose, rail-mounted work equipment or
23 rolling stock and a person is injured as a result of the cast or thrown object
24 or from injuries incurred as a result of damage to the vehicle in which a
25 person was a passenger when struck by such object.

26 (b) (1) Violation of subsection (a)(1) is a class B nonperson
27 misdemeanor.

28 (2) Violation of subsection (a)(2) is a class A nonperson
29 misdemeanor.

30 (3) Violation of subsection (a)(3) is a severity level 7, person felony.

31 (4) Violation of subsection (a)(4) is a severity level 6, person felony.

32 ~~(e)~~(c) In any case where a vehicle, engine or car or any train,
33 locomotive, railroad car, caboose, rail-mounted work equipment or rolling
34 stock is damaged as a result of a violation of subsection (a), the provisions
35 of this section shall not bar conviction of the accused under any other
36 offense in sections 87 through 125 of chapter 136 of the 2010 Session
37 Laws of Kansas, and amendments thereto. An accused may be convicted
38 for a violation of any other offense in sections 87 through 125 of chapter
39 136 of the 2010 Session Laws of Kansas, and amendments thereto, or this
40 section, but not under both.

41 ~~(f)~~(d) In any case where a person dies or sustains bodily injury as a
42 result of a violation of subsection (a), the provisions of this section shall
43 not bar conviction of the accused under any other offense in sections 36

1 through 64 of chapter 136 of the 2010 Session Laws of Kansas, and
2 amendments thereto. An accused may be convicted for a violation of any
3 other offense in sections 36 through 64 of chapter 136 of the 2010 Session
4 Laws of Kansas, and amendments thereto, or this section, but not under
5 both.

6 Sec. 39. Section 136 of chapter 136 of the 2010 Session Laws of
7 Kansas is hereby amended to read as follows: Sec. 136. (a) Escape from
8 custody is escaping while held in custody on a: (1) Charge or conviction
9 of a misdemeanor;

10 (2) charge or adjudication as a juvenile offender where the act, if
11 committed by an adult, would constitute a misdemeanor; or

12 (3) commitment to the state security hospital as provided in K.S.A.
13 22-3428, and amendments thereto, based on a finding that the person
14 committed an act constituting a misdemeanor or by a person 18 years of
15 age or over who is being held in custody on a adjudication of a
16 misdemeanor.

17 (b) Aggravated escape from custody is:

18 (1) Escaping while held in custody:

19 (A) Upon a charge or conviction of a felony;

20 (B) upon a charge or adjudication as a juvenile offender where the
21 act, if committed by an adult, would constitute a felony;

22 (C) prior to or upon a finding of probable cause for evaluation as a
23 sexually violent predator as provided in K.S.A. 59-29a05, and
24 amendments thereto;

25 (D) upon commitment to a treatment facility as a sexually violent
26 predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;

27 (E) upon a commitment to the state security hospital as provided in
28 K.S.A. 22-3428, and amendments thereto, based on a finding that the
29 person committed an act constituting a felony;

30 (F) by a person 18 years of age or over who is being held on an
31 adjudication of a felony; or

32 (G) upon incarceration at a state correctional institution while in the
33 custody of the secretary of corrections.

34 (2) Escaping effected or facilitated by the use of violence or the threat
35 of violence against any person while held in custody:

36 (A) On a charge or conviction of any crime;

37 (B) on a charge or adjudication as a juvenile offender where the act, if
38 committed by an adult, would constitute a felony;

39 (C) prior to or upon a finding of probable cause for evaluation as a
40 sexually violent predator as provided in K.S.A. 59-29a05, and
41 amendments thereto;

42 (D) upon commitment to a treatment facility as a sexually violent
43 predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;

1 (E) upon a commitment to the state security hospital as provided in
2 K.S.A. 22-3428, and amendments thereto, based on a finding that the
3 person committed an act constituting any crime;

4 (F) by a person 18 years of age or over who is being held on a charge
5 or adjudication of a misdemeanor of felony; or

6 (G) upon incarceration at a state correctional institution while in the
7 custody of the secretary of corrections.

8 (c) (1) Escape from custody is a class A nonperson misdemeanor.

9 (2) Aggravated escape from custody as defined in:

10 (A) Subsection (b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(E) or (b)(1)(F)
11 is a severity level 8, nonperson felony;

12 (B) subsection (b)(1)(B); *or* (b)(1)(G), ~~(b)(2)(B) or (b)(2)(G)~~ is a
13 severity level 5, nonperson felony;

14 (C) subsection (b)(2)(A), (b)(2)(C), (b)(2)(D), (b)(2)(E) or (b)(2)(F)
15 is a severity level 6, ~~nonperson~~ *person* felony; *and*

16 (D) *subsection (b)(2)(B) or (b)(2)(G) is a severity level 5, person*
17 *felony.*

18 (d) As used in this section and section 137 of chapter 136 of the 2010
19 *Session Laws of Kansas*, and amendments thereto:

20 (1) "Custody" means arrest; detention in a facility for holding persons
21 charged with or convicted of crimes or charged or adjudicated as a juvenile
22 offender; detention for extradition or deportation; detention in a hospital or
23 other facility pursuant to court order, imposed as a specific condition of
24 probation or parole or imposed as a specific condition of assignment to a
25 community correctional services program; commitment to the state
26 security hospital as provided in K.S.A. 22-3428, and amendments thereto;
27 or any other detention for law enforcement purposes. "Custody" does not
28 include general supervision of a person on probation or parole or
29 constraint incidental to release on bail;

30 (2) "escape" means departure from custody without lawful authority
31 or failure to return to custody following temporary leave lawfully granted
32 pursuant to express authorization of law or order of a court;

33 (3) "juvenile offender" means the same as in K.S.A. ~~2009~~ 2010 Supp.
34 38-2302, and amendments thereto; and

35 (4) "state correctional institution" means the same as in K.S.A. 75-
36 5202, and amendments thereto.

37 Sec. 40. Section 139 of chapter 136 of the 2010 Session Laws of
38 Kansas is hereby amended to read as follows: Sec. 139. (a) Traffic in
39 contraband in a correctional institution or care and treatment facility is,
40 without the consent of the administrator of the correctional institution or
41 care and treatment facility:

42 (1) Introducing or attempting to introduce any item into or upon the
43 grounds of any correctional institution or care and treatment facility;

1 (2) taking, sending, attempting to take or attempting to send any item
2 from any correctional institution or care and treatment facility;

3 (3) any unauthorized possession of any item while in any correctional
4 institution or care and treatment facility;

5 (4) distributing any item within any correctional institution or care
6 and treatment facility;

7 (5) supplying to another who is in lawful custody any object or thing
8 adapted or designed for use in making an escape; or

9 (6) introducing into an institution in which a person is confined any
10 object or thing adapted or designed for use in making any escape.

11 (b) ~~(4) Traffic in contraband in a correctional institution or care and
12 treatment facility of firearms, ammunition, explosives or a controlled
13 substance as defined in K.S.A. 2009 2010 Supp. 21-36a01, and
14 amendments thereto, is a severity level 5, nonperson felony.~~

15 ~~(2) Traffic in any contraband, as defined by rules and regulations
16 adopted by the secretary, in a correctional institution by an employee of a
17 correctional institution is a severity level 5, nonperson felony, except a
18 violation of subsection (a)(5) or (a)(6) by an employee or volunteer of the
19 department of corrections, or the employee or volunteer of a contractor
20 who is under contract to provide services to the department of corrections,
21 is a severity level 4, nonperson felony.~~

22 ~~(3) Traffic in any contraband, as defined by rules and regulations
23 adopted by the secretary of social and rehabilitation services, in a care and
24 treatment facility by an employee of a care and treatment facility is a
25 severity level 5, nonperson felony.~~

26 ~~(4) Except as provided in subsections (b)(1) and (b)(2), traffic in
27 contraband in a correctional institution or care and treatment facility is a
28 severity level 6, nonperson felony.~~

29 *is a:*

30 *(1) Severity level 6, nonperson felony, except as provided in
31 subsection (b)(2) or (b)(3);*

32 *(2) severity level 5, nonperson felony if such items are:*

33 *(A) Firearms, ammunition, explosives or a controlled substance
34 which is defined in K.S.A. 2010 Supp. 21-36a01, and amendments thereto,
35 except as provided in subsection (b)(3);*

36 *(B) defined as contraband by rules and regulations adopted by the
37 secretary of corrections, in a state correctional institution or facility by an
38 employee of a state correctional institution or facility, except as provided
39 in subsection (b)(3);*

40 *(C) defined as contraband by rules and regulations adopted by the
41 secretary of social and rehabilitation services, in a care and treatment
42 facility by an employee of a care and treatment facility, except as provided
43 in subsection (b)(3); or*

1 (D) defined as contraband by rules and regulations adopted by the
2 commissioner of the juvenile justice authority, in a juvenile correctional
3 facility by an employee of a juvenile correctional facility, except as
4 provided by subsection (b)(3); and

5 (3) severity level 4, nonperson felony if:

6 (A) Such items are firearms, ammunition or explosives, in a
7 correctional institution by an employee of a correctional institution or in a
8 care and treatment facility by an employee of a care and treatment facility;
9 or

10 (B) a violation of (a)(5) or (a)(6) by an employee or volunteer of the
11 department of corrections, or the employee or volunteer of a contractor
12 who is under contract to provide services to the department of corrections.

13 (c) The provisions of subsection (b)(2)(A) shall not apply to the
14 possession of a firearm or ammunition by a person licensed under the
15 personal and family protection act, K.S.A. 75-7c01 et seq., and
16 amendments thereto, in a parking lot open to the public if the firearm or
17 ammunition is carried on the person while in a vehicle or while securing
18 the firearm or ammunition in the vehicle, or stored out of plain view in a
19 locked but unoccupied vehicle.

20 (e)(d) As used in this section:

21 (1) "Correctional institution" means any state correctional institution
22 or facility, conservation camp, state security hospital, juvenile correctional
23 facility, community correction center or facility for detention or
24 confinement, juvenile detention facility or jail;

25 (2) "care and treatment facility" means the state security hospital
26 provided for under K.S.A. 76-1305 et seq., and amendments thereto, and a
27 facility operated by the department of social and rehabilitation services for
28 the purposes provided for under K.S.A. 59-29a02 et seq., and amendments
29 thereto; and

30 (3) "lawful custody" means the same as in section 137 of chapter 136
31 of the 2010 Session Laws of Kansas, and amendments thereto.

32 Sec. 41. Section 141 of chapter 136 of the 2010 Session Laws of
33 Kansas is hereby amended to read as follows: Sec. 141. (a) False signing
34 of a petition is knowingly affixing any fictitious or unauthorized signature
35 to any petition, memorial or remonstrance, intended to be presented to the
36 legislature, or either house thereof, or to any agency or officer of the state
37 of Kansas or any of its political subdivisions.

38 (b) False signing of ~~an official~~ a petition is a class C misdemeanor.

39 Sec. 42. Section 147 of chapter 136 of the 2010 Session Laws of
40 Kansas is hereby amended to read as follows: Sec. 147. (a) Interference
41 with the conduct of public business in public buildings is:

42 (1) Conduct at or in any public building owned, operated or
43 controlled by the state or any of its political subdivisions so as to

1 knowingly deny to any public official, public employee or any invitee on
2 such premises, the lawful rights of such official, employee or invitee to
3 enter, to use the facilities or to leave any such public building;

4 (2) knowingly impeding any public official or employee in the lawful
5 performance of duties or activities through the use of restraint, abduction,
6 coercion or intimidation or by force and violence or threat thereof;

7 (3) knowingly refusing or failing to leave any such public building
8 upon being requested to do so by the chief administrative officer, or such
9 officer's designee, charged with maintaining order in such public building,
10 if such person is committing, threatens to commit or incites others to
11 commit, any act which did or would if completed, disrupt, impair, interfere
12 with or obstruct the lawful missions, processes, procedures or functions
13 being carried on in such public building;

14 (4) knowingly impeding, disrupting or hindering the normal
15 proceedings of any meeting or session conducted by any judicial or
16 legislative body or official at any public building by any act of intrusion
17 into the chamber or other areas designated for the use of the body or
18 official conducting such meeting or session, or by any act designed to
19 intimidate, coerce or hinder any member of such body or any official
20 engaged in the performance of duties at such meeting or session; or

21 (5) knowingly impeding, disrupting or hindering, by any act of
22 intrusion into the chamber or other areas designed for the use of any
23 executive body or official, the normal proceedings of such body or official.

24 (b) Aggravated interference with the conduct of public business is
25 interference with the conduct of public business *in public buildings*, as
26 defined in subsection (a), when in possession of any firearm or weapon as
27 described in section 186 or 187 of *chapter 136 of the 2010 Session Laws of*
28 *Kansas*, and amendments thereto.

29 (c) (1) Interference with the conduct of public business in public
30 buildings is a class A nonperson misdemeanor:

31 (2) Aggravated interference with the conduct of public business is a
32 level 6, person felony.

33 Sec. 43. Section 158 of chapter 136 of the 2010 Session Laws of
34 Kansas is hereby amended to read as follows: Sec. 158. (a) There is hereby
35 created within the office of the attorney general a medicaid fraud and
36 abuse division.

37 (b) The medicaid fraud and abuse division shall be the same entity to
38 which all cases of suspected medicaid fraud shall be referred by the
39 department of social and rehabilitation services, or its fiscal agent, for the
40 purpose of investigation, criminal prosecution or referral to the district or
41 county attorney for criminal prosecution.

42 (c) In carrying out these responsibilities, the attorney general shall
43 have:

- 1 (1) All the powers necessary to comply with the federal laws and
2 regulations relative to the operation of the medicaid fraud and abuse
3 division;
- 4 (2) the power to investigate and criminally prosecute violations of
5 sections 150 through 161 *of chapter 136 of the 2010 Session Laws of*
6 *Kansas*, and amendments thereto;
- 7 (3) the power to cross-designate assistant United States attorneys as
8 assistant attorneys general;
- 9 (4) the power to issue, serve or cause to be issued or served
10 subpoenas or other process in aid of investigations and prosecutions;
- 11 (5) the power to administer oaths and take sworn statements under
12 penalty of perjury;
- 13 (6) the power to serve and execute in any county, search warrants
14 which relate to investigations authorized by ~~this act~~ *sections 150 through*
15 *161 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
16 *thereto*; and
- 17 (7) the powers of a district or county attorney.
- 18 Sec. 44. Section 159 of chapter 136 of the 2010 Session Laws of
19 Kansas is hereby amended to read as follows: Sec. 159. (a) The attorney
20 general shall be allowed access to all records held by a provider:
- 21 (1) That are directly related to an alleged violation of ~~this act~~ *sections*
22 *150 through 161 of chapter 136 of the 2010 Session Laws of Kansas. and*
23 *amendments thereto*, and which are necessary for the purpose of
24 investigating whether any person may have violated ~~sections 150 through~~
25 ~~161, and amendments thereto~~ *such statutes*; or
- 26 (2) for use or potential use in any legal, administrative or judicial
27 proceeding pursuant to sections 150 through 161 *of chapter 136 of the*
28 *2010 Session Laws of Kansas*, and amendments thereto.
- 29 (b) No person holding such records may refuse to provide the
30 attorney general with access to such records on the basis that release
31 would violate any:
- 32 (1) ~~Any~~ Recipient's right of privacy;
- 33 (2) ~~any~~ recipient's privilege against disclosure or use; or
- 34 (3) ~~any~~ professional or other privilege or right.
- 35 (c) The disclosure of patient information as required by sections 150
36 through 161 *of chapter 136 of the 2010 Session Laws of Kansas*, and
37 amendments thereto, shall not subject any provider to liability for breach
38 of any confidential relationship between a patient and a provider.
- 39 (d) Notwithstanding K.S.A. 60-427, and amendments thereto, there
40 shall be no privilege preventing the furnishing of such information or
41 reports as required by sections 150 through 161 *of chapter 136 of the 2010*
42 *Session Laws of Kansas*, and amendments thereto, by any person.
- 43 Sec. 45. Section 164 of chapter 136 of the 2010 Session Laws of

1 Kansas is hereby amended to read as follows: Sec. 164. (a) Fraudulent acts
2 relating to aircraft identification numbers is knowingly:

3 (1) Buying, receiving, disposing of, distributing, concealing,
4 operating, or having in possession or attempting to buy, receive, dispose
5 of, distribute, conceal, operate, or possess, by any person, firm, business or
6 corporation of any aircraft or part thereof on which the identification
7 numbers do not meet the requirements of the federal aviation regulations;
8 or

9 (2) possessing, manufacturing, *or* distributing any counterfeit
10 manufacturer's aircraft identification number plate or decal used for the
11 purpose of identification of any aircraft or authorizing, directing, aiding in
12 exchange or giving away any such counterfeit manufacturer's aircraft
13 identification number plate or decal.

14 (b) Fraudulent acts relating to aircraft identification numbers is a
15 severity level 8, nonperson felony.

16 (c) The failure to have aircraft identification numbers clearly
17 displayed on the aircraft and in compliance with federal aviation
18 regulations is probable cause for any law enforcement officer in this state
19 to make further inspection of the aircraft in question to ascertain its true
20 identity. A law enforcement officer is authorized to inspect an aircraft for
21 identification numbers:

22 (1) When it is located on public property;

23 (2) upon consent of the owner of the private property on which the
24 aircraft is stored; or

25 (3) when otherwise authorized by law.

26 Sec. 46. Section 177 of chapter 136 of the 2010 Session Laws of
27 Kansas is hereby amended to read as follows: Sec. 177. (a) Identity theft is
28 obtaining, possessing, transferring, using, selling or purchasing any
29 personal identifying information, or document containing the same,
30 belonging to or issued to another person, with the intent to defraud that
31 person, or any one else, in order to receive any benefit.

32 (b) Identity fraud is:

33 (1) Using or supplying information the person knows to be false in
34 order to obtain a document containing any personal identifying
35 information; or

36 (2) altering, amending, counterfeiting, making, manufacturing or
37 otherwise replicating any document containing personal identifying
38 information with the intent to deceive;

39 (c) (1) Identity theft is a:

40 (A) Severity level 8, nonperson felony, except as provided in
41 subsection (c)(1)(B); and

42 (B) ~~is a~~ severity level 5, nonperson felony if the monetary loss to the
43 victim or victims is more than \$100,000.

- 1 (2) Identity fraud is a severity level 8, nonperson felony.
- 2 (d) It is not a defense that the person did not know that such personal
- 3 identifying information belongs to another person, or that the person to
- 4 whom such personal identifying information belongs or was issued is
- 5 deceased.
- 6 (e) As used in this section "personal identifying information"
- 7 includes, but is not limited to, the following:
- 8 (1) Name;
- 9 (2) birth date;
- 10 (3) address;
- 11 (4) telephone number;
- 12 (5) driver's license number or card or nondriver's identification
- 13 number or card;
- 14 (6) social security number or card;
- 15 (7) place of employment;
- 16 (8) employee identification numbers or other personal identification
- 17 numbers or cards;
- 18 (9) mother's maiden name;
- 19 (10) birth, death or marriage certificates;
- 20 (11) electronic identification numbers;
- 21 (12) electronic signatures; and
- 22 (13) any financial number, or password that can be used to access a
- 23 person's financial resources, including, but not limited to, checking or
- 24 savings accounts, credit or debit card information, demand deposit or
- 25 medical information.

26 Sec. 47. Section 183 of chapter 136 of the 2010 Session Laws of
27 Kansas is hereby amended to read as follows: Sec. 183. (a) Criminal
28 desecration is:

- 29 (1) Knowingly obtaining or attempting to obtain unauthorized control
- 30 of a dead body or remains of any human being or the coffin, urn or other
- 31 article containing a dead body or remains of any human being; or
- 32 (2) recklessly, by means other than by fire or explosive:
- 33 (A) Damaging, defacing or destroying the flag, ensign or other
- 34 symbol of the United States or this state in which another has a property
- 35 interest without the consent of such other person;
- 36 (B) damaging, defacing or destroying any public monument or
- 37 structure;
- 38 (C) damaging, defacing or destroying any tomb, monument,
- 39 memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other
- 40 property in a cemetery; or
- 41 (D) damaging, defacing or destroying any place of worship.
- 42 (b) ~~(1)~~ Criminal desecration as defined in:
- 43 (1) Subsections (a)(2)(B), (a)(2)(C) ~~and~~ (a)(2)(D) if the property is

1 damaged to the extent of:

2 (A) \$25,000 or more is a severity level 7, nonperson felony;

3 (B) at least \$1,000 but less than \$25,000 is a severity level 9,
4 nonperson felony; and

5 (C) ~~if the property is damaged to the extent of less than \$1,000 is a~~
6 ~~class A nonperson misdemeanor;~~ *and*

7 (2) ~~Criminal desecration as defined in subsections (a)(1) and/or (a)(2)~~
8 (A) is a class A nonperson misdemeanor.

9 Sec. 48. Section 186 of chapter 136 of the 2010 Session Laws of
10 Kansas is hereby amended to read as follows: Sec. 186. (a) Criminal use of
11 weapons is knowingly:

12 (1) Selling, manufacturing, purchasing or possessing any bludgeon,
13 sand club, metal knuckles or throwing star, or any knife, commonly
14 referred to as a switch-blade, which has a blade that opens automatically
15 by hand pressure applied to a button, spring or other device in the handle
16 of the knife, or any knife having a blade that opens or falls or is ejected
17 into position by the force of gravity or by an outward, downward or
18 centrifugal thrust or movement;

19 (2) possessing with intent to use the same unlawfully against another,
20 a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged
21 razor, stiletto or any other dangerous or deadly weapon or instrument of
22 like character, except that an ordinary pocket knife with no blade more
23 than four inches in length shall not be construed to be a dangerous knife,
24 or a dangerous or deadly weapon or instrument;

25 (3) setting a spring gun;

26 (4) possessing any device or attachment of any kind designed, used or
27 intended for use in suppressing the report of any firearm;

28 (5) selling, manufacturing, purchasing or possessing a shotgun with a
29 barrel less than 18 inches in length, or any firearm designed to discharge or
30 capable of discharging automatically more than once by a single function
31 of the trigger, whether the person knows or has reason to know the length
32 of the barrel or that the firearm is designed or capable of discharging
33 automatically;

34 (6) possessing, manufacturing, causing to be manufactured, selling,
35 offering for sale, lending, purchasing or giving away any cartridge which
36 can be fired by a handgun and which has a plastic-coated bullet that has a
37 core of less than 60% lead by weight, whether the person knows or has
38 reason to know that the plastic-coated bullet has a core of less than 60%
39 lead by weight;

40 (7) selling, giving or otherwise transferring any firearm with a barrel
41 less than 12 inches long to any person under 18 years of age whether the
42 person knows or has reason to know the length of the barrel;

43 (8) selling, giving or otherwise transferring any firearms to any

1 person who is both addicted to and an unlawful user of a controlled
2 substance;

3 (9) selling, giving or otherwise transferring any firearm to any person
4 who is or has been a mentally ill person subject to involuntary
5 commitment for care and treatment, as defined in K.S.A. 59-2946, and
6 amendments thereto, or a person with an alcohol or substance abuse
7 problem subject to involuntary commitment for care and treatment as
8 defined in K.S.A. 59-29b46, and amendments thereto;

9 (10) possession of any firearm by a person who is both addicted to
10 and an unlawful user of a controlled substance;

11 (11) possession of any firearm by any person, other than a law
12 enforcement officer, in or on any school property or grounds upon which is
13 located a building or structure used by a unified school district or an
14 accredited nonpublic school for student instruction or attendance or
15 extracurricular activities of pupils enrolled in kindergarten or any of the
16 grades 1 through 12 or at any regularly scheduled school sponsored
17 activity or event whether the person knows or has reason to know that such
18 person was in or on any such property or grounds;

19 (12) refusal to surrender or immediately remove from school property
20 or grounds or at any regularly scheduled school sponsored activity or event
21 any firearm in the possession of any person, other than a law enforcement
22 officer, when so requested or directed by any duly authorized school
23 employee or any law enforcement officer;

24 (13) possession of any firearm by a person who is or has been a
25 mentally ill person subject to involuntary commitment for care and
26 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or
27 persons with an alcohol or substance abuse problem subject to involuntary
28 commitment for care and treatment as defined in K.S.A. 59-29b46, and
29 amendments thereto; or

30 (14) possessing a firearm with a barrel less than 12 inches long by
31 any person less than 18 years of age whether the person knows or has
32 reason to know the length of the barrel.

33 (b) Criminal use of weapons as defined in:

34 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is
35 a class A nonperson misdemeanor;

36 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson
37 felony;

38 (3) subsection (a)(10) or (a)(11) is a class B nonperson select
39 misdemeanor;

40 (4) subsection (a)(13) is a severity level 8, nonperson felony; and

41 (5) subsection (a)(14) is a:

42 (A) Class A nonperson misdemeanor except as provided in subsection

43 (b)(5)(B);

1 (B) severity level 8, nonperson felony upon a second or subsequent
2 conviction.

3 (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

4 (1) Law enforcement officers, or any person summoned by any such
5 officers to assist in making arrests or preserving the peace while actually
6 engaged in assisting such officer;

7 (2) wardens, superintendents, directors, security personnel and
8 keepers of prisons, penitentiaries, jails and other institutions for the
9 detention of persons accused or convicted of crime, while acting within the
10 scope of their authority;

11 (3) members of the armed services or reserve forces of the United
12 States or the Kansas national guard while in the performance of their
13 official duty; or

14 (4) the manufacture of, transportation to, or sale of weapons to a
15 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
16 such weapons.

17 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
18 sells, purchases, possesses or carries a firearm, device or attachment which
19 has been rendered unserviceable by steel weld in the chamber and
20 marriage weld of the barrel to the receiver and which has been registered
21 in the national firearms registration and transfer record in compliance with
22 26 U.S.C. § 5841 et seq. in the name of such person and, if such person
23 transfers such firearm, device or attachment to another person, has been so
24 registered in the transferee's name by the transferor.

25 (e) Subsection (a)(6) shall not apply to a governmental laboratory or
26 solid plastic bullets.

27 (f) Subsection (a)(4) shall not apply to a law enforcement officer who
28 is:

29 (1) Assigned by the head of such officer's law enforcement agency to
30 a tactical unit which receives specialized, regular training;

31 (2) designated by the head of such officer's law enforcement agency
32 to possess devices described in subsection (a)(4); and

33 (3) in possession of commercially manufactured devices which are:

34 (A) Owned by the law enforcement agency;

35 (B) in such officer's possession only during specific operations; and

36 (C) approved by the bureau of alcohol, tobacco, firearms and
37 explosives of the United States department of justice.

38 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person
39 employed by a laboratory which is certified by the United States
40 department of justice, national institute of justice, while actually engaged
41 in the duties of their employment and on the premises of such certified
42 laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the
43 manufacture of, transportation to or sale of weapons to such certified

1 laboratory.

2 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
3 person or entity in compliance with the national firearms act, 26 U.S.C. §
4 5801 et seq.

5 (i) Subsection (a)(11) shall not apply to:

6 (1) Possession of any firearm in connection with a firearms safety
7 course of instruction or firearms education course approved and authorized
8 by the school;

9 (2) any possession of any firearm specifically authorized in writing
10 by the superintendent of any unified school district or the chief
11 administrator of any accredited nonpublic school;

12 (3) possession of a firearm secured in a motor vehicle by a parent,
13 guardian, custodian or someone authorized to act in such person's behalf
14 who is delivering or collecting a student; ~~or~~

15 (4) possession of a firearm secured in a motor vehicle by a registered
16 voter who is on the school grounds, which contain a polling place for the
17 purpose of voting during polling hours on an election day; *or*

18 (5) *possession of a handgun by an individual who is licensed by the*
19 *attorney general to carry a concealed handgun under K.S.A. 2010 Supp.*
20 *75-7c01 et seq., and amendments thereto.*

21 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has
22 received a certificate of restoration pursuant to K.S.A. ~~2009~~2010 Supp. 75-
23 7c26, and amendments thereto.

24 (k) Subsection (a)(14) shall not apply if such person, less than 18
25 years of age, was:

26 (1) In attendance at a hunter's safety course or a firearms safety
27 course;

28 (2) engaging in practice in the use of such firearm or target shooting
29 at an established range authorized by the governing body of the
30 jurisdiction in which such range is located;

31 (3) engaging in an organized competition involving the use of such
32 firearm, or participating in or practicing for a performance by an
33 organization exempt from federal income tax pursuant to section 501(c)(3)
34 of the internal revenue code of 1986 which uses firearms as a part of such
35 performance;

36 (4) hunting or trapping pursuant to a valid license issued to such
37 person pursuant to article 9 of chapter 32 of the Kansas Statutes
38 Annotated, and amendments thereto;

39 (5) traveling with any such firearm in such person's possession being
40 unloaded to or from any activity described in subsections (k)(1) through
41 (k)(4), only if such firearm is secured, unloaded and outside the immediate
42 access of such person;

43 (6) on real property under the control of such person's parent, legal

1 guardian or grandparent and who has the permission of such parent, legal
2 guardian or grandparent to possess such firearm; or

3 (7) at such person's residence and who, with the permission of such
4 person's parent or legal guardian, possesses such firearm for the purpose of
5 exercising the rights contained in sections 21, 22 or 23 of chapter 136 of
6 the 2010 Session Laws of Kansas, and amendments thereto.

7 (l) *Subsection (a)(1) shall not apply to any ordinary pocket knife*
8 *which has a spring, detent or other device which creates a bias towards*
9 *closure of the blade and which requires hand pressure applied to such*
10 *spring, detent or device through the blade of the knife to overcome the bias*
11 *towards closure to assist in the opening of the knife.*

12 (H)(m) As used in this section, "throwing star" means any instrument,
13 without handles, consisting of a metal plate having three or more radiating
14 points with one or more sharp edges and designed in the shape of a
15 polygon, trefoil, cross, star, diamond or other geometric shape,
16 manufactured for use as a weapon for throwing.

17 Sec. 49. Section 187 of chapter 136 of the 2010 Session Laws of
18 Kansas is hereby amended to read as follows: Sec. 187. (a) Criminal
19 carrying of a weapon is knowingly carrying:

20 (1) Any bludgeon, sandclub, metal knuckles or throwing star, or any
21 knife, commonly referred to as a switch-blade, which has a blade that
22 opens automatically by hand pressure applied to a button, spring or other
23 device in the handle of the knife, or any knife having a blade that opens or
24 falls or is ejected into position by the force of gravity or by an outward,
25 downward or centrifugal thrust or movement;

26 (2) concealed on one's person, a dagger, dirk, billy, blackjack,
27 slungshot, dangerous knife, straight-edged razor, stiletto or any other
28 dangerous or deadly weapon or instrument of like character, except that an
29 ordinary pocket knife with no blade more than four inches in length shall
30 not be construed to be a dangerous knife, or a dangerous or deadly weapon
31 or instrument;

32 (3) on one's person or in any land, water or air vehicle, with intent to
33 use the same unlawfully, a tear gas or smoke bomb or projector or any
34 object containing a noxious liquid, gas or substance;

35 (4) any pistol, revolver or other firearm concealed on one's person
36 except when on the person's land or in the person's abode or fixed place of
37 business; or

38 (5) a shotgun with a barrel less than 18 inches in length or any other
39 firearm designed to discharge or capable of discharging automatically
40 more than once by a single function of the trigger whether the person
41 knows or has reason to know the length of the barrel or that the firearm is
42 designed or capable of discharging automatically.

43 (b) Criminal carrying of a weapon as defined in:

- 1 (1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson
2 misdemeanor; and
- 3 (2) subsection (a)(5) is a severity level 9, nonperson felony.
- 4 (c) Subsection (a) shall not apply to:
- 5 (1) Law enforcement officers, or any person summoned by any such
6 officers to assist in making arrests or preserving the peace while actually
7 engaged in assisting such officer;
- 8 (2) wardens, superintendents, directors, security personnel and
9 keepers of prisons, penitentiaries, jails and other institutions for the
10 detention of persons accused or convicted of crime, while acting within the
11 scope of their authority;
- 12 (3) members of the armed services or reserve forces of the United
13 States or the Kansas national guard while in the performance of their
14 official duty; or
- 15 (4) the manufacture of, transportation to, or sale of weapons to a
16 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
17 such weapons.
- 18 (d) Subsection (a)(4) shall not apply to:
- 19 (1) Watchmen, while actually engaged in the performance of the
20 duties of their employment;
- 21 (2) licensed hunters or fishermen, while engaged in hunting or
22 fishing;
- 23 (3) private detectives licensed by the state to carry the firearm
24 involved, while actually engaged in the duties of their employment;
- 25 (4) detectives or special agents regularly employed by railroad
26 companies or other corporations to perform full-time security or
27 investigative service, while actually engaged in the duties of their
28 employment;
- 29 (5) the state fire marshal, the state fire marshal's deputies or any
30 member of a fire department authorized to carry a firearm pursuant to
31 K.S.A. 31-157, and amendments thereto, while engaged in an investigation
32 in which such fire marshal, deputy or member is authorized to carry a
33 firearm pursuant to K.S.A. 31-157, and amendments thereto;
- 34 (6) special deputy sheriffs described in K.S.A. 19-827, and
35 amendments thereto, who have satisfactorily completed the basic course of
36 instruction required for permanent appointment as a part-time law
37 enforcement officer under K.S.A. 74-5607a, and amendments thereto;
- 38 (7) the United States attorney for the district of Kansas, the attorney
39 general, any district attorney or county attorney, any assistant United
40 States attorney if authorized by the United States attorney for the district
41 of Kansas, any assistant attorney general if authorized by the attorney
42 general, or any assistant district attorney or assistant county attorney if
43 authorized by the district attorney or county attorney by whom such

1 assistant is employed. The provisions of this paragraph shall not apply to
2 any person not in compliance with K.S.A. 75-7c19, and amendments
3 thereto; or

4 (8) any person carrying a concealed ~~weapon~~ handgun as authorized
5 by K.S.A. ~~2009~~2010 Supp. 75-7c01 through 75-7c17, and amendments
6 thereto.

7 (e) Subsection (a)(5) shall not apply to:

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

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

20 (3) any person or entity in compliance with the national firearms act,
21 26 U.S.C. § 5801 et seq.

22 (f) *Subsection (a)(1) shall not apply to any ordinary pocket knife*
23 *which has a spring, detent or other device which creates a bias towards*
24 *closure of the blade and which requires hand pressure applied to such*
25 *spring, detent or device through the blade of the knife to overcome the bias*
26 *towards closure to assist in the opening of the knife.*

27 (g) *It shall not be a violation of this section if a person violates the*
28 *provisions of K.S.A. 2010 Supp. 75-7c03, and amendments thereto, but has*
29 *an otherwise valid license to carry a concealed handgun which is issued*
30 *or recognized by this state.*

31 (h) *As used in this section, "throwing star" means the same as*
32 *prescribed by section 186 of chapter 136 of the 2010 Session Laws of*
33 *Kansas, and amendments thereto.*

34 Sec. 50. Section 188 of chapter 136 of the 2010 Session Laws of
35 Kansas is hereby amended to read as follows: Sec. 188. (a) Criminal
36 distribution of firearms to a felon is knowingly:

37 (1) Selling, giving or otherwise transferring any firearm to any person
38 who, within the preceding five years, has been convicted of a felony, other
39 than those specified in subsection (c), under the laws of this or any other
40 jurisdiction or has been released from imprisonment for a felony and was
41 not found to have been in possession of a firearm at the time of the
42 commission of the felony;

43 (2) selling, giving or otherwise transferring any firearm to any person

1 who, within the preceding 10 years, has been convicted of a felony to
2 which this subsection applies, but was not found to have been in
3 possession of a firearm at the time of the commission of the felony, or has
4 been released from imprisonment for such a felony, and has not had the
5 conviction of such felony expunged or been pardoned for such felony; or

6 (3) selling, giving or otherwise transferring any firearm to any person
7 who has been convicted of a felony under the laws of this or any other
8 jurisdiction and was found to have been in possession of a firearm at the
9 time of the commission of the felony.

10 (b) Criminal distribution of firearms to a felon is a class A nonperson
11 misdemeanor.

12 (c) Subsection (a)(2) shall apply to a felony under section 37, section
13 38, section 39, section 40, section 43, subsection (b) or (d) of section 47,
14 subsection (b) or (d) of section 48, subsection (a) *or (b)* of section 50,
15 subsection (b) of section 55, section 67, subsection (b) of section 68,
16 subsection (b) of section 69, *and* subsection (b) of section 93 *of chapter*
17 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, K.S.A.
18 ~~2009~~2010 Supp. 21-36a05 or 21-36a06, and amendments thereto, or
19 K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414,
20 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-
21 3506, 21-3518, 21-3716, 65-4127a, 65-4127b or 65-4160 through ~~65-4164~~
22 ~~65-4165~~, prior to their repeal, or a crime under a law of another
23 jurisdiction which is substantially the same as such felony.

24 (d) It is not a defense that the distributor did not know or have reason
25 to know:

26 (1) The precise felony the recipient committed;

27 (2) that the recipient was in possession of a firearm at the time of the
28 commission of the recipient's prior felony; or

29 (3) that the convictions for such felony have not been expunged or
30 pardoned.

31 Sec. 51. Section 189 of chapter 136 of the 2010 Session Laws of
32 Kansas is hereby amended to read as follows: Sec. 189. (a) Criminal
33 possession of a firearm by a convicted felon is possession of any firearm
34 by a person who:

35 (1) Has been convicted of a person felony or a violation of K.S.A.
36 ~~2009~~ 2010 Supp. 21-36a01 through 21-36a17, and amendments thereto, *or*
37 *any violation of any provision of the uniform controlled substances act*
38 *prior to July 1, 2009*, or a crime under a law of another jurisdiction which
39 is substantially the same as such felony or violation, or was adjudicated a
40 juvenile offender because of the commission of an act which if done by an
41 adult would constitute the commission of a person felony or a violation of
42 K.S.A. ~~2009~~ 2010 Supp. 21-36a01 through 21-36a17, and amendments
43 thereto, *or any violation of any provision of the uniform controlled*

1 *substances act prior to July 1, 2009*, and was found to have been in
2 possession of a firearm at the time of the commission of the crime;

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

12 (3) ~~possession of any firearm by a person who~~, within the preceding
13 10 years, has been convicted of a:

14 (A) Felony under section 37, section 38, section 39, section 40,
15 section 43, subsection (b) or (d) of section 47, subsection (b) or (d) of
16 section 48, subsection (a) of section 50, subsection (b) of section 55,
17 section 67, subsection (b) of section 68, subsection (b) of section 69,
18 subsection (b) of section 93 *of chapter 136 of the 2010 Session Laws of*
19 *Kansas*, and amendments thereto; K.S.A. ~~2009 Supp. 21-36a05 or 21-~~
20 ~~36a06, and amendments thereto, or K.S.A. 65-4127a, 65-4127b or 65-4160~~
21 ~~through 65-4164, prior to their repeal~~ *2010 Supp. 21-36a03, 21-36a05, 21-*
22 *36a06, 21-36a07 or 21-36a09, and amendments thereto; K.S.A. 21-3401,*
23 *21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-*
24 *3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518,*
25 *21-3716, 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006,*
26 *prior to their repeal;* or a crime under a law of another jurisdiction which
27 is substantially the same as such felony, has been released from
28 imprisonment for such felony, or was adjudicated as a juvenile offender
29 because of the commission of an act which if done by an adult would
30 constitute the commission of such felony, was not found to have been in
31 possession of a firearm at the time of the commission of the crime, and has
32 not had the conviction of such crime expunged or been pardoned for such
33 crime; or

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

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

43 Sec. 52. Section 190 of chapter 136 of the 2010 Session Laws of

1 Kansas is hereby amended to read as follows: Sec. 190. (a) Aggravated
2 weapons violation by a convicted felon is a violation of any of the
3 provisions of subsections (a)(1) through (a)(6) of section 186 or section
4 187 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
5 thereto, by a person who:

6 (1) Within five years preceding such violation has been convicted of a
7 nonperson felony under the laws of Kansas or in any other jurisdiction
8 which is substantially the same as such crime or has been released from
9 imprisonment for such nonperson felony; or

10 (2) has been convicted of a person felony under the laws of Kansas or
11 in any other jurisdiction which is substantially the same as such crime or
12 has been released from imprisonment for such crime, and has not had the
13 conviction of such crime expunged or been pardoned for such crime.

14 (b) (1) Aggravated weapons violation by a convicted felon is a
15 severity level 9, nonperson felony for a violation of subsections (a)(1)
16 through (a)(5) or subsection (a)(9) of K.S.A. 21-4201, prior to its repeal, or
17 subsection (a)(1) through (a)(3) of section 186 or subsection (a)(1) through
18 (a)(4) of section 187 of chapter 136 of the 2010 Session Laws of Kansas,
19 and amendments thereto.

20 (2) Aggravated weapons violation by a convicted felon is a severity
21 level 8, nonperson felony for a violation of subsections (a)(6), (a)(7) and
22 (a)(8) of K.S.A. 21-4201, prior to its repeal, or subsection (a)(4) through
23 (a)(6) of section 186 or subsection (a)(5) of section 187 of chapter 136 of
24 the 2010 Session Laws of Kansas, and amendments thereto.

25 Sec. 53. Section 192 of chapter 136 of the 2010 Session Laws of
26 Kansas is hereby amended to read as follows: Sec. 192. (a) Upon
27 conviction of a violation or upon adjudication as a juvenile offender for a
28 violation of subsections (a)(1) through (a)(6) or (a)(10) through (a)(14) of
29 section 186, section 187, section 189, section 190 or subsection (a)(1) or
30 (a)(2) of section 193 of chapter 136 of the 2010 Session Laws of Kansas,
31 and amendments thereto, any weapon seized in connection therewith shall
32 remain in the custody of the trial court.

33 (b) Any stolen weapon so seized and detained, when no longer
34 needed for evidentiary purposes, shall be returned to the person entitled to
35 possession, if known. All other confiscated weapons when no longer
36 needed for evidentiary purposes, shall in the discretion of the trial court,
37 be:

38 (1) Destroyed;

39 (2) forfeited to the law enforcement agency seizing the weapon for
40 use within such agency, for sale to a properly licensed federal firearms
41 dealer, for trading to a properly licensed federal firearms dealer for other
42 new or used firearms or accessories for use within such agency or for
43 trading to another law enforcement agency for that agency's use; or

1 (3) forfeited to the Kansas bureau of investigation for law
2 enforcement, testing, comparison or destruction by the Kansas bureau of
3 investigation forensic laboratory.

4 (c) If weapons are sold as authorized by subsection ~~(2)~~(b), the
5 proceeds of the sale shall be credited to the asset seizure and forfeiture
6 fund of the seizing agency.

7 Sec. 54. Section 194 of chapter 136 of the 2010 Session Laws of
8 Kansas is hereby amended to read as follows: Sec. 194. (a) It shall be
9 unlawful to possess, with no requirement of a culpable mental state, a
10 firearm on the grounds ~~of or~~ in *any of the following places*:

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

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

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

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

19 (5) *within* any county courthouse, unless, by county resolution, the
20 board of county commissioners authorize the possession of a firearm
21 within such courthouse.

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

23 (c) This section shall not apply to:

24 (1) A commissioned law enforcement officer;

25 (2) a full-time salaried law enforcement officer of another state or the
26 federal government who is carrying out official duties while in this state;

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

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

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

33 (1) Governor, the governor's immediate family, or specifically
34 authorized guest of the governor to possess a firearm within the governor's
35 residence or on the grounds of or in any building on the grounds of the
36 governor's residence; or

37 (2) United States attorney for the district of Kansas, the attorney
38 general, any district attorney or county attorney, any assistant United
39 States attorney if authorized by the United States attorney for the district
40 of Kansas, any assistant attorney general if authorized by the attorney
41 general, or any assistant district attorney or assistant county attorney if
42 authorized by the district attorney or county attorney by whom such
43 assistant is employed, to possess a firearm within any county courthouse

1 and court-related facility, subject to any restrictions or prohibitions
2 imposed in any courtroom by the chief judge of the judicial district. The
3 provisions of this paragraph shall not apply to any person not in
4 compliance with K.S.A. ~~2009~~2010 Supp. 75-7c19, and amendments
5 thereto.

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

10 (1) Facilities have adequate security measures to ensure that no
11 weapons are permitted to be carried into such facilities;

12 (2) facilities have adequate measures for storing and securing
13 lawfully carried weapons, including, but not limited to, the use of gun
14 lockers or other similar storage options;

15 (3) county also has a policy or regulation requiring all law
16 enforcement officers to secure and store such officer's firearm upon
17 entering the courthouse or court-related facility. Such policy or regulation
18 may provide that it does not apply to court security or sheriff's office
19 personnel for such county; and

20 (4) facilities have a sign conspicuously posted at each entryway into
21 such facility stating that the provisions of subsection (d)(2) do not apply to
22 such facility.

23 (f) As used in this section:

24 (1) "Adequate security measures" means the use of electronic
25 equipment and personnel to detect and restrict the carrying of any weapons
26 into the facility, including, but not limited to, metal detectors, metal
27 detector wands or any other equipment used for similar purposes;

28 (2) "possession" means having joint or exclusive control over a
29 firearm or having a firearm in a place where the person has some measure
30 of access and right of control; and

31 (3) "capitol complex" means the same as in K.S.A. 75-4514, and
32 amendments thereto.

33 (g) *For the purposes of subsection (a)(1), (a)(4) and (a)(5),*
34 *"building" and "courthouse" shall not include any structure, or any area*
35 *of any structure, designated for the parking of motor vehicles.*

36 Sec. 55. Section 198 of chapter 136 of the 2010 Session Laws of
37 Kansas is hereby amended to read as follows: Sec. 198. As used in sections
38 198 through 201 *of chapter 136 of the 2010 Session Laws of Kansas*, and
39 amendments thereto:

40 (a) "Criminal street gang" means any organization, association or
41 group, whether formal or informal:

42 (1) Consisting of three or more persons;

43 (2) having as one of its primary activities the commission of one or

1 more person felonies, person misdemeanors, felony violations of K.S.A.
2 ~~2009~~2010 Supp. 21-36a01 through 21-36a17, and amendments thereto,
3 *any felony violation of any provision of the uniform controlled substances*
4 *act prior to July 1, 2009*, or the comparable juvenile offenses, which if
5 committed by an adult would constitute the commission of such felonies or
6 misdemeanors;

7 (3) which has a common name or common identifying sign or
8 symbol; and

9 (4) whose members, individually or collectively, engage in or have
10 engaged in the commission, attempted commission, conspiracy to commit
11 or solicitation of two or more person felonies, person misdemeanors,
12 felony violations of K.S.A. ~~2009~~2010 Supp. 21-36a01 through 21-36a17,
13 and amendments thereto, *any felony violation of any provision of the*
14 *uniform controlled substances act prior to July 1, 2009*, or the comparable
15 juvenile offenses, which if committed by an adult would constitute the
16 commission of such felonies or misdemeanors or any substantially similar
17 offense from another jurisdiction;

18 (b) "criminal street gang member" is a person who:

19 (1) Admits to criminal street gang membership; or

20 (2) meets three or more of the following criteria:

21 (A) Is identified as a criminal street gang member by a parent or
22 guardian;

23 (B) is identified as a criminal street gang member by a state, county
24 or city law enforcement officer or correctional officer or documented
25 reliable informant;

26 (C) is identified as a criminal street gang member by an informant of
27 previously untested reliability and such identification is corroborated by
28 independent information;

29 (D) resides in or frequents a particular criminal street gang's area and
30 adopts such gang's style of dress, color, use of hand signs or tattoos, and
31 associates with known criminal street gang members;

32 (E) has been arrested more than once in the company of identified
33 criminal street gang members for offenses which are consistent with usual
34 criminal street gang activity;

35 (F) is identified as a criminal street gang member by physical
36 evidence including, but not limited to, photographs or other
37 documentation;

38 (G) has been stopped in the company of known criminal street gang
39 members two or more times; or

40 (H) has participated in or undergone activities self-identified or
41 identified by a reliable informant as a criminal street gang initiation ritual;

42 (c) "criminal street gang activity" means the commission or attempted
43 commission of, or solicitation or conspiracy to commit, one or more

1 person felonies, person misdemeanors, felony violations of K.S.A.
2 ~~2009~~2010 Supp. 21-36a01 through 21-36a17, and amendments thereto,
3 *any felony violation of any provision of the uniform controlled substances*
4 *act prior to July 1, 2009*, or the comparable juvenile offenses, which if
5 committed by an adult would constitute the commission of such felonies or
6 misdemeanors on separate occasions;

7 (d) "criminal street gang associate" means a person who:

8 (1) Admits to criminal street gang association; or

9 (2) meets two or more defining criteria for criminal street gang
10 membership described in subsection (b)(2); and

11 (e) for purposes of law enforcement identification and tracking only
12 "gang-related incident" means an incident that, upon investigation, meets
13 any of the following conditions:

14 (1) The participants are identified as criminal street gang members or
15 criminal street gang associates, acting, individually or collectively, to
16 further any criminal purpose of the gang;

17 (2) a state, county or city law enforcement officer or correctional
18 officer or reliable informant identifies an incident as criminal street gang
19 activity; or

20 (3) an informant of previously untested reliability identifies an
21 incident as criminal street gang activity and it is corroborated by
22 independent information.

23 Sec. 56. Section 209 of chapter 136 of the 2010 Session Laws of
24 Kansas is hereby amended to read as follows: Sec. 209. (a) Unlawful
25 possession or use of a traffic control signal preemption device is
26 knowingly:

27 (1) Possessing a traffic control signal preemption device;

28 (2) using a traffic control signal preemption device;

29 (3) selling a traffic control signal preemption device; or

30 (4) purchasing a traffic control signal preemption device.

31 ~~(b) A person convicted of violating subsection (a)(1) shall be guilty of~~
32 ~~a class B misdemeanor.~~ *Unlawful possession or use of a traffic control*
33 *signal preemption device as defined in:*

34 (1) *Subsection (a)(1) is a class B misdemeanor;*

35 (2) *subsection (a)(2):*

36 (A) *Is a severity level 9, nonperson felony, except as provided in*
37 *subsection (b)(2)(B) or (b)(2)(C);*

38 (B) *which results in a traffic accident causing injury to any person or*
39 *damage to any vehicle or other property is a severity level 7, person*
40 *felony; and*

41 (C) *which results in a traffic accident causing the death of any*
42 *person is a severity level 5, person felony.*

43 (3) *Subsection (a)(3) or (a)(4) is a severity level 9, nonperson felony.*

1 (c) The provisions of this section shall not apply to the operator,
2 passenger or owner of any of the following authorized emergency
3 vehicles, in the course of such person's emergency duties:

- 4 (1) Publicly owned fire department vehicles;
- 5 (2) publicly owned police vehicles; or
- 6 (3) motor vehicles operated by ambulance services permitted by the
7 emergency medical services board under the provisions of K.S.A. 65-6101
8 et seq., and amendments thereto.

9 (d) As used in this section, "traffic control signal preemption device"
10 means any device, instrument or mechanism designed, intended or used to
11 interfere with the operation or cycle of a traffic-control signal, as defined
12 in K.S.A. 8-1478, and amendments thereto.

13 (e) A person who violates the provisions of this section may also be
14 prosecuted for, convicted of, and punished for battery or any homicide.

15 Sec. 57. Section 212 of chapter 136 of the 2010 Session Laws of
16 Kansas is hereby amended to read as follows: Sec. 212. (a) Promoting
17 obscenity is recklessly:

18 (1) Manufacturing, mailing, transmitting, publishing, distributing,
19 presenting, exhibiting or advertising any obscene material or obscene
20 device;

21 (2) possessing any obscene material or obscene device with intent to
22 mail, transmit, publish, distribute, present, exhibit or advertise such
23 material or device;

24 (3) offering or agreeing to manufacture, mail, transmit, publish,
25 distribute, present, exhibit or advertise any obscene material or obscene
26 device; or

27 (4) producing, presenting or directing an obscene performance or
28 participating in a portion thereof which is obscene or which contributes to
29 its obscenity.

30 (b) Promoting obscenity to minors is promoting obscenity, as defined
31 in subsection (a), where a recipient of the obscene material or obscene
32 device or a member of the audience of an obscene performance is a child
33 under the age of 18 years.

34 (c) (1) Promoting obscenity is a:

35 (A) Class A nonperson misdemeanor, except as provided in (c)(1)(B);
36 and

37 (B) severity level 9, person felony upon a second or subsequent
38 conviction.

39 (2) Promoting obscenity to minors is a:

40 (A) Class A nonperson misdemeanor, except as provided in (c)(2)(B);
41 and

42 (B) severity level 8, person felony upon a second or subsequent
43 conviction.

1 (3) Conviction of a violation of a municipal ordinance prohibiting
2 acts which constitute promoting obscenity or promoting obscenity to
3 minors shall be considered a conviction of promoting obscenity or
4 promoting obscenity to minors for the purpose of determining the number
5 of prior convictions and the classification of the crime under this section.

6 (d) Upon any conviction of promoting obscenity or promoting
7 obscenity to minors, the court may require, in addition to any fine or
8 imprisonment imposed, that the defendant enter into a reasonable
9 recognizance with good and sufficient surety, in such sum as the court may
10 direct, but not to exceed \$50,000, conditioned that, in the event the
11 defendant is convicted of a subsequent offense of promoting obscenity *or*
12 *promoting obscenity to minors* within two years after such conviction, the
13 defendant shall forfeit the recognizance.

14 (e) Evidence that materials or devices were promoted to emphasize
15 their prurient appeal shall be relevant in determining the question of the
16 obscenity of such materials or devices. There shall be a rebuttable
17 presumption that a person promoting obscene materials or obscene devices
18 did so knowingly or recklessly if:

19 (1) The materials or devices were promoted to emphasize their
20 prurient appeal; or

21 (2) the person is not a wholesaler and promotes the materials or
22 devices in the course of the person's business.

23 (f) As used in this section:

24 (1) Any material or performance is "obscene" if:

25 (A) The average person applying contemporary community standards
26 would find that the material or performance, taken as a whole, appeals to
27 the prurient interest;

28 (B) the average person applying contemporary community standards
29 would find that the material or performance has patently offensive
30 representations or descriptions of:

31 (i) Ultimate sexual acts, normal or perverted, actual or simulated,
32 including sexual intercourse or sodomy; or

33 (ii) masturbation, excretory functions, sadomasochistic abuse or lewd
34 exhibition of the genitals; and

35 (C) taken as a whole, a reasonable person would find that the material
36 or performance lacks serious literary, educational, artistic, political or
37 scientific value;

38 (2) "material" means any tangible thing which is capable of being
39 used or adapted to arouse interest, whether through the medium of reading,
40 observation, sound or other manner;

41 (3) "obscene device" means a device, including a dildo or artificial
42 vagina, designed or marketed as useful primarily for the stimulation of
43 human genital organs, except such devices disseminated or promoted for

1 the purpose of medical or psychological therapy;

2 (4) "performance" means any play, motion picture, dance or other
3 exhibition performed before an audience;

4 (5) "sexual intercourse" and "sodomy" mean the same as in section 65
5 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
6 thereto; and

7 (6) "wholesaler" means a person who distributes or offers for
8 distribution obscene materials or devices only for resale and not to the
9 consumer and who does not manufacture, publish or produce such
10 materials or devices.

11 (g) It shall be a defense to a prosecution for promoting obscenity and
12 promoting obscenity to minors that the:

13 (1) Persons to whom the allegedly obscene material or obscene
14 device was disseminated, or the audience to an allegedly obscene
15 performance, consisted of persons or institutions having scientific,
16 educational or governmental justification for possessing or viewing the
17 same;

18 (2) defendant is an officer, director, trustee or employee of a public
19 library and the allegedly obscene material was acquired by such library
20 and was disseminated in accordance with regular library policies approved
21 by its governing body; or

22 (3) allegedly obscene material or obscene device was purchased,
23 leased or otherwise acquired by a public, private or parochial school,
24 college or university, and that such material or device was either sold,
25 leased, distributed or disseminated by a teacher, instructor, professor or
26 other faculty member or administrator of such school as part of or
27 incidental to an approved course or program of instruction at such school.

28 (h) Notwithstanding the provisions of section 15 *of chapter 136 of*
29 *the 2010 Session Laws of Kansas*, and amendments thereto, to the
30 contrary, it shall be an affirmative defense to any prosecution for
31 promoting obscenity to minors that:

32 (1) The defendant had reasonable cause to believe that the minor
33 involved was 18 years old or over, and such minor exhibited to the
34 defendant a draft card, driver's license, birth certificate or other official or
35 apparently official document purporting to establish that such minor was
36 18 years old or more; or

37 (2) an exhibition in a state of nudity is for a bona fide scientific or
38 medical purpose, or for an educational or cultural purpose for a bona fide
39 school, museum or library.

40 (i) The provisions of this section and the provisions of ordinances of
41 any city prescribing a criminal penalty for exhibit of any obscene motion
42 picture shown in a commercial showing to the general public shall not
43 apply to a projectionist, or assistant projectionist, if such projectionist or

1 assistant projectionist has no financial interest in the show or in its place of
2 presentation other than regular employment as a projectionist or assistant
3 projectionist and no personal knowledge of the contents of the motion
4 picture. The provisions of this section shall not exempt any projectionist or
5 assistant projectionist from criminal liability for any act unrelated to
6 projection of motion pictures in commercial showings to the general
7 public.

8 Sec. 58. Section 223 of chapter 136 of the 2010 Session Laws of
9 Kansas is hereby amended to read as follows: Sec. 223. (a) Cruelty to
10 animals is:

11 (1) Knowingly and maliciously killing, injuring, maiming, torturing,
12 burning or mutilating any animal;

13 (2) knowingly abandoning any animal in any place without making
14 provisions for its proper care;

15 (3) having physical custody of any animal and knowingly failing to
16 provide such food, potable water, protection from the elements,
17 opportunity for exercise and other care as is needed for the health or well-
18 being of such kind of animal;

19 (4) intentionally using a wire, pole, stick, rope or any other object to
20 cause an equine to lose its balance or fall, for the purpose of sport or
21 entertainment;

22 (5) knowingly but not maliciously killing or injuring any animal; or

23 (6) **[knowingly and maliciously]** administering any poison to any
24 domestic animal.

25 (b) Cruelty to animals as defined in:

26 (1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction
27 of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than
28 30 days or more than one year's imprisonment and be fined not less than
29 \$500 nor more than \$5,000. The person convicted shall not be eligible for
30 release on probation, suspension or reduction of sentence or parole until
31 the person has served the minimum mandatory sentence as provided
32 herein. During the mandatory 30 days imprisonment, such offender shall
33 have a psychological evaluation prepared for the court to assist the court in
34 determining conditions of probation. Such conditions shall include, but not
35 be limited to, the completion of an anger management program; and

36 (2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) ~~are~~ is a:

37 (A) Class A nonperson misdemeanor, except as provided in
38 subsection (b)(2)(B); and

39 (B) nonperson felony upon the second or subsequent conviction of
40 cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5).
41 Upon such conviction, a person shall be sentenced to not less than five
42 days or more than one year's imprisonment and be fined not less than \$500
43 nor more than \$2,500. The person convicted shall not be eligible for

1 release on probation, suspension or reduction of sentence or parole until
2 the person has served the minimum mandatory sentence as provided
3 herein.

4 (c) The provisions of this section shall not apply to:

5 (1) Normal or accepted veterinary practices;

6 (2) bona fide experiments carried on by commonly recognized
7 research facilities;

8 (3) killing, attempting to kill, trapping, catching or taking of any
9 animal in accordance with the provisions of chapter 32 or chapter 47 of the
10 Kansas Statutes Annotated, and amendments thereto;

11 (4) rodeo practices accepted by the rodeo cowboys' association;

12 (5) the humane killing of an animal which is diseased or disabled
13 beyond recovery for any useful purpose, or the humane killing of animals
14 for population control, by the owner thereof or the agent of such owner
15 residing outside of a city or the owner thereof within a city if no animal
16 shelter, pound or licensed veterinarian is within the city, or by a licensed
17 veterinarian at the request of the owner thereof, or by any officer or agent
18 of an incorporated humane society, the operator of an animal shelter or
19 pound, a local or state health officer or a licensed veterinarian three
20 business days following the receipt of any such animal at such society,
21 shelter or pound;

22 (6) with respect to farm animals, normal or accepted practices of
23 animal husbandry, including the normal and accepted practices for the
24 slaughter of such animals for food or by-products and the careful or thrifty
25 management of one's herd or animals, including animal care practices
26 common in the industry or region;

27 (7) the killing of any animal by any person at any time which may be
28 found outside of the owned or rented property of the owner or custodian of
29 such animal and which is found injuring or posing a threat to any person,
30 farm animal or property;

31 (8) an animal control officer trained by a licensed veterinarian in the
32 use of a tranquilizer gun, using such gun with the appropriate dosage for
33 the size of the animal, when such animal is vicious or could not be
34 captured after reasonable attempts using other methods;

35 (9) laying an equine down for medical or identification purposes;

36 (10) normal or accepted practices of pest control, as defined in
37 subsection (x) of K.S.A. 2-2438a, and amendments thereto; or

38 (11) accepted practices of animal husbandry pursuant to regulations
39 promulgated by the United States department of agriculture for domestic
40 pet animals under the animal welfare act, public law 89-544, as amended
41 and in effect on July 1, 2006.

42 (d) The provisions of subsection (a)(6) shall not apply to any person
43 exposing poison upon their premises for the purpose of destroying wolves,

1 coyotes or other predatory animals.

2 (e) Any public health officer, law enforcement officer, licensed
3 veterinarian or officer or agent of any incorporated humane society, animal
4 shelter or other appropriate facility may take into custody any animal,
5 upon either private or public property, which clearly shows evidence of
6 cruelty to animals, ~~as defined in this section~~. Such officer, agent or
7 veterinarian may inspect, care for or treat such animal or place such animal
8 in the care of a duly incorporated humane society or licensed veterinarian
9 for treatment, boarding or other care or, if an officer of such humane
10 society or such veterinarian determines that the animal appears to be
11 diseased or disabled beyond recovery for any useful purpose, for humane
12 killing. If the animal is placed in the care of an animal shelter, the animal
13 shelter shall notify the owner or custodian, if known or reasonably
14 ascertainable. If the owner or custodian is charged with a violation of this
15 section, the board of county commissioners in the county where the animal
16 was taken into custody shall establish and approve procedures whereby the
17 animal shelter may petition the district court to be allowed to place the
18 animal for adoption or euthanize the animal at any time after 2021 days
19 after the owner or custodian is notified or, if the owner or custodian is not
20 known or reasonably ascertainable after 2021 days after the animal is
21 taken into custody, unless the owner or custodian of the animal files a
22 renewable cash or performance bond with the county clerk of the county
23 where the animal is being held, in an amount equal to not less than the cost
24 of care and treatment of the animal for 30 days. Upon receiving such
25 petition, the court shall determine whether the animal may be placed for
26 adoption or euthanized. The board of county commissioners in the county
27 where the animal was taken into custody shall review the cost of care and
28 treatment being charged by the animal shelter maintaining the animal.

29 (f) The owner or custodian of an animal placed for adoption or killed
30 pursuant to subsection (e) shall not be entitled to recover damages for the
31 placement or killing of such animal unless the owner proves that such
32 placement or killing was unwarranted.

33 (g) Expenses incurred for the care, treatment or boarding of any
34 animal, taken into custody pursuant to subsection (e), pending prosecution
35 of the owner or custodian of such animal for the crime of cruelty to
36 animals, shall be assessed to the owner or custodian as a cost of the case if
37 the owner or custodian is adjudicated guilty of such crime.

38 (h) Upon the filing of a sworn complaint by any public health officer,
39 law enforcement officer, licensed veterinarian or officer or agent of any
40 incorporated humane society, animal shelter or other appropriate facility
41 alleging the commission of cruelty to animals, the county or district
42 attorney shall determine the validity of the complaint and shall forthwith
43 file charges for the crime if the complaint appears to be valid.

1 (i) If a person is adjudicated guilty of the crime of cruelty to animals,
2 and the court having jurisdiction is satisfied that an animal owned or
3 possessed by such person would be in the future subjected to such crime,
4 such animal shall not be returned to or remain with such person. Such
5 animal may be turned over to a duly incorporated humane society or
6 licensed veterinarian for sale or other disposition.

7 (j) As used in this section:

8 (1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and

9 (2) "maliciously" means a state of mind characterized by actual evil-
10 mindedness or specific intent to do a harmful act without a reasonable
11 justification or excuse.

12 Sec. 59. Section 225 of chapter 136 of the 2010 Session Laws of
13 Kansas is hereby amended to read as follows: Sec. 225. (a) Unlawful
14 conduct of dog fighting is:

15 (1) Causing, for amusement or gain, any dog to fight with or injure
16 another dog, **with no requirement of culpable mental state**;

17 (2) knowingly permitting such fighting or injuring on premises under
18 one's ownership, charge or control; or

19 (3) training, owning, keeping, transporting or selling any dog with the
20 intent of having it fight with or injure another dog.

21 (b) Unlawful possession of dog fighting paraphernalia is possession,
22 with the intent to use in the unlawful conduct of dog fighting, any breaking
23 stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other
24 paraphernalia.

25 (c) Unlawful attendance of dog fighting is, entering or remaining on
26 the premises where the unlawful conduct of dog fighting is occurring,
27 whether the person knows or has reason to know that dog fighting is
28 occurring on the premises.

29 (d) (1) Unlawful conduct of dog fighting is a severity level 10,
30 nonperson felony.

31 (2) Unlawful possession of dog fighting paraphernalia is a class A
32 nonperson misdemeanor.

33 (3) Unlawful attendance of dog fighting is a class B nonperson
34 misdemeanor.

35 (e) When a person is arrested under this section, a law enforcement
36 agency may take into custody any dog on the premises where the dog fight
37 is alleged to have occurred and any dog owned or kept on the premises of
38 any person arrested for unlawful conduct of dog fighting, unlawful
39 attendance of dog fighting, or unlawful possession of dog fighting
40 paraphernalia.

41 (f) When a law enforcement agency takes custody of a dog under this
42 section, such agency may place the dog in the care of a duly incorporated
43 humane society or licensed veterinarian for boarding, treatment or other

1 care. If it appears to a licensed veterinarian that the dog is diseased or
2 disabled beyond recovery for any useful purpose, such dog may be
3 humanely killed. The dog may be sedated, isolated or restrained if such
4 officer, agent or veterinarian determines it to be in the best interest of the
5 dog, other animals at the animal shelter or personnel of the animal shelter.
6 If the dog is placed in the care of an animal shelter, the board of county
7 commissioners in the county where the animal was taken into custody
8 shall establish and approve procedures whereby the animal shelter may
9 petition the district court to be allowed to place the dog for adoption or
10 euthanize the dog at any time after ~~20~~21 days after the dog is taken into
11 custody, unless the owner or custodian of the dog files a renewable cash or
12 performance bond with the county clerk of the county where the dog is
13 being held, in an amount equal to not less than the cost of care and
14 treatment of the dog for 30 days. Upon receiving such petition, the court
15 shall determine whether the dog may be placed for adoption or euthanized.
16 The board of county commissioners in the county where the animal was
17 taken into custody shall review the cost of care and treatment being
18 charged by the animal shelter maintaining the animal. Except as provided
19 in subsection (g), if it appears to the licensed veterinarian by physical
20 examination that the dog has not been trained for aggressive conduct or is
21 a type of dog that is not commonly bred or trained for aggressive conduct,
22 the district or county attorney shall order that the dog be returned to its
23 owner when the dog is not needed as evidence in a case filed under this
24 section or section 223 of chapter 136 of the 2010 Session Laws of Kansas,
25 and amendments thereto. The owner or keeper of a dog placed for
26 adoption or humanely killed under this subsection shall not be entitled to
27 damages unless the owner or keeper proves that such placement or killing
28 was unwarranted.

29 (g) If a person is convicted of unlawful conduct of dog fighting,
30 unlawful attendance of dog fighting or unlawful possession of dog fighting
31 paraphernalia, a dog taken into custody pursuant to subsection (e) shall not
32 be returned to such person and the court shall order the owner or keeper to
33 pay to the animal shelter all expenses incurred for the care, treatment and
34 boarding of such dog, including any damages caused by such dog, prior to
35 conviction of the owner or keeper. Disposition of such dog shall be in
36 accordance with section 223 of chapter 136 of the 2010 Session Laws of
37 Kansas, and amendments thereto. If no such conviction results, the dog
38 shall be returned to the owner or keeper and the court shall order the
39 county where the dog was taken into custody to pay to the animal shelter
40 all expenses incurred by the shelter for the care, treatment and boarding of
41 such dog, including any damages caused by such dog, prior to its return.

42 (h) A person who violates the provisions of this section may also be
43 prosecuted for, convicted of, and punished for cruelty to animals.

1 Sec. 60. Section 230 of chapter 136 of the 2010 Session Laws of
2 Kansas is hereby amended to read as follows: Sec. 230. (a) Promoting
3 prostitution is knowingly:

4 (1) Establishing, owning, maintaining or managing a house of
5 prostitution, or participating in the establishment, ownership, maintenance
6 or management thereof;

7 (2) permitting any place partially or wholly owned or controlled by
8 the defendant to be used as a house of prostitution;

9 (3) procuring a prostitute for a house of prostitution;

10 (4) inducing another to become a prostitute;

11 (5) soliciting a patron for a prostitute or for a house of prostitution;

12 (6) procuring a prostitute for a patron;

13 (7) procuring transportation for, paying for the transportation of, or
14 transporting a person within this state with the intention of assisting or
15 promoting that person's engaging in prostitution; or

16 (8) being employed to perform any act which is prohibited by this
17 section.

18 (b) (1) Promoting prostitution is a:

19 ~~(A)~~ Class A person misdemeanor when the prostitute is 16 or more
20 years of age, except as provided in subsection ~~(b)(2)~~(b)(1)(B);

21 ~~(B)~~ severity level 7, person felony when the prostitute is 16 or
22 more years of age and committed by a person who has, prior to the
23 commission of the crime, been convicted of promoting prostitution; and

24 ~~(C)~~ severity level 6, person felony when the prostitute is under 16
25 years of age, except as provided in subsection ~~(b)(4)~~ and(b)(2).

26 ~~(b)(2)~~ Promoting prostitution or attempt, conspiracy or criminal
27 solicitation to commit promoting prostitution is an off-grid person felony
28 when the offender is 18 years of age or older and the prostitute is less than
29 14 years of age.

30 (c) If the offender is 18 years of age or older and the victim is less
31 than 14 years of age, the provisions of:

32 (1) Subsection (c) of section 33 of chapter 136 of the 2010 Session
33 Laws of Kansas, and amendments thereto, shall not apply to a violation of
34 attempting to commit the crime of promoting prostitution as described in
35 subsection (b)(2);

36 (2) subsection (c) of section 34 of chapter 136 of the 2010 Session
37 Laws of Kansas, and amendments thereto, shall not apply to a violation of
38 conspiracy to commit the crime of promoting prostitution as described in
39 subsection (b)(2); and

40 (3) subsection (d) of section 35 of chapter 136 of the 2010 Session
41 Laws of Kansas, and amendments thereto, shall not apply to a violation of
42 criminal solicitation to commit the crime of promoting prostitution as
43 described in subsection (b)(2).

1 Sec. 61. Section 232 of chapter 136 of the 2010 Session Laws of
2 Kansas is hereby amended to read as follows: Sec. 232. (a) Extortion is:

3 (1) Intentionally and wrongfully demanding, soliciting or receiving
4 anything of value from the owner, proprietor or other person having a
5 financial interest in a business; and

6 (2) by means of either a threat, express or implied, or a promise,
7 express or implied, that the person so demanding, soliciting or receiving
8 such thing of value will:

9 (A) Cause the competition of the person from whom the payment is
10 demanded, solicited or received to be diminished or eliminated;

11 (B) cause the price of goods or services purchased or sold in the
12 business to be increased, decreased or maintained at a stated level; or

13 (C) protect the property used in the business or the person or family
14 of the owner, proprietor or other interested person from injury by violence
15 or other unlawful means.

16 (b) ~~Racketeering~~Extortion is a severity level 7, nonperson felony.

17 Sec. 62. Section 242 of chapter 136 of the 2010 Session Laws of
18 Kansas is hereby amended to read as follows: Sec. 242. (a) For the purpose
19 of sentencing, the following classes of misdemeanors and the punishment
20 and the terms of confinement authorized for each class are established:

21 (1) Class A, the sentence for which shall be a definite term of
22 confinement in the county jail which shall be fixed by the court and shall
23 not exceed one year;

24 (2) class B, the sentence for which shall be a definite term of
25 confinement in the county jail which shall be fixed by the court and shall
26 not exceed six months;

27 (3) class C, the sentence for which shall be a definite term of
28 confinement in the county jail which shall be fixed by the court and shall
29 not exceed one month; and

30 (4) unclassified misdemeanors, which shall include all crimes
31 declared to be misdemeanors without specification as to class, the sentence
32 for which shall be in accordance with the sentence specified in the statute
33 that defines the crime; if no penalty is provided in such law, the sentence
34 shall be the same penalty as provided herein for a class C misdemeanor.

35 (b) Upon conviction of a misdemeanor, a person may be punished by
36 a fine, as provided in section ~~4251~~ of chapter 136 of the 2010 Session
37 Laws of Kansas, and amendments thereto, instead of or in addition to
38 confinement, as provided in this section.

39 (c) In addition to or in lieu of any other sentence authorized by law,
40 whenever there is evidence that the act constituting the misdemeanor was
41 substantially related to the possession, use or ingestion of cereal malt
42 beverage or alcoholic liquor by such person, the court may order such
43 person to attend and satisfactorily complete an alcohol or drug education

1 or training program certified by the chief judge of the judicial district or
2 licensed by the secretary of social and rehabilitation services.

3 (d) Except as provided in subsection (e), in addition to or in lieu of
4 any other sentence authorized by law, whenever a person is convicted of
5 having committed, while under 21 years of age, a misdemeanor under
6 K.S.A. 8-1599, 41-719 or 41-727 or K.S.A. ~~2009~~2010 Supp. 21-36a01
7 through 21-36a17, and amendments thereto, the court shall order such
8 person to submit to and complete an alcohol and drug evaluation by a
9 community-based alcohol and drug safety action program certified
10 pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not
11 to exceed the fee established by that statute for such evaluation. If the
12 court finds that the person is indigent, the fee may be waived.

13 (e) If the person is 18 or more years of age but less than 21 years of
14 age and is convicted of a violation of K.S.A. 41-727, and amendments
15 thereto, involving cereal malt beverage, the provisions of subsection (d)
16 are permissive and not mandatory.

17 Sec. 63. Section 243 of chapter 136 of the 2010 Session Laws of
18 Kansas is hereby amended to read as follows: Sec. 243. As used in sections
19 241 through 256, and sections 271 through 286 *of chapter 136 of the 2010*
20 *Session Laws of Kansas*, and amendments thereto:

21 (a) "Court" means any court having jurisdiction and power to
22 sentence offenders for violations of the laws of this state;

23 (b) "community correctional services program" means a program
24 which operates under the community corrections act and to which a
25 defendant is assigned for supervision, confinement, detention, care or
26 treatment, subject to conditions imposed by the court. A defendant
27 assigned to a community correctional services program shall be subject to
28 the continuing jurisdiction of the court and in no event shall be considered
29 to be in the custody of or under the supervision of the secretary of
30 corrections;

31 (c) "correctional institution" means any correctional institution
32 established by the state for the confinement of offenders, and under control
33 of the secretary of corrections;

34 (d) "house arrest" is an individualized program in which the freedom
35 of an inmate is restricted within the community, home or noninstitutional
36 residential placement and specific sanctions are imposed and enforced.
37 "House arrest" may include:

38 (1) Electronic monitoring which requires a transmitter to be worn by
39 the defendant or inmate which broadcasts an encoded signal to the receiver
40 located in the defendant's or inmate's home. The receiver is connected to a
41 central office computer and is notified of any absence of the defendant or
42 inmate; or

43 (2) voice identification-encoder which consists of an encoder worn by

1 the defendant or inmate. A computer is programmed to randomly call the
 2 defendant or inmate and such defendant or inmate is required to provide
 3 voice identification and then insert the encoder into the verifier box,
 4 confirming identity;

5 (e) "parole" means the release of a prisoner to the community by the
 6 Kansas parole board prior to the expiration of such prisoner's term, subject
 7 to conditions imposed by the board and to the secretary of correction's
 8 supervision. Parole also means the release by a court of competent
 9 jurisdiction of a person confined in the county jail or other local place of
 10 detention after conviction and prior to expiration of such person's term,
 11 subject to conditions imposed by the court and its supervision. Where a
 12 court or other authority has filed a warrant against the prisoner, the Kansas
 13 parole board or paroling court may release the prisoner on parole to
 14 answer the warrant of such court or authority;

15 (f) "postrelease supervision," for crimes committed on or after July 1,
 16 1993, means the same as in section 284 of *chapter 136 of the 2010 Session*
 17 *Laws of Kansas*, and amendments thereto;

18 (g) "probation" means a procedure under which a defendant,
 19 convicted of a crime, is released by the court after imposition of sentence,
 20 without imprisonment except as provided in felony cases, subject to
 21 conditions imposed by the court and subject to the supervision of the
 22 probation service of the court or community corrections. In felony cases,
 23 the court may include confinement in a county jail not to exceed 60 days,
 24 which need not be served consecutively, as a condition of an original
 25 probation sentence and up to 60 days in a county jail upon each revocation
 26 of the probation sentence pursuant to subsection (b)(3) of section 271 of
 27 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;
 28 and

29 (h) "suspension of sentence" means a procedure under which a
 30 defendant, convicted of a crime, is released by the court without
 31 imposition of sentence. The release may be with or without supervision in
 32 the discretion of the court. In felony cases, the court may include
 33 confinement in a county jail not to exceed 60 days, which need not be
 34 served consecutively, as a condition of suspension of sentence pursuant to
 35 subsection (b)(4) of ~~K.S.A. 21-4603~~ *section 271 of chapter 136 of the 2010*
 36 *Session Laws of Kansas*, and amendments thereto.

37 Sec. 64. Section 247 of chapter 136 of the 2010 Session Laws of
 38 Kansas is hereby amended to read as follows: Sec. 247. (a) Except as
 39 required by subsection (c), nothing in this section shall be construed to
 40 limit the authority of the court to impose or modify any general or specific
 41 conditions of probation, suspension of sentence or assignment to a
 42 community correctional services program. The court services officer or
 43 community correctional services officer may recommend, and the court

1 may order, the imposition of any conditions of probation, suspension of
2 sentence or assignment to a community correctional services program. For
3 crimes committed on or after July 1, 1993, in presumptive nonprison
4 cases, the court services officer or community correctional services officer
5 may recommend, and the court may order, the imposition of any
6 conditions of probation or assignment to a community correctional
7 services program. The court may at any time order the modification of
8 such conditions, after notice to the court services officer or community
9 correctional services officer and an opportunity for such officer to be heard
10 thereon. The court shall cause a copy of any such order to be delivered to
11 the court services officer and the probationer or to the community
12 correctional services officer and the community corrections participant, as
13 the case may be. The provisions of K.S.A. 75-5291, and amendments
14 thereto, shall be applicable to any assignment to a community correctional
15 services program pursuant to this section.

16 (b) The court may impose any conditions of probation, suspension of
17 sentence or assignment to a community correctional services program that
18 the court deems proper, including, but not limited to, requiring that the
19 defendant:

20 (1) Avoid such injurious or vicious habits, as directed by the court,
21 court services officer or community correctional services officer;

22 (2) avoid such persons or places of disreputable or harmful character,
23 as directed by the court, court services officer or community correctional
24 services officer;

25 (3) report to the court services officer or community correctional
26 services officer as directed;

27 (4) permit the court services officer or community correctional
28 services officer to visit the defendant at home or elsewhere;

29 (5) work faithfully at suitable employment insofar as possible;

30 (6) remain within the state unless the court grants permission to
31 leave;

32 (7) pay a fine or costs, applicable to the offense, in one or several
33 sums and in the manner as directed by the court;

34 (8) support the defendant's dependents;

35 (9) reside in a residential facility located in the community and
36 participate in educational, counseling, work and other correctional or
37 rehabilitative programs;

38 (10) perform community or public service work for local
39 governmental agencies, private corporations organized not for profit, or
40 charitable or social service organizations performing services for the
41 community;

42 (11) perform services under a system of day fines whereby the
43 defendant is required to satisfy fines, costs or reparation or restitution

1 obligations by performing services for a period of days, determined by the
2 court on the basis of ability to pay, standard of living, support obligations
3 and other factors;

4 (12) participate in a house arrest program pursuant to section 249 of
5 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

6 (13) order the defendant to pay the administrative fee authorized by
7 K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

8 (14) in felony cases, except for violations of K.S.A. 8-1567, and
9 amendments thereto, be confined in a county jail not to exceed 60 days,
10 which need not be served consecutively.

11 (c) In addition to any other conditions of probation, suspension of
12 sentence or assignment to a community correctional services program, the
13 court shall order the defendant to comply with each of the following
14 conditions:

15 (1) The defendant shall obey all laws of the United States, the state of
16 Kansas and any other jurisdiction to the laws of which the defendant may
17 be subject;

18 (2) make reparation or restitution to the aggrieved party for the
19 damage or loss caused by the defendant's crime, in an amount and manner
20 determined by the court and to the person specified by the court, unless the
21 court finds compelling circumstances which would render a plan of
22 restitution unworkable. If the court finds a plan of restitution unworkable,
23 the court shall state on the record in detail the reasons therefore;

24 (3) (A) pay a ~~probation or community correctional~~
25 ~~services~~ *correctional supervision* fee of ~~\$25~~^{\$60} if the person was convicted of
26 a misdemeanor or a fee of ~~\$50~~^{\$120} if the person was convicted of a
27 felony. In any case the amount of the ~~probation or community correctional~~
28 ~~services~~ *correctional supervision* fee specified by this paragraph may be
29 reduced or waived by the judge if the person is unable to pay that amount;

30 (B) the ~~probation or community correctional services~~ *correctional*
31 *supervision* fee imposed by this paragraph shall be charged and collected
32 by the district court. The clerk of the district court shall remit all revenues
33 received under this paragraph from ~~probation or community correctional~~
34 ~~services~~ *correctional supervision* fees to the state treasurer in accordance
35 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
36 receipt of each such remittance, the state treasurer shall deposit the entire
37 amount in the state treasury to the credit of the state general fund, *a sum*
38 *equal to 41.67% of such remittance, and to the correctional supervision*
39 *fund, a sum equal to 58.33% of such remittance;*

40 (C) *this paragraph shall apply to persons placed on felony or*
41 *misdemeanor probation or released on misdemeanor parole to reside in*
42 *Kansas and supervised by Kansas court services officers under the*
43 *interstate compact for offender supervision; and*

1 ~~(C)~~(D) this paragraph shall not apply to persons placed on probation
 2 or released on parole to reside in Kansas under the uniform act for out-of-
 3 state parolee supervision; and

4 (4) reimburse the state general fund for all or a part of the
 5 expenditures by the state board of indigents' defense services to provide
 6 counsel and other defense services to the defendant. In determining the
 7 amount and method of payment of such sum, the court shall take account
 8 of the financial resources of the defendant and the nature of the burden that
 9 payment of such sum will impose. A defendant who has been required to
 10 pay such sum and who is not willfully in default in the payment thereof
 11 may at any time petition the court which sentenced the defendant to waive
 12 payment of such sum or of any unpaid portion thereof. If it appears to the
 13 satisfaction of the court that payment of the amount due will impose
 14 manifest hardship on the defendant or the defendant's immediate family,
 15 the court may waive payment of all or part of the amount due or modify
 16 the method of payment. The amount of attorney fees to be included in the
 17 court order for reimbursement shall be the amount claimed by appointed
 18 counsel on the payment voucher for indigents' defense services or the
 19 amount prescribed by the board of indigents' defense services
 20 reimbursement tables as provided in K.S.A. 22-4522, and amendments
 21 thereto, whichever is less.

22 (d) *There is hereby established in the state treasury the correctional*
 23 *supervision fund. All moneys credited to the correctional supervision fund*
 24 *shall be used for the implementation of and training for use of a statewide,*
 25 *mandatory, standardized risk assessment tool or instrument as specified by*
 26 *the Kansas sentencing commission, pursuant to K.S.A. 75-5291, and*
 27 *amendments thereto, and for evidence-based offender supervision*
 28 *programs by judicial branch personnel. If all expenditures for the program*
 29 *have been paid and moneys remain in the correctional supervision fund*
 30 *for a fiscal year, remaining moneys may be expended from the correctional*
 31 *supervision fund to support offender supervision by court services officers.*
 32 *All expenditures from the correctional supervision fund shall be made in*
 33 *accordance with appropriation acts upon warrants of the director of*
 34 *accounts and reports issued pursuant to vouchers approved by the chief*
 35 *justice of the Kansas supreme court or by a person or persons designated*
 36 *by the chief justice.*

37 Sec. 65. Section 248 of chapter 136 of the 2010 Session Laws of
 38 Kansas is hereby amended to read as follows: Sec. 248. (a) The period of
 39 suspension of sentence, probation or assignment to community corrections
 40 fixed by the court shall not exceed two years in misdemeanor cases,
 41 subject to renewal and extension for additional fixed periods of two years.
 42 Probation, suspension of sentence or assignment to community corrections
 43 may be terminated by the court at any time and upon such termination or

1 upon termination by expiration of the term of probation, suspension of
2 sentence or assignment to community corrections, an order to this effect
3 shall be entered by the court.

4 (b) The district court having jurisdiction of the offender may parole
5 any misdemeanor sentenced to confinement in the county jail. The period
6 of such parole shall be fixed by the court and shall not exceed two years
7 and shall be terminated in the manner provided for termination of
8 suspended sentence and probation.

9 (c) For all crimes committed on or after July 1, 1993, the duration of
10 probation in felony cases sentenced for the following severity levels on the
11 sentencing guidelines grid for nondrug crimes and the sentencing
12 guidelines grid for drug crimes is as follows:

13 (1) For nondrug crimes the recommended duration of probations is:

14 (A) 36 months for crimes in crime severity levels 1 through 5; and

15 (B) 24 months for crimes in crime severity levels 6 and 7;

16 (2) for drug crimes the recommended duration of probation is 36
17 months for crimes in crime severity levels 1 and 2;

18 (3) *except as provided further*, in felony cases sentenced at severity
19 levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and
20 severity level 4 on the sentencing guidelines grid for drug crimes, if a
21 nonprison sanction is imposed, the court shall order the defendant to serve
22 a period of probation, ~~or assignment to a community correctional services~~
23 ~~program as provided under K.S.A. 75-5291 et seq., and amendments~~
24 ~~thereto~~, of up to 12 months in length;

25 (4) in felony cases sentenced at severity level 8 on the sentencing
26 guidelines grid for nondrug crimes, ~~and~~ severity level 3 on the sentencing
27 guidelines grid for drug crimes *and felony cases sentenced pursuant to*
28 *section 305 of chapter 136 of the 2010 Session Laws of Kansas, and*
29 *amendments thereto*, if a nonprison sanction is imposed, the court shall
30 order the defendant to serve a period of probation, or assignment to a
31 community correctional services program, as provided under K.S.A. 75-
32 5291 et seq., and amendments thereto, of up to 18 months in length;

33 (5) if the court finds and sets forth with particularity the reasons for
34 finding that the safety of the members of the public will be jeopardized or
35 that the welfare of the inmate will not be served by the length of the
36 probation terms provided in subsections (c)(3) and (c)(4), the court may
37 impose a longer period of probation. Such an increase shall not be
38 considered a departure and shall not be subject to appeal;

39 (6) except as provided in subsections (c)(7) and (c)(8), the total
40 period in all cases shall not exceed 60 months, or the maximum period of
41 the prison sentence that could be imposed whichever is longer. Nonprison
42 sentences may be terminated by the court at any time;

43 (7) if the defendant is convicted of nonsupport of a child, the period

1 may be continued as long as the responsibility for support continues. If the
2 defendant is ordered to pay full or partial restitution, the period may be
3 continued as long as the amount of restitution ordered has not been paid;
4 and

5 (8) the court may modify or extend the offender's period of
6 supervision, pursuant to a modification hearing and a judicial finding of
7 necessity. Such extensions may be made for a maximum period of five
8 years or the maximum period of the prison sentence that could be imposed,
9 whichever is longer, inclusive of the original supervision term.

10 Sec. 66. Section 244 of chapter 136 of the 2010 Session Laws of
11 Kansas is hereby amended to read as follows: Sec. 244. (a) Whenever any
12 person has been found guilty of a crime, the court may adjudge any of the
13 following:

14 (1) Commit the defendant to the custody of the secretary of
15 corrections if the current crime of conviction is a felony and the sentence
16 presumes imprisonment, or the sentence imposed is a dispositional
17 departure to imprisonment; or, if confinement is for a misdemeanor, to jail
18 for the term provided by law;

19 (2) impose the fine applicable to the offense;

20 (3) release the defendant on probation if the current crime of
21 conviction and criminal history fall within a presumptive nonprison
22 category or through a departure for substantial and compelling reasons
23 subject to such conditions as the court may deem appropriate. In felony
24 cases except for violations of K.S.A. 8-1567, and amendments thereto, the
25 court may include confinement in a county jail not to exceed 60 days,
26 which need not be served consecutively, as a condition of an original
27 probation sentence and up to 60 days in a county jail upon each revocation
28 of the probation sentence, or community corrections placement;

29 (4) assign the defendant to a community correctional services
30 program as provided in K.S.A. 75-5291, and amendments thereto, or
31 through a departure for substantial and compelling reasons subject to such
32 conditions as the court may deem appropriate, including orders requiring
33 full or partial restitution;

34 (5) assign the defendant to a conservation camp for a period not to
35 exceed six months as a condition of probation followed by a six-month
36 period of follow-up through adult intensive supervision by a community
37 correctional services program, if the offender successfully completes the
38 conservation camp program;

39 (6) assign the defendant to a house arrest program pursuant to section
40 *249 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
41 thereto;

42 (7) order the defendant to attend and satisfactorily complete an
43 alcohol or drug education or training program as provided by subsection

1 (c) of section 242 of *chapter 136 of the 2010 Session Laws of Kansas*, and
2 amendments thereto;

3 (8) order the defendant to repay the amount of any reward paid by
4 any crime stoppers chapter, individual, corporation or public entity which
5 materially aided in the apprehension or conviction of the defendant; repay
6 the amount of any costs and expenses incurred by any law enforcement
7 agency in the apprehension of the defendant, if one of the current crimes
8 of conviction of the defendant includes escape *from custody* or aggravated
9 escape *from custody*, as defined in section 136 of *chapter 136 of the 2010*
10 *Session Laws of Kansas*, and amendments thereto; repay expenses incurred
11 by a fire district, fire department or fire company responding to a fire
12 which has been determined to be arson ~~under~~ *aggravated arson as*
13 *defined in* section 98 of *chapter 136 of the 2010 Session Laws of Kansas*,
14 and amendments thereto, if the defendant is convicted of such crime; repay
15 the amount of any public funds utilized by a law enforcement agency to
16 purchase controlled substances from the defendant during the investigation
17 which leads to the defendant's conviction; or repay the amount of any
18 medical costs and expenses incurred by any law enforcement agency or
19 county. Such repayment of the amount of any such costs and expenses
20 incurred by a county, law enforcement agency, fire district, fire department
21 or fire company or any public funds utilized by a law enforcement agency
22 shall be deposited and credited to the same fund from which the public
23 funds were credited to prior to use by the county, law enforcement agency,
24 fire district, fire department or fire company;

25 (9) order the defendant to pay the administrative fee authorized by
26 K.S.A. 22-4529, and amendments thereto, unless waived by the court;

27 (10) order the defendant to pay a domestic violence special program
28 fee authorized by K.S.A. 20-369, and amendments thereto;

29 (11) *if the defendant is convicted of a misdemeanor or convicted of a*
30 *felony specified in subsection (i) of section 285 of chapter 136 of the 2010*
31 *Session Laws of Kansas, and amendments thereto, assign the defendant to*
32 *work release program, other than a program at a correctional institution*
33 *under the control of the secretary of corrections as defined in K.S.A. 75-*
34 *5202, and amendments thereto, provided such work release program*
35 *requires such defendant to return to confinement at the end of each day in*
36 *the work release program;*

37 ~~(12)~~(12) impose any appropriate combination of (1), (2), (3), (4), (5),
38 (6), (7), (8), (9) ~~and~~, (10) *and* (11); or

39 ~~(13)~~(13) suspend imposition of sentence in misdemeanor cases.

40 (b) (1) In addition to or in lieu of any of the above, the court shall
41 order the defendant to pay restitution, which shall include, but not be
42 limited to, damage or loss caused by the defendant's crime, unless the
43 court finds compelling circumstances which would render a plan of

1 restitution unworkable. In regard to a violation of section 177 of *chapter*
2 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, such
3 damage or loss shall include, but not be limited to, attorney fees and costs
4 incurred to repair the credit history or rating of the person whose personal
5 identification documents were obtained and used in violation of such
6 section, and to satisfy a debt, lien or other obligation incurred by the
7 person whose personal identification documents were obtained and used in
8 violation of such section. If the court finds a plan of restitution
9 unworkable, the court shall state on the record in detail the reasons
10 therefor.

11 (2) If the court orders restitution, the restitution shall be a judgment
12 against the defendant which may be collected by the court by garnishment
13 or other execution as on judgments in civil cases. If, after 60 days from the
14 date restitution is ordered by the court, a defendant is found to be in
15 noncompliance with the plan established by the court for payment of
16 restitution, and the victim to whom restitution is ordered paid has not
17 initiated proceedings in accordance with K.S.A. 60-4301 et seq., and
18 amendments thereto, the court shall assign an agent procured by the
19 attorney general pursuant to K.S.A. 75-719, and amendments thereto, to
20 collect the restitution on behalf of the victim. The ~~administrative~~ chief
21 judge of each judicial district may assign such cases to an appropriate
22 division of the court for the conduct of civil collection proceedings.

23 (c) In addition to or in lieu of any of the above, the court shall order
24 the defendant to submit to and complete an alcohol and drug evaluation,
25 and pay a fee therefor, when required by subsection (d) of section 242 of
26 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

27 (d) In addition to any of the above, the court shall order the defendant
28 to reimburse the county general fund for all or a part of the expenditures
29 by the county to provide counsel and other defense services to the
30 defendant. Any such reimbursement to the county shall be paid only after
31 any order for restitution has been paid in full. In determining the amount
32 and method of payment of such sum, the court shall take account of the
33 financial resources of the defendant and the nature of the burden that
34 payment of such sum will impose. A defendant who has been required to
35 pay such sum and who is not willfully in default in the payment thereof
36 may at any time petition the court which sentenced the defendant to waive
37 payment of such sum or any unpaid portion thereof. If it appears to the
38 satisfaction of the court that payment of the amount due will impose
39 manifest hardship on the defendant or the defendant's immediate family,
40 the court may waive payment of all or part of the amount due or modify
41 the method of payment.

42 (e) In imposing a fine the court may authorize the payment thereof in
43 installments. In releasing a defendant on probation, the court shall direct

1 that the defendant be under the supervision of a court services officer. If
2 the court commits the defendant to the custody of the secretary of
3 corrections or to jail, the court may specify in its order the amount of
4 restitution to be paid and the person to whom it shall be paid if restitution
5 is later ordered as a condition of parole, conditional release or postrelease
6 supervision.

7 (f) (1) When a new felony is committed while the offender is
8 incarcerated and serving a sentence for a felony, or while the offender is on
9 probation, assignment to a community correctional services program,
10 parole, conditional release or postrelease supervision for a felony, a new
11 sentence shall be imposed pursuant to the consecutive sentencing
12 requirements of section 246 of chapter 136 of the 2010 Session Laws of
13 Kansas, and amendments thereto, and the court may sentence the offender
14 to imprisonment for the new conviction, even when the new crime of
15 conviction otherwise presumes a nonprison sentence. In this event,
16 imposition of a prison sentence for the new crime does not constitute a
17 departure.

18 (2) When a new felony is committed while the offender is
19 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,
20 prior to its repeal, or K.S.A. ~~2009~~2010 Supp. 38-2373, and amendments
21 thereto, for an offense, which if committed by an adult would constitute
22 the commission of a felony, upon conviction, the court shall sentence the
23 offender to imprisonment for the new conviction, even when the new
24 crime of conviction otherwise presumes a nonprison sentence. In this
25 event, imposition of a prison sentence for the new crime does not
26 constitute a departure. The conviction shall operate as a full and complete
27 discharge from any obligations, except for an order of restitution, imposed
28 on the offender arising from the offense for which the offender was
29 committed to a juvenile correctional facility.

30 (3) When a new felony is committed while the offender is on release
31 for a felony pursuant to the provisions of article 28 of chapter 22 of the
32 Kansas Statutes Annotated, and amendments thereto, or similar provisions
33 of the laws of another jurisdiction, a new sentence may be imposed
34 pursuant to the consecutive sentencing requirements of section 246 of
35 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,
36 and the court may sentence the offender to imprisonment for the new
37 conviction, even when the new crime of conviction otherwise presumes a
38 nonprison sentence. In this event, imposition of a prison sentence for the
39 new crime does not constitute a departure.

40 (g) Prior to imposing a dispositional departure for a defendant whose
41 offense is classified in the presumptive nonprison grid block of either
42 sentencing guideline grid, prior to sentencing a defendant to incarceration
43 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing

1 guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or
2 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a
3 defendant to incarceration whose offense is classified in grid blocks 4-E or
4 4-F of the sentencing guideline grid for drug crimes and whose offense
5 does not meet the requirements of section 305 of chapter 136 of the 2010
6 Session Laws of Kansas, and amendments thereto, prior to revocation of a
7 nonprison sanction of a defendant whose offense is classified in grid
8 blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and
9 whose offense does not meet the requirements of section 305 of chapter
10 136 of the 2010 Session Laws of Kansas, and amendments thereto, or prior
11 to revocation of a nonprison sanction of a defendant whose offense is
12 classified in the presumptive nonprison grid block of either sentencing
13 guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines
14 grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the
15 sentencing guidelines grid for drug crimes, the court shall consider
16 placement of the defendant in the Labette correctional conservation camp,
17 conservation camps established by the secretary of corrections pursuant to
18 K.S.A. 75-52,127, and amendment thereto, or a community intermediate
19 sanction center. Pursuant to this paragraph the defendant shall not be
20 sentenced to imprisonment if space is available in a conservation camp or
21 a community intermediate sanction center and the defendant meets all of
22 the conservation camp's or a community intermediate sanction center's
23 placement criteria unless the court states on the record the reasons for not
24 placing the defendant in a conservation camp or a community intermediate
25 sanction center.

26 (h) The court in committing a defendant to the custody of the
27 secretary of corrections shall fix a term of confinement within the limits
28 provided by law. In those cases where the law does not fix a term of
29 confinement for the crime for which the defendant was convicted, the
30 court shall fix the term of such confinement.

31 (i) In addition to any of the above, the court shall order the defendant
32 to reimburse the state general fund for all or a part of the expenditures by
33 the state board of indigents' defense services to provide counsel and other
34 defense services to the defendant. In determining the amount and method
35 of payment of such sum, the court shall take account of the financial
36 resources of the defendant and the nature of the burden that payment of
37 such sum will impose. A defendant who has been required to pay such sum
38 and who is not willfully in default in the payment thereof may at any time
39 petition the court which sentenced the defendant to waive payment of such
40 sum or any unpaid portion thereof. If it appears to the satisfaction of the
41 court that payment of the amount due will impose manifest hardship on the
42 defendant or the defendant's immediate family, the court may waive
43 payment of all or part of the amount due or modify the method of

1 payment. The amount of attorney fees to be included in the court order for
2 reimbursement shall be the amount claimed by appointed counsel on the
3 payment voucher for indigents' defense services or the amount prescribed
4 by the board of indigents' defense services reimbursement tables as
5 provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

6 (j) This section shall not deprive the court of any authority conferred
7 by any other Kansas statute to decree a forfeiture of property, suspend or
8 cancel a license, remove a person from office or impose any other civil
9 penalty as a result of conviction of crime.

10 (k) An application for or acceptance of probation or assignment to a
11 community correctional services program shall not constitute an
12 acquiescence in the judgment for purpose of appeal, and any convicted
13 person may appeal from such conviction, as provided by law, without
14 regard to whether such person has applied for probation, suspended
15 sentence or assignment to a community correctional services program.

16 (l) The secretary of corrections is authorized to make direct
17 placement to the Labette correctional conservation camp or a conservation
18 camp established by the secretary pursuant to K.S.A. 75-52,127, and
19 amendments thereto, of an inmate sentenced to the secretary's custody if
20 the inmate:

21 (1) Has been sentenced to the secretary for a probation revocation, as
22 a departure from the presumptive nonimprisonment grid block of either
23 sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I,
24 or 6-G of the sentencing guidelines grid for nondrug crimes or in grid
25 blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug
26 crimes, or for an offense which is classified in grid blocks 4-E or 4-F of
27 the sentencing guidelines grid for drug crimes and such offense does not
28 meet the requirements of section 305 of *chapter 136 of the 2010 Session*
29 *Laws of Kansas*, and amendments thereto; and

30 (2) otherwise meets admission criteria of the camp.

31 If the inmate successfully completes a conservation camp program, the
32 secretary of corrections shall report such completion to the sentencing
33 court and the county or district attorney. The inmate shall then be assigned
34 by the court to six months of follow-up supervision conducted by the
35 appropriate community corrections services program. The court may also
36 order that supervision continue thereafter for the length of time authorized
37 by section ~~305~~248 of *chapter 136 of the 2010 Session Laws of Kansas*, and
38 amendments thereto.

39 (m) When it is provided by law that a person shall be sentenced
40 pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions
41 of this section shall not apply.

42 (n) Except as provided by subsection (f) of section 286 of *chapter*
43 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, in

1 addition to any of the above, for felony violations of K.S.A. ~~2009~~2010
2 Supp. 21-36a06, and amendments thereto, the court shall require the
3 defendant who meets the requirements established in section 305 of
4 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
5 to participate in a certified drug abuse treatment program, as provided in
6 K.S.A. ~~2009~~2010 Supp. 75-52,144, and amendments thereto, including,
7 but not limited to, an approved after-care plan. If the defendant fails to
8 participate in or has a pattern of intentional conduct that demonstrates the
9 offender's refusal to comply with or participate in the treatment program,
10 as established by judicial finding, the defendant shall be subject to
11 revocation of probation and the defendant shall serve the underlying prison
12 sentence as established in section ~~305~~286 of *chapter 136 of the 2010*
13 *Session Laws of Kansas*, and amendments thereto. For those offenders who
14 are convicted on or after ~~the effective date of this act~~ July 1, 2003, upon
15 completion of the underlying prison sentence, the defendant shall not be
16 subject to a period of postrelease supervision. The amount of time spent
17 participating in such program shall not be credited as service on the
18 underlying prison sentence.

19 (o) (1) Except as provided in paragraph (3), in addition to any other
20 penalty or disposition imposed by law, upon a conviction for unlawful
21 possession of a controlled substance or controlled substance analog in
22 violation of K.S.A. ~~2009~~2010 Supp. 21-36a06, and amendments thereto, in
23 which the trier of fact makes a finding that the unlawful possession
24 occurred while transporting the controlled substance or controlled
25 substance analog in any vehicle upon a highway or street, the offender's
26 driver's license or privilege to operate a motor vehicle on the streets and
27 highways of this state shall be suspended for one year.

28 (2) Upon suspension of a license pursuant to this subsection, the court
29 shall require the person to surrender the license to the court, which shall
30 transmit the license to the division of motor vehicles of the department of
31 revenue, to be retained until the period of suspension expires. At that time,
32 the licensee may apply to the division for return of the license. If the
33 license has expired, the person may apply for a new license, which shall be
34 issued promptly upon payment of the proper fee and satisfaction of other
35 conditions established by law for obtaining a license unless another
36 suspension or revocation of the person's privilege to operate a motor
37 vehicle is in effect.

38 (3) (A) In lieu of suspending the driver's license or privilege to
39 operate a motor vehicle on the highways of this state of any person as
40 provided in paragraph (1), the judge of the court in which such person was
41 convicted may enter an order which places conditions on such person's
42 privilege of operating a motor vehicle on the highways of this state, a
43 certified copy of which such person shall be required to carry any time

1 such person is operating a motor vehicle on the highways of this state. Any
2 such order shall prescribe the duration of the conditions imposed, which in
3 no event shall be for a period of more than one year.

4 (B) Upon entering an order restricting a person's license hereunder,
5 the judge shall require such person to surrender such person's driver's
6 license to the judge who shall cause it to be transmitted to the division of
7 vehicles, together with a copy of the order. Upon receipt thereof, the
8 division of vehicles shall issue without charge a driver's license which
9 shall indicate on its face that conditions have been imposed on such
10 person's privilege of operating a motor vehicle and that a certified copy of
11 the order imposing such conditions is required to be carried by the person
12 for whom the license was issued any time such person is operating a motor
13 vehicle on the highways of this state. If the person convicted is a
14 nonresident, the judge shall cause a copy of the order to be transmitted to
15 the division and the division shall forward a copy of it to the motor vehicle
16 administrator, of such person's state of residence. Such judge shall furnish
17 to any person whose driver's license has had conditions imposed on it
18 under this paragraph a copy of the order, which shall be recognized as a
19 valid Kansas driver's license until such time as the division shall issue the
20 restricted license provided for in this paragraph.

21 (C) Upon expiration of the period of time for which conditions are
22 imposed pursuant to this subsection, the licensee may apply to the division
23 for the return of the license previously surrendered by such licensee. In the
24 event such license has expired, such person may apply to the division for a
25 new license, which shall be issued immediately by the division upon
26 payment of the proper fee and satisfaction of the other conditions
27 established by law, unless such person's privilege to operate a motor
28 vehicle on the highways of this state has been suspended or revoked prior
29 thereto. If any person shall violate any of the conditions imposed under
30 this paragraph, such person's driver's license or privilege to operate a
31 motor vehicle on the highways of this state shall be revoked for a period of
32 not less than 60 days nor more than one year by the judge of the court in
33 which such person is convicted of violating such conditions.

34 (4) As used in this subsection, "highway" and "street" ~~have the~~
35 ~~meanings provided by~~ means the same as in K.S.A. 8-1424 and 8-1473,
36 and amendments thereto.

37 *(p) In addition to any of the above, for any criminal offense that*
38 *includes the domestic violence designation pursuant to section 1 of*
39 *chapter 101 of the 2010 Session Laws of Kansas, and amendments thereto,*
40 *the court shall require the defendant to undergo a domestic violence*
41 *offender assessment and follow all recommendations unless otherwise*
42 *ordered by the court or the department of corrections. The court may*
43 *order a domestic violence offender assessment and any other evaluation*

1 *prior to sentencing if the assessment or evaluation would assist the court*
2 *in determining an appropriate sentence. The entity completing the*
3 *assessment or evaluation shall provide the assessment or evaluation and*
4 *recommendations to the court and the court shall provide the domestic*
5 *violence assessment and any other evaluation to any entity responsible for*
6 *supervising such defendant. A defendant ordered to undergo a domestic*
7 *violence offender assessment shall be required to pay for the assessment*
8 *and, unless otherwise ordered by the court or the department of*
9 *corrections, for completion of all recommendations.*

10 Sec. 67. Section 254 of chapter 136 of the 2010 Session Laws of
11 Kansas is hereby amended to read as follows: Sec. 254. (a) (1) Except as
12 provided in subsections (b) and (c), any person convicted in this state of a
13 traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D
14 or E felony, or for crimes committed on or after July 1, 1993, nondrug
15 crimes ranked in severity levels 6 through 10 or any felony ranked in
16 severity level 4 of the drug grid, may petition the convicting court for the
17 expungement of such conviction or related arrest records if three or more
18 years have elapsed since the person: (A) Satisfied the sentence imposed; or
19 (B) was discharged from probation, a community correctional services
20 program, parole, postrelease supervision, conditional release or a
21 suspended sentence.

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

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

36 (1) Vehicular homicide, as defined ~~by~~ *in K.S.A. 21-3405, prior to its*
37 *repeal, or section 41 of chapter 136 of the 2010 Session Laws of Kansas,*
38 *and amendments thereto, or as prohibited by any law of another state*
39 *which is in substantial conformity with that statute;*

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

1 statute;

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

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

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

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

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

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

18 (c) There shall be no expungement of convictions for the following
19 offenses or of convictions for an attempt to commit any of the following
20 offenses:

21 (1) Rape as defined in *K.S.A. 21-3502, prior to its repeal, or section*
22 *67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
23 thereto;

24 (2) indecent liberties with a child or aggravated indecent liberties
25 with a child as defined in *K.S.A. 21-3503 or 21-3504, prior to their repeal,*
26 *or section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and
27 amendments thereto;

28 (3) criminal sodomy as defined in *subsection (a)(2) or (a)(3) of*
29 *K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of section*
30 *68 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
31 thereto;

32 (4) aggravated criminal sodomy as defined in *K.S.A. 21-3506, prior*
33 *to its repeal, or section 68 of chapter 136 of the 2010 Session Laws of*
34 *Kansas*, and amendments thereto;

35 (5) indecent solicitation of a child or aggravated indecent solicitation
36 of a child as defined in *K.S.A. 21-3510 or 21-3511, prior to their repeal,*
37 *or section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and
38 amendments thereto;

39 (6) sexual exploitation of a child as defined in *K.S.A. 21-3516, prior*
40 *to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of*
41 *Kansas*, and amendments thereto;

42 (7) aggravated incest as defined in *K.S.A. 21-3603, prior to its repeal,*
43 *or section 81 of chapter 136 of the 2010 Session Laws of Kansas*, and

1 amendments thereto;

2 (8) endangering a child or aggravated endangering a child as defined
3 in *K.S.A. 21-3608 or 21-3608a, prior to their repeal, or section 78 of*
4 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

5 (9) abuse of a child as defined in *K.S.A. 21-3609, prior to its repeal,*
6 *or section 79 of chapter 136 of the 2010 Session Laws of Kansas*, and
7 amendments thereto;

8 (10) capital murder as defined in *K.S.A. 21-3439, prior to its repeal,*
9 *or section 36 of chapter 136 of the 2010 Session Laws of Kansas*, and
10 amendments thereto;

11 (11) murder in the first degree as defined in *K.S.A. 21-3401, prior to*
12 *its repeal, or section 37 of chapter 136 of the 2010 Session Laws of*
13 *Kansas*, and amendments thereto;

14 (12) murder in the second degree as defined in *K.S.A. 21-3402, prior*
15 *to its repeal, or section 38 of chapter 136 of the 2010 Session Laws of*
16 *Kansas*, and amendments thereto;

17 (13) voluntary manslaughter as defined in *K.S.A. 21-3403, prior to its*
18 *repeal, or section 39 of chapter 136 of the 2010 Session Laws of Kansas,*
19 and amendments thereto;

20 (14) involuntary manslaughter as defined in *K.S.A. 21-3404, prior to*
21 *its repeal, or section 40 of chapter 136 of the 2010 Session Laws of*
22 *Kansas*, and amendments thereto;

23 (15) sexual battery as defined in *K.S.A. 21-3517, prior to its repeal,*
24 *or section 69 of chapter 136 of the 2010 Session Laws of Kansas*, and
25 amendments thereto, when the victim was less than 18 years of age at the
26 time the crime was committed;

27 (16) aggravated sexual battery as defined in *K.S.A. 21-3518, prior to*
28 *its repeal, or section 69 of chapter 136 of the 2010 Session Laws of*
29 *Kansas*, and amendments thereto;

30 (17) a violation of *K.S.A. 8-1567*, and amendments thereto, including
31 any diversion for such violation;

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

34 (19) any conviction for any offense in effect at any time prior to ~~the~~
35 ~~effective date of this act~~ *July 1, 2011*, that is comparable to any offense as
36 provided in this subsection.

37 (d) (1) When a petition for expungement is filed, the court shall set
38 a date for a hearing of such petition and shall cause notice of such hearing
39 to be given to the prosecutor and the arresting law enforcement agency.
40 The petition shall state the:

41 (A) Defendant's full name;

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

- 1 (C) defendant's sex, race and date of birth;
- 2 (D) crime for which the defendant was arrested, convicted or
- 3 diverted;
- 4 (E) date of the defendant's arrest, conviction or diversion; and
- 5 (F) identity of the convicting court, arresting law enforcement
- 6 authority or diverting authority.

7 (2) Except as *otherwise* provided ~~further, there shall be no docket fee~~
8 ~~for filing a petition pursuant to this section~~ *by law, a petition for*
9 *expungement shall be accompanied by a docket fee in the amount of \$100.*
10 On and after ~~July 1, 2009 through June 30, 2010~~ *April 15, 2010 through*
11 *June 30, 2011*, the supreme court may impose a charge, not to exceed
12 ~~\$10~~ *\$15* per case, to fund the costs of non-judicial personnel. The charge
13 established in this section shall be the only fee collected or moneys in the
14 nature of a fee collected for the case. Such charge shall only be established
15 by an act of the legislature and no other authority is established by law or
16 otherwise to collect a fee.

17 (3) All petitions for expungement shall be docketed in the original
18 criminal action. Any person who may have relevant information about the
19 petitioner may testify at the hearing. The court may inquire into the
20 background of the petitioner and shall have access to any reports or
21 records relating to the petitioner that are on file with the secretary of
22 corrections or the Kansas parole board.

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

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

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

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

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

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

43 (2) the petitioner shall disclose that the arrest, conviction or diversion

1 occurred if asked about previous arrests, convictions or diversions:

2 (A) In any application for licensure as a private detective, private
3 detective agency, certification as a firearms trainer pursuant to K.S.A.
4 ~~2009~~2010 Supp. 75-7b21, and amendments thereto, or employment as a
5 detective with a private detective agency, as defined by K.S.A. 75-7b01,
6 and amendments thereto; as security personnel with a private patrol
7 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
8 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
9 the department of social and rehabilitation services;

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

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

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

22 (E) to aid in determining the petitioner's qualifications for the
23 following under the Kansas expanded lottery act: (i) Lottery gaming
24 facility manager or prospective manager, racetrack gaming facility
25 manager or prospective manager, licensee or certificate holder; or (ii) an
26 officer, director, employee, owner, agent or contractor thereof;

27 (F) upon application for a commercial driver's license under K.S.A.
28 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

39 (K) for applications received on and after July 1, 2006, to aid in
40 determining the petitioner's qualifications for a license to carry a concealed
41 weapon pursuant to the personal and family protection act, K.S.A.
42 ~~2009~~2010 Supp. 75-7c01 et seq., and amendments thereto;

43 (3) the court, in the order of expungement, may specify other

1 circumstances under which the conviction is to be disclosed;

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

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

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

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

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

29 (1) The person whose record was expunged;

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

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

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

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

43 (6) a prosecutor, and such request is accompanied by a statement that

1 the request is being made in conjunction with a prosecution of an offense
2 that requires a prior conviction as one of the elements of such offense;

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

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

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

21 (10) the Kansas racing and gaming commission, or a designee of the
22 commission, and the request is accompanied by a statement that the
23 request is being made to aid in determining qualifications of the following
24 under the Kansas expanded lottery act: (A) Lottery gaming facility
25 managers and prospective managers, racetrack gaming facility managers
26 and prospective managers, licensees and certificate holders; and (B) their
27 officers, directors, employees, owners, agents and contractors;

28 (11) the Kansas sentencing commission;

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

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

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

1 (15) a law enforcement agency and the request is accompanied by a
2 statement that the request is being made to aid in determining eligibility
3 for employment as a law enforcement officer as defined by K.S.A. 22-
4 2202, and amendments thereto; or

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

9 Sec. 68. Section 257 of chapter 136 of the 2010 Session Laws of
10 Kansas is hereby amended to read as follows: Sec. 257. (a) If a defendant
11 is charged with capital murder, the county or district attorney shall file
12 written notice if such attorney intends, upon conviction of the defendant,
13 to request a separate sentencing proceeding to determine whether the
14 defendant should be sentenced to death. Such notice shall be filed with the
15 court and served on the defendant or the defendant's attorney not later than
16 ~~five~~ seven days after the time of arraignment. If such notice is not filed and
17 served as required by this subsection, the county or district attorney may
18 not request such a sentencing proceeding and the defendant, if convicted
19 of capital murder, shall be sentenced to life without the possibility of
20 parole, and no sentence of death shall be imposed hereunder.

21 (b) Except as provided in sections 258 and 262 of chapter 136 of the
22 2010 Session Laws of Kansas, and amendments thereto, upon conviction
23 of a defendant of capital murder, the court, upon motion of the county or
24 district attorney, shall conduct a separate sentencing proceeding to
25 determine whether the defendant shall be sentenced to death. The
26 proceeding shall be conducted by the trial judge before the trial jury as
27 soon as practicable. If any person who served on the trial jury is unable to
28 serve on the jury for the sentencing proceeding, the court shall substitute
29 an alternate juror who has been impaneled for the trial jury. If there are
30 insufficient alternate jurors to replace trial jurors who are unable to serve
31 at the sentencing proceeding, the trial judge may summon a special jury of
32 12 persons which shall determine the question of whether a sentence of
33 death shall be imposed. Jury selection procedures, qualifications of jurors
34 and grounds for exemption or challenge of prospective jurors in criminal
35 trials shall be applicable to the selection of such special jury. The jury at
36 the sentencing proceeding may be waived in the manner provided by
37 K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the
38 jury at the sentencing proceeding has been waived or the trial jury has
39 been waived, the sentencing proceeding shall be conducted by the court.

40 (c) In the sentencing proceeding, evidence may be presented
41 concerning any matter that the court deems relevant to the question of
42 sentence and shall include matters relating to any of the aggravating
43 circumstances enumerated in section 264 of chapter 136 of the 2010

1 *Session Laws of Kansas*, and amendments thereto, and any mitigating
2 circumstances. Any such evidence which the court deems to have
3 probative value may be received regardless of its admissibility under the
4 rules of evidence, provided that the defendant is accorded a fair
5 opportunity to rebut any hearsay statements. Only such evidence of
6 aggravating circumstances as the state has made known to the defendant
7 prior to the sentencing proceeding shall be admissible, and no evidence
8 secured in violation of the constitution of the United States or of the state
9 of Kansas shall be admissible. No testimony by the defendant at the
10 sentencing proceeding shall be admissible against the defendant at any
11 subsequent criminal proceeding. At the conclusion of the evidentiary
12 presentation, the court shall allow the parties a reasonable period of time in
13 which to present oral argument.

14 (d) At the conclusion of the evidentiary portion of the sentencing
15 proceeding, the court shall provide oral and written instructions to the jury
16 to guide its deliberations.

17 (e) If, by unanimous vote, the jury finds beyond a reasonable doubt
18 that one or more of the aggravating circumstances enumerated in section
19 264 of chapter 136 of the 2010 *Session Laws of Kansas*, and amendments
20 thereto, exist and, further, that the existence of such aggravating
21 circumstances is not outweighed by any mitigating circumstances which
22 are found to exist, the defendant shall be sentenced to death; otherwise, the
23 defendant shall be sentenced to life without the possibility of parole. The
24 jury, if its verdict is a unanimous recommendation of a sentence of death,
25 shall designate in writing, signed by the foreman of the jury, the statutory
26 aggravating circumstances which it found beyond a reasonable doubt. If,
27 after a reasonable time for deliberation, the jury is unable to reach a
28 verdict, the judge shall dismiss the jury and impose a sentence of life
29 without the possibility of parole and shall commit the defendant to the
30 custody of the secretary of corrections. In nonjury cases, the court shall
31 follow the requirements of this subsection in determining the sentence to
32 be imposed.

33 (f) Notwithstanding the verdict of the jury, the trial court shall review
34 any jury verdict imposing a sentence of death hereunder to ascertain
35 whether the imposition of such sentence is supported by the evidence. If
36 the court determines that the imposition of such a sentence is not
37 supported by the evidence, the court shall modify the sentence and
38 sentence the defendant to life without the possibility of parole, and no
39 sentence of death shall be imposed hereunder. Whenever the court enters a
40 judgment modifying the sentencing verdict of the jury, the court shall set
41 forth its reasons for so doing in a written memorandum which shall
42 become part of the record.

43 (g) A defendant who is sentenced to imprisonment for life without the

1 possibility of parole shall spend the remainder of the defendant's natural
2 life incarcerated and in the custody of the secretary of corrections. A
3 defendant who is sentenced to imprisonment for life without the possibility
4 of parole shall not be eligible for parole, probation, assignment to a
5 community correctional services program, conditional release, postrelease
6 supervision, or suspension, modification or reduction of sentence. Upon
7 sentencing a defendant to imprisonment for life without the possibility of
8 parole, the court shall commit the defendant to the custody of the secretary
9 of corrections and the court shall state in the sentencing order of the
10 judgment form or journal entry, whichever is delivered with the defendant
11 to the correctional institution, that the defendant has been sentenced to
12 imprisonment for life without the possibility of parole.

13 Sec. 69. Section 259 of chapter 136 of the 2010 Session Laws of
14 Kansas is hereby amended to read as follows: Sec. 259. (a) A judgment of
15 conviction resulting in a sentence of death shall be subject to automatic
16 review by ~~an~~ and appeal to the supreme court of Kansas in the manner
17 provided by the applicable statutes and rules of the supreme court
18 governing appellate procedure. The review and appeal shall be expedited
19 in every manner consistent with the proper presentation thereof and given
20 priority pursuant to the statutes and rules of the supreme court governing
21 appellate procedure.

22 (b) The supreme court of Kansas shall consider the question of
23 sentence as well as any errors asserted in the review and appeal and shall
24 be authorized to notice unassigned errors appearing of record if the ends of
25 justice would be served thereby.

26 (c) With regard to the sentence, the court shall determine:

27 (1) Whether the sentence of death was imposed under the influence of
28 passion, prejudice or any other arbitrary factor; and

29 (2) whether the evidence supports the findings that an aggravating
30 circumstance or circumstances existed and that any mitigating
31 circumstances were insufficient to outweigh the aggravating
32 circumstances.

33 (d) The court shall be authorized to enter such orders as are necessary
34 to effect a proper and complete disposition of the review and appeal.

35 Sec. 70. Section 260 of chapter 136 of the 2010 Session Laws of
36 Kansas is hereby amended to read as follows: Sec. 260. (a) Except as
37 provided in ~~section~~ *sections 258 and 262 of chapter 136 of the 2010*
38 *Session Laws of Kansas*, and amendments thereto, if a defendant is
39 convicted of the crime of capital murder and a sentence of death is not
40 imposed pursuant to subsection (e) of section 257 of *chapter 136 of the*
41 *2010 Session Laws of Kansas*, and amendments thereto, or requested
42 pursuant to subsection (a) or (b) of section 257 of *chapter 136 of the 2010*
43 *Session Laws of Kansas*, and amendments thereto, the defendant shall be

1 sentenced to life without the possibility of parole.

2 (b) If a defendant is convicted of murder in the first degree based
3 upon the finding of premeditated murder, the court shall determine
4 whether the defendant shall be required to serve a mandatory term of
5 imprisonment of 40 years or for crimes committed on and after July 1,
6 1999, a mandatory term of imprisonment of 50 years or sentenced as
7 otherwise provided by law.

8 (c) In order to make such determination, the court may be presented
9 evidence concerning any matter that the court deems relevant to the
10 question of sentence and shall include matters relating to any of the
11 aggravating circumstances enumerated in section 264 of *chapter 136 of the*
12 *2010 Session Laws of Kansas*, and amendments thereto, and any
13 mitigating circumstances. Any such evidence which the court deems to
14 have probative value may be received regardless of its admissibility under
15 the rules of evidence, provided that the defendant is accorded a fair
16 opportunity to rebut any hearsay statements. Only such evidence of
17 aggravating circumstances as the state has made known to the defendant
18 prior to the sentencing shall be admissible and no evidence secured in
19 violation of the constitution of the United States or of the state of Kansas
20 shall be admissible. No testimony by the defendant at the time of
21 sentencing shall be admissible against the defendant at any subsequent
22 criminal proceeding. At the conclusion of the evidentiary presentation, the
23 court shall allow the parties a reasonable period of time in which to present
24 oral argument.

25 (d) If the court finds that one or more of the aggravating
26 circumstances enumerated in section 264 of *chapter 136 of the 2010*
27 *Session Laws of Kansas*, and amendments thereto, exist and, further, that
28 the existence of such aggravating circumstances is not outweighed by any
29 mitigating circumstances which are found to exist, the defendant shall be
30 sentenced pursuant to section 263 of *chapter 136 of the 2010 Session Laws*
31 *of Kansas*, and amendments thereto; otherwise, the defendant shall be
32 sentenced as provided by law. The court shall designate, in writing, the
33 statutory aggravating circumstances which it found. The court may make
34 the findings required by this subsection for the purpose of determining
35 whether to sentence a defendant pursuant to section 263 of *chapter 136 of*
36 *the 2010 Session Laws of Kansas*, and amendments thereto,
37 notwithstanding contrary findings made by the jury or court pursuant to
38 subsection (e) of section 257 of *chapter 136 of the 2010 Session Laws of*
39 *Kansas*, and amendments thereto, for the purpose of determining whether
40 to sentence such defendant to death.

41 Sec. 71. Section 262 of chapter 136 of the 2010 Session Laws of
42 Kansas is hereby amended to read as follows: Sec. 262. (a) If, under
43 section 257 of *chapter 136 of the 2010 Session Laws of Kansas*, and

1 amendments thereto, the county or district attorney has filed a notice of
2 intent to request a separate sentencing proceeding to determine whether
3 the defendant should be sentenced to death and the defendant is convicted
4 of the crime of capital murder, the defendant's counsel or the warden of the
5 correctional institution or sheriff having custody of the defendant may
6 request a determination by the court of whether the defendant is mentally
7 retarded. If the court determines that there is not sufficient reason to
8 believe that the defendant is mentally retarded, the court shall so find and
9 the defendant shall be sentenced in accordance with sections 257, 259,
10 264, 265, 268 and 269 of *chapter 136 of the 2010 Session Laws of Kansas*,
11 and amendments thereto. If the court determines that there is sufficient
12 reason to believe that the defendant is mentally retarded, the court shall
13 conduct a hearing to determine whether the defendant is mentally retarded.

14 (b) If a defendant is convicted of the crime of capital murder and a
15 sentence of death is not imposed, or if a defendant is convicted of the
16 crime of murder in the first degree based upon the finding of premeditated
17 murder, the defendant's counsel or the warden of the correctional
18 institution or sheriff having custody of the defendant may request a
19 determination by the court of whether the defendant is mentally retarded.
20 If the court determines that there is not sufficient reason to believe that the
21 defendant is mentally retarded, the court shall so find and the defendant
22 shall be sentenced in accordance with sections 260, 263, 264 and 265 of
23 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.
24 If the court determines that there is sufficient reason to believe that the
25 defendant is mentally retarded, the court shall conduct a hearing to
26 determine whether the defendant is mentally retarded.

27 (c) At the hearing, the court shall determine whether the defendant is
28 mentally retarded. The court shall order a psychiatric or psychological
29 examination of the defendant. For that purpose, the court shall appoint two
30 licensed physicians or licensed psychologists, or one of each, qualified by
31 training and practice to make such examination, to examine the defendant
32 and report their findings in writing to the judge within ~~14~~ 14 days after the
33 order of examination is issued. The defendant shall have the right to
34 present evidence and cross-examine any witnesses at the hearing. No
35 statement made by the defendant in the course of any examination
36 provided for by this section, whether or not the defendant consents to the
37 examination, shall be admitted in evidence against the defendant in any
38 criminal proceeding.

39 (d) If, at the conclusion of a hearing pursuant to subsection (a), the
40 court determines that the defendant is not mentally retarded, the defendant
41 shall be sentenced in accordance with sections 257, 259, 264, 265, 268 and
42 269 of *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
43 thereto.

1 (e) If, at the conclusion of a hearing pursuant to subsection (b), the
2 court determines that the defendant is not mentally retarded, the defendant
3 shall be sentenced in accordance with sections 260, 263, 264 and 265 of
4 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

5 (f) If, at the conclusion of a hearing pursuant to this section, the court
6 determines that the defendant is mentally retarded, the court shall sentence
7 the defendant as otherwise provided by law, and no sentence of death, life
8 without the possibility of parole, or mandatory term of imprisonment shall
9 be imposed hereunder.

10 (g) Unless otherwise ordered by the court for good cause shown, the
11 provisions of subsection (b) shall not apply if it has been determined,
12 pursuant to a hearing granted under the provisions of subsection (a), that
13 the defendant is not mentally retarded.

14 (h) As used in this section, "mentally retarded" means having
15 significantly subaverage general intellectual functioning, as defined by
16 K.S.A. 76-12b01, and amendments thereto, to an extent which
17 substantially impairs one's capacity to appreciate the criminality of one's
18 conduct or to conform one's conduct to the requirements of law.

19 Sec. 72. Section 266 of chapter 136 of the 2010 Session Laws of
20 Kansas is hereby amended to read as follows: Sec. 266. (a) An aggravated
21 habitual sex offender shall be sentenced to imprisonment for life without
22 the possibility of parole. Such offender shall spend the remainder of the
23 offender's natural life incarcerated and in the custody of the secretary of
24 corrections. An offender who is sentenced to imprisonment for life without
25 the possibility of parole shall not be eligible for parole, probation,
26 assignment to a community correctional services program, conditional
27 release, postrelease supervision, or suspension, modification or reduction
28 of sentence.

29 (b) Upon sentencing a defendant to imprisonment for life without the
30 possibility of parole, the court shall commit the defendant to the custody of
31 the secretary of corrections and the court shall state in the sentencing order
32 of the judgment form or journal entry, whichever is delivered with the
33 defendant to the correctional institution, that the defendant has been
34 sentenced to imprisonment for life without the possibility of parole.

35 (c) As used in this section:

36 (1) "Aggravated habitual sex offender" means a person who, on and
37 after July 1, 2006: (A) Has been convicted in this state of a sexually
38 violent crime, as described in subsection (c)(3)(A) through (c)(3)(~~H~~) or
39 (c)(3)(~~E~~)(~~J~~); and (B) prior to the conviction of the felony under
40 subparagraph (A), has been convicted ~~on at least two prior conviction~~
41 ~~events of any sexually violent crime of two or more sexually violent~~
42 ~~crimes;~~

43 (2) "~~prior conviction event~~" means ~~one or more felony convictions of~~

1 ~~a sexually violent crime occurring on the same day and within a single~~
2 ~~court. These convictions may result from multiple counts within an~~
3 ~~information or from more than one information. If a person crosses a~~
4 ~~county line and commits a felony as part of the same criminal act or acts,~~
5 ~~such felony, if such person is convicted, shall be considered part of the~~
6 ~~prior conviction event.~~

7 (3)"Sexually violent crime" means:

8 (A) Rape, as defined in *K.S.A. 21-3502, prior to its repeal, or section*
9 *67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
10 thereto;

11 (B) indecent liberties with a child or aggravated indecent liberties
12 with a child, as defined in *K.S.A. 21-3503 or 21-3504, prior to their*
13 *repeal, or section 70 of chapter 136 of the 2010 Session Laws of Kansas*,
14 and amendments thereto;

15 (C) criminal sodomy, as defined in *subsection (a)(2) or (a)(3) of*
16 *K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) and/or (a)(4) of*
17 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
18 amendments thereto;

19 (D) aggravated criminal sodomy, as defined in *K.S.A. 21-3506, prior*
20 *to its repeal, or section 68 of chapter 136 of the 2010 Session Laws of*
21 *Kansas*, and amendments thereto;

22 (E) indecent solicitation of a child or aggravated indecent solicitation
23 of a child, as defined in *K.S.A. 21-3510 or 21-3511, prior to their repeal,*
24 *or section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and
25 amendments thereto;

26 (F) sexual exploitation of a child, as defined in *K.S.A. 21-3516, prior*
27 *to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of*
28 *Kansas*, and amendments thereto;

29 (G) aggravated sexual battery, as defined in *K.S.A. 21-3518, prior to*
30 *its repeal, or section 69 of chapter 136 of the 2010 Session Laws of*
31 *Kansas*, and amendments thereto;

32 (H) aggravated incest, as defined in *K.S.A. 21-3603, prior to its*
33 *repeal, or section 81 of chapter 136 of the 2010 Session Laws of Kansas*,
34 and amendments thereto;

35 (I) any federal or other state conviction for a felony offense that under
36 the laws of this state would be a sexually violent crime as defined in this
37 section;

38 (J) an attempt, conspiracy or criminal solicitation, as defined in
39 *K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33,*
40 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas*, and
41 amendments thereto, of a sexually violent crime as defined in this section;
42 or

43 (K) any act which at the time of sentencing for the offense has been

1 determined beyond a reasonable doubt to have been sexually motivated.
2 As used in this subparagraph, "sexually motivated" means that one of the
3 purposes for which the defendant committed the crime was for the purpose
4 of the defendant's sexual gratification.

5 Sec. 73. Section 267 of chapter 136 of the 2010 Session Laws of
6 Kansas is hereby amended to read as follows: Sec. 267. (a) (1) Except as
7 provided in subsection (b) or (d), a defendant who is 18 years of age or
8 older and is convicted of the following crimes committed on or after July
9 1, 2006, shall be sentenced to a term of imprisonment for life with a
10 mandatory minimum term of imprisonment of not less than 25 years unless
11 the court determines that the defendant should be sentenced as determined
12 in subsection (a)(2):

13 (A) Aggravated *human* trafficking, as defined in section 61 of *chapter*
14 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, if the
15 victim is less than 14 years of age;

16 (B) rape, as defined in subsection (a)(3) of section 67 of *chapter 136*
17 *of the 2010 Session Laws of Kansas*, and amendments thereto;

18 (C) aggravated indecent liberties with a child, as defined in subsection
19 (b)(3) of section 70 of *chapter 136 of the 2010 Session Laws of Kansas*,
20 and amendments thereto;

21 (D) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)
22 (2) of section 68 of *chapter 136 of the 2010 Session Laws of Kansas*, and
23 amendments thereto;

24 (E) promoting prostitution, as defined in section 230 of *chapter 136*
25 *of the 2010 Session Laws of Kansas*, and amendments thereto, if the
26 prostitute is less than 14 years of age;

27 (F) sexual exploitation of a child, as defined in subsection (a)(1) or (a)
28 (4) of section 74 of *chapter 136 of the 2010 Session Laws of Kansas*, and
29 amendments thereto, if the child is less than 14 years of age; and

30 (G) an attempt, conspiracy or criminal solicitation, as defined in
31 section 33, 34 or 35 of *chapter 136 of the 2010 Session Laws of Kansas*,
32 and amendments thereto, of an offense defined in subsections (a)(1)(A)
33 through (a)(1)(F).

34 (2) The provision of subsection (a)(1) requiring a mandatory
35 minimum term of imprisonment of not less than 25 years shall not apply if
36 the court finds:

37 (A) The defendant is an aggravated habitual sex offender and
38 sentenced pursuant to section 266 of *chapter 136 of the 2010 Session Laws*
39 *of Kansas*, and amendments thereto; or

40 (B) the defendant, because of the defendant's criminal history
41 classification, is subject to presumptive imprisonment pursuant to the
42 sentencing guidelines grid for nondrug crimes and the sentencing range
43 exceeds 300 months. In such case, the defendant is required to serve a

1 mandatory minimum term equal to the sentence established pursuant to the
2 sentencing range.

3 (b) (1) On and after July 1, 2006, if a defendant who is 18 years of
4 age or older is convicted of a crime listed in subsection (a)(1) and such
5 defendant has previously been convicted of a crime listed in subsection (a)
6 (1), a crime in effect at any time prior to ~~May 24, 2007~~ July 1, 2011, which
7 is substantially the same as a crime listed in subsection (a)(1) or a crime
8 under a law of another jurisdiction which is substantially the same as a
9 crime listed in subsection (a)(1), the court shall sentence the defendant to a
10 term of imprisonment for life with a mandatory minimum term of
11 imprisonment of not less than 40 years. The provisions of this paragraph
12 shall not apply to a crime committed under section 71 of *chapter 136 of*
13 *the 2010 Session Laws of Kansas*, and amendments thereto, or a crime
14 under a law of another jurisdiction which is substantially the same as
15 section 71 of *chapter 136 of the 2010 Session Laws of Kansas*, and
16 amendments thereto.

17 (2) The provision of subsection (b)(1) requiring a mandatory
18 minimum term of imprisonment of not less than 40 years shall not apply if
19 the court finds:

20 (A) The defendant is an aggravated habitual sex offender and
21 sentenced pursuant to section 266, and amendments thereto; or

22 (B) the defendant, because of the defendant's criminal history
23 classification, is subject to presumptive imprisonment pursuant to the
24 sentencing guidelines grid for nondrug crimes and the sentencing range
25 exceeds 480 months. In such case, the defendant is required to serve a
26 mandatory minimum term equal to the sentence established pursuant to the
27 sentencing range.

28 (c) When a person is sentenced pursuant to subsection (a) or (b), such
29 person shall be sentenced to a mandatory minimum term of imprisonment
30 of not less than 25 years, 40 years or be sentenced as determined in
31 subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall
32 not be eligible for probation or suspension, modification or reduction of
33 sentence. In addition, a person sentenced pursuant to this section shall not
34 be eligible for parole prior to serving such mandatory term of
35 imprisonment, and such imprisonment shall not be reduced by the
36 application of good time credits.

37 (d) (1) On or after July 1, 2006, for a first time conviction of an
38 offense listed in subsection (a)(1), the sentencing judge shall impose the
39 mandatory minimum term of imprisonment provided by subsection (a),
40 unless the judge finds substantial and compelling reasons, following a
41 review of mitigating circumstances, to impose a departure. If the
42 sentencing judge departs from such mandatory minimum term of
43 imprisonment, the judge shall state on the record at the time of sentencing

1 the substantial and compelling reasons for the departure. The departure
2 sentence shall be the sentence pursuant to the revised Kansas sentencing
3 guidelines act, sections 282 through 305 *of chapter 136 of the 2010*
4 *Session Laws of Kansas*, and amendments thereto, and, *subject to the*
5 *provisions of section 299 of chapter 136 of the 2010 Session Laws of*
6 *Kansas, and amendments thereto*, no sentence of a mandatory minimum
7 term of imprisonment shall be imposed hereunder.

8 (2) As used in this subsection, "mitigating circumstances" shall
9 include, but are not limited to, the following:

10 (A) The defendant has no significant history of prior criminal activity;

11 (B) the crime was committed while the defendant was under the
12 influence of extreme mental or emotional disturbances;

13 (C) the victim was an accomplice in the crime committed by another
14 person, and the defendant's participation was relatively minor;

15 (D) the defendant acted under extreme distress or under the
16 substantial domination of another person;

17 (E) the capacity of the defendant to appreciate the criminality of the
18 defendant's conduct or to conform the defendant's conduct to the
19 requirements of law was substantially impaired; and

20 (F) the age of the defendant at the time of the crime.

21 (e) *The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to*
22 *their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session*
23 *Laws of Kansas, and amendments thereto, shall not apply to any defendant*
24 *sentence pursuant to this section.*

25 Sec. 74. Section 268 of Chapter 136 of the 2010 Session Laws of
26 Kansas is hereby amended to read as follows: Sec. 268. (a) In the event the
27 term of imprisonment for life without the possibility of parole or any
28 provision of section 266 or 267 *of chapter 136 of the 2010 Session Laws*
29 *of Kansas*, and amendments thereto, authorizing such term is held to be
30 unconstitutional by the supreme court of Kansas or the United States
31 supreme court, the court having jurisdiction over a person previously
32 sentenced shall cause such person to be brought before the court and shall
33 modify the sentence to require no term of imprisonment for life without
34 the possibility of parole and shall sentence the defendant to the maximum
35 term of imprisonment otherwise provided by law.

36 (b) In the event a sentence of death or any provision of ~~this~~
37 ~~act~~ *chapter 252 of the 1994 Session Laws of Kansas* authorizing such
38 sentence is held to be unconstitutional by the supreme court of Kansas or
39 the United States supreme court, the court having jurisdiction over a
40 person previously sentenced shall cause such person to be brought before
41 the court and shall modify the sentence and resentence the defendant as
42 otherwise provided by law.

43 (c) In the event the mandatory term of imprisonment or any provision

1 of chapter 341 of the 1994 Session Laws of Kansas authorizing such
 2 mandatory term is held to be unconstitutional by the supreme court of
 3 Kansas or the United States supreme court, the court having jurisdiction
 4 over a person previously sentenced shall cause such person to be brought
 5 before the court and shall modify the sentence to require no mandatory
 6 term of imprisonment and shall sentence the defendant as otherwise
 7 provided by law.

8 Sec. 75. Section 269 of chapter 136 of the 2010 Session Laws of
 9 Kansas is hereby amended to read as follows: Sec. 269. (a) The provisions
 10 of K.S.A. 21-4622 through 21-4630, as they existed immediately prior to
 11 July 1, 1994, shall be applicable only to persons convicted of crimes
 12 committed on or after July 1, 1990, and before July 1, 1994.

13 (b) The provisions of K.S.A. 21-4622 through 21-4627 and 21-4629
 14 and 21-4630, as amended on July 1, 1994 *and prior to their repeal, and*
 15 *sections 257, 258, 259, 262, 264, 265 and subsection (b) of section 268 of*
 16 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*
 17 shall be applicable only to persons convicted of crimes committed on or
 18 after July 1, 1994.

19 (c) K.S.A. 21-4633 through 21-4640, *prior to their repeal, and*
 20 *sections 260, 261, 262, 263, 264, 265 and subsection (c) of section 268 of*
 21 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*
 22 shall be applicable only to persons convicted of crimes committed on or
 23 after July 1, 1994.

24 Sec. 76. Section 271 of chapter 136 of the 2010 Session Laws of
 25 Kansas is hereby amended to read as follows: Sec. 271. (a) Whenever any
 26 person has been found guilty of a crime and the court finds that an
 27 adequate presentence investigation cannot be conducted by resources
 28 available within the judicial district, including mental health centers and
 29 mental health clinics, the court may require that a presentence
 30 investigation be conducted by the Topeka correctional facility or by the
 31 state security hospital. If the offender is sent to the Topeka correctional
 32 facility or the state security hospital for a presentence investigation under
 33 this section, the correctional facility or hospital may keep the offender
 34 confined for a maximum of 60 days, except that an inmate may be held for
 35 a longer period of time on order of the secretary, or until the court calls for
 36 the return of the offender. While held at the Topeka correctional facility or
 37 the state security hospital the defendant may be treated the same as any
 38 person committed to the secretary of corrections or secretary of social and
 39 rehabilitation services for purposes of maintaining security and control,
 40 discipline, and emergency medical or psychiatric treatment, and general
 41 population management except that no such person shall be transferred out
 42 of the state or to a federal institution or to any other location unless the
 43 transfer is between the correctional facility and the state security hospital.

1 The correctional facility or the state security hospital shall compile a
2 complete mental and physical evaluation of such offender and shall make
3 its findings and recommendations known to the court in the presentence
4 report.

5 (b) Except as provided in subsection (c), whenever any person has
6 been found guilty of a crime, the court may adjudge any of the following:

7 (1) Commit the defendant to the custody of the secretary of
8 corrections or, if confinement is for a term less than one year, to jail for the
9 term provided by law;

10 (2) impose the fine applicable to the offense;

11 (3) release the defendant on probation subject to such conditions as
12 the court may deem appropriate, including orders requiring full or partial
13 restitution. In felony cases, the court may include confinement in a county
14 jail not to exceed 60 days, which need not be served consecutively, as a
15 condition of an original probation sentence and up to 60 days in a county
16 jail upon each revocation of the probation sentence;

17 (4) suspend the imposition of the sentence subject to such conditions
18 as the court may deem appropriate, including orders requiring full or
19 partial restitution. In felony cases, the court may include confinement in a
20 county jail not to exceed 60 days, which need not be served consecutively,
21 as a condition of suspension of sentence;

22 (5) assign the defendant to a community correctional services
23 program subject to the provisions of K.S.A. 75-5291, and amendments
24 thereto, and such conditions as the court may deem appropriate, including
25 orders requiring full or partial restitution;

26 (6) assign the defendant to a conservation camp for a period not to
27 exceed six months;

28 (7) assign the defendant to a house arrest program pursuant to section
29 *252 249 of chapter 136 of the 2010 Session Laws of Kansas*, and
30 amendments thereto;

31 (8) order the defendant to attend and satisfactorily complete an
32 alcohol or drug education or training program as provided by subsection
33 (c) of section *242 of chapter 136 of the 2010 Session Laws of Kansas*, and
34 amendments thereto;

35 (9) order the defendant to pay the administrative fee authorized by
36 K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

37 (10) impose any appropriate combination of subsections (b)(1)
38 through (b)(9).

39 In addition to or in lieu of any of the above, the court shall order the
40 defendant to submit to and complete an alcohol and drug evaluation, and
41 pay a fee therefor, when required by subsection (d) of section *242 of*
42 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

43 In addition to any of the above, the court shall order the defendant to

1 reimburse the state general fund for all or a part of the expenditures by the
2 state board of indigents' defense services to provide counsel and other
3 defense services to the defendant. In determining the amount and method
4 of payment of such sum, the court shall take account of the financial
5 resources of the defendant and the nature of the burden that payment of
6 such sum will impose. A defendant who has been required to pay such sum
7 and who is not willfully in default in the payment thereof may at any time
8 petition the court which sentenced the defendant to waive payment of such
9 sum or any unpaid portion thereof. If it appears to the satisfaction of the
10 court that payment of the amount due will impose manifest hardship on the
11 defendant or the defendant's immediate family, the court may waive
12 payment of all or part of the amount due or modify the method of
13 payment. The amount of attorney fees to be included in the court order for
14 reimbursement shall be the amount claimed by appointed counsel on the
15 payment voucher for indigents' defense services or the amount prescribed
16 by the board of indigents' defense services reimbursement tables as
17 provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

18 In imposing a fine the court may authorize the payment thereof in
19 installments. In releasing a defendant on probation, the court shall direct
20 that the defendant be under the supervision of a court services officer. If
21 the court commits the defendant to the custody of the secretary of
22 corrections or to jail, the court may specify in its order the amount of
23 restitution to be paid and the person to whom it shall be paid if restitution
24 is later ordered as a condition of parole or conditional release.

25 The court in committing a defendant to the custody of the secretary of
26 corrections shall fix a maximum term of confinement within the limits
27 provided by law. In those cases where the law does not fix a maximum
28 term of confinement for the crime for which the defendant was convicted,
29 the court shall fix the maximum term of such confinement. In all cases
30 where the defendant is committed to the custody of the secretary of
31 corrections, the court shall fix the minimum term within the limits
32 provided by law.

33 (c) Whenever any juvenile felon, as defined in K.S.A. 38-16,112,
34 prior to its repeal, has been found guilty of a class A or B felony, the court
35 shall commit the defendant to the custody of the secretary of corrections
36 and may impose the fine applicable to the offense.

37 (d) (1) Except when an appeal is taken and determined adversely to
38 the defendant as provided in subsection (d)(2), at any time within 120 days
39 after a sentence is imposed, after probation or assignment to a community
40 correctional services program has been revoked, the court may modify
41 such sentence, revocation of probation or assignment to a community
42 correctional services program by directing that a less severe penalty be
43 imposed in lieu of that originally adjudged within statutory limits and shall

1 modify such sentence if recommended by the Topeka correctional facility
2 unless the court finds and sets forth with particularity the reasons for
3 finding that the safety of members of the public will be jeopardized or that
4 the welfare of the inmate will not be served by such modification.

5 (2) If an appeal is taken and determined adversely to the defendant,
6 such sentence may be modified within 120 days after the receipt by the
7 clerk of the district court of the mandate from the supreme court or court
8 of appeals.

9 (e) The court shall modify the sentence at any time before the
10 expiration thereof when such modification is recommended by the
11 secretary of corrections unless the court finds and sets forth with
12 particularity the reasons for finding that the safety of members of the
13 public will be jeopardized or that the welfare of the inmate will not be
14 served by such modification. The court shall have the power to impose a
15 less severe penalty upon the inmate, including the power to reduce the
16 minimum below the statutory limit on the minimum term prescribed for
17 the crime of which the inmate has been convicted. The recommendation of
18 the secretary of corrections, the hearing on the recommendation and the
19 order of modification shall be made in open court. Notice of the
20 recommendation of modification of sentence and the time and place of the
21 hearing thereon shall be given by the inmate, or by the inmate's legal
22 counsel, at least 21 days prior to the hearing to the county or district
23 attorney of the county where the inmate was convicted. After receipt of
24 such notice and at least 14 days prior to the hearing, the county or district
25 attorney shall give notice of the recommendation of modification of
26 sentence and the time and place of the hearing thereon to any victim of the
27 inmate's crime who is alive and whose address is known to the county or
28 district attorney or, if the victim is deceased, to the victim's next of kin if
29 the next of kin's address is known to the county or district attorney. Proof
30 of service of each notice required to be given by this subsection shall be
31 filed with the court.

32 (f) After such defendant has been assigned to a conservation camp but
33 prior to the end of 180 days, the chief administrator of such camp shall file
34 a performance report and recommendations with the court. The court shall
35 enter an order based on such report and recommendations modifying the
36 sentence, if appropriate, by sentencing the defendant to any of the
37 authorized dispositions provided in subsection (b), except to reassign such
38 person to a conservation camp as provided in subsection (b)(6).

39 (g) This section shall not deprive the court of any authority conferred
40 by any other Kansas statute to decree a forfeiture of property, suspend or
41 cancel a license, remove a person from office, or impose any other civil
42 penalty as a result of conviction of crime.

43 (h) An application for or acceptance of probation, suspended sentence

1 or assignment to a community correctional services program shall not
2 constitute an acquiescence in the judgment for purpose of appeal, and any
3 convicted person may appeal from such conviction, as provided by law,
4 without regard to whether such person has applied for probation,
5 suspended sentence or assignment to a community correctional services
6 program.

7 (i) When it is provided by law that a person shall be sentenced
8 pursuant to K.S.A. 21-4628, prior to its repeal, the provisions of this
9 section shall not apply.

10 (j) The provisions of this section shall apply to crimes committed
11 before July 1, 1993.

12 Sec. 77. Section 285 of chapter 136 of the 2010 Session Laws of
13 Kansas is hereby amended to read as follows: Sec. 285. (a) The provisions
14 of this section shall be applicable to the sentencing guidelines grid for
15 nondrug crimes. The following sentencing guidelines grid shall be
16 applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level 1	3+ Person Felonies	2 Person Felonies	1 Person & Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	653 620 892	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155
II	495 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	32 31 29
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 19 17	19 18 17
VIII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	14 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5

LEGEND

Presumptive Probation
Probation
Presumptive Imprisonment

1 (b) Sentences expressed in the sentencing guidelines grid for nondrug
2 crimes represent months of imprisonment.

3 (c) The sentencing guidelines grid is a two-dimensional crime
4 severity and criminal history classification tool. The grid's vertical axis is
5 the crime severity scale which classifies current crimes of conviction. The
6 grid's horizontal axis is the criminal history scale which classifies criminal
7 histories.

8 (d) The sentencing guidelines grid for nondrug crimes as provided in
9 this section defines presumptive punishments for felony convictions,
10 subject to the sentencing court's discretion to enter a departure sentence.
11 The appropriate punishment for a felony conviction should depend on the
12 severity of the crime of conviction when compared to all other crimes and
13 the offender's criminal history.

14 (e) (1) The sentencing court has discretion to sentence at any place
15 within the sentencing range. In the usual case it is recommended that the
16 sentencing judge select the center of the range and reserve the upper and
17 lower limits for aggravating and mitigating factors insufficient to warrant a
18 departure.

19 (2) In presumptive imprisonment cases, the sentencing court shall
20 pronounce the complete sentence which shall include the:

21 (A) Prison sentence;

22 (B) maximum potential reduction to such sentence as a result of good
23 time; and

24 (C) period of postrelease supervision at the sentencing hearing.
25 Failure to pronounce the period of postrelease supervision shall not negate
26 the existence of such period of postrelease supervision.

27 (3) In presumptive nonprison cases, the sentencing court shall
28 pronounce the:

29 (A) Prison sentence; and

30 (B) duration of the nonprison sanction at the sentencing hearing.

31 (f) Each grid block states the presumptive sentencing range for an
32 offender whose crime of conviction and criminal history place such
33 offender in that grid block. If an offense is classified in a grid block below
34 the dispositional line, the presumptive disposition shall be
35 nonimprisonment. If an offense is classified in a grid block above the
36 dispositional line, the presumptive disposition shall be imprisonment. If an
37 offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose
38 an optional nonprison sentence as provided in subsection (q).

39 (g) The sentence for a violation of ~~section 48, and amendments~~
40 ~~thereto, K.S.A. 21-3415, prior to its repeal~~, aggravated battery against a
41 law enforcement officer committed prior to July 1, 2006, or a violation of
42 *subsection (d) of section 47 of chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto, aggravated assault against a law

1 enforcement officer, which places the defendant's sentence in grid block 6-
2 H or 6-I shall be presumed imprisonment. The court may impose an
3 optional nonprison sentence as provided in subsection (q).

4 (h) When a firearm is used to commit any person felony, the
5 offender's sentence shall be presumed imprisonment. The court may
6 impose an optional nonprison sentence as provided in subsection (q).

7 (i) (1) The sentence for the violation of the felony provision of
8 K.S.A. 8-1567, subsection (b)(3) of section 49 of *chapter 136 of the 2010*
9 *Session Laws of Kansas*, subsections (b)(3) and (b)(4) of section 109 of
10 *chapter 136 of the 2010 Session Laws of Kansas*, section 223 of *chapter*
11 *136 of the 2010 Session Laws of Kansas* and section 227 of *chapter 136 of*
12 *the 2010 Session Laws of Kansas*, and amendments thereto, shall be as
13 provided by the specific mandatory sentencing requirements of that section
14 and shall not be subject to the provisions of this section or section 288 of
15 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

16 (2) If because of the offender's criminal history classification the
17 offender is subject to presumptive imprisonment or if the judge departs
18 from a presumptive probation sentence and the offender is subject to
19 imprisonment, the provisions of this section and section 288 of *chapter*
20 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, shall
21 apply and the offender shall not be subject to the mandatory sentence as
22 provided in section 109 of *chapter 136 of the 2010 Session Laws of*
23 *Kansas*, and amendments thereto.

24 (3) Notwithstanding the provisions of any other section, the term of
25 imprisonment imposed for the violation of the felony provision of K.S.A.
26 8-1567, subsection (b)(3) of section 49 of *chapter 136 of the 2010 Session*
27 *Laws of Kansas*, subsections (b)(3) and (b)(4) of section 109 of *chapter*
28 *136 of the 2010 Session Laws of Kansas*, section 223 and section 227 of
29 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
30 shall not be served in a state facility in the custody of the secretary of
31 corrections, except that the term of imprisonment for felony violations of
32 K.S.A. 8-1567, and amendments thereto, may be served in a state
33 correctional facility designated by the secretary of corrections if the
34 secretary determines that substance abuse treatment resources and facility
35 capacity is available. The secretary's determination regarding the
36 availability of treatment resources and facility capacity shall not be subject
37 to review.

38 (j) (1) The sentence for any persistent sex offender whose current
39 convicted crime carries a presumptive term of imprisonment shall be
40 double the maximum duration of the presumptive imprisonment term. The
41 sentence for any persistent sex offender whose current conviction carries a
42 presumptive nonprison term shall be presumed imprisonment and shall be
43 double the maximum duration of the presumptive imprisonment term.

1 (2) Except as otherwise provided in this subsection, as used in this
2 subsection, "persistent sex offender" means a person who:

3 (A) (i) Has been convicted in this state of a sexually violent crime,
4 as defined in K.S.A. 22-3717, and amendments thereto; and

5 (ii) at the time of the conviction under ~~paragraph~~ *subsection (j)(2)(A)*
6 (i) has at least one conviction for a sexually violent crime, as defined in
7 K.S.A. 22-3717, and amendments thereto, in this state or comparable
8 felony under the laws of another state, the federal government or a foreign
9 government; or

10 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,
11 prior to its repeal, or section 67 of *chapter 136 of the 2010 Session Laws of*
12 *Kansas*, and amendments thereto; and

13 (ii) at the time of the conviction under ~~paragraph~~ *subsection (j)(2)(B)*
14 (i) has at least one conviction for rape in this state or comparable felony
15 under the laws of another state, the federal government or a foreign
16 government.

17 (3) Except as provided in ~~paragraph~~ *subsection (j)(2)(B)*, the
18 provisions of this subsection shall not apply to any person whose current
19 convicted crime is a severity level 1 or 2 felony.

20 (k) (1) If it is shown at sentencing that the offender committed any
21 felony violation for the benefit of, at the direction of, or in association with
22 any criminal street gang, with the specific intent to promote, further or
23 assist in any criminal conduct by gang members, the offender's sentence
24 shall be presumed imprisonment. The court may impose an optional
25 nonprison sentence as provided in subsection (q).

26 (2) As used in this subsection, "criminal street gang" means any
27 organization, association or group of three or more persons, whether
28 formal or informal, having as one of its primary activities:

29 (A) The commission of one or more person felonies; or

30 (B) the commission of felony violations of K.S.A. ~~2009~~ *2010*
31 *Supp. 21-36a01 through 21-36a17*, and amendments thereto; and

32 (C) its members have a common name or common identifying sign or
33 symbol; and

34 (D) its members, individually or collectively, engage in or have
35 engaged in the commission, attempted commission, conspiracy to commit
36 or solicitation of two or more person felonies or felony violations of
37 K.S.A. ~~2009~~ *2010 Supp. 21-36a01 through 21-36a17*, and amendments
38 thereto, or any substantially similar offense from another jurisdiction.

39 (l) Except as provided in subsection (o), the sentence for a violation
40 of subsection (a)(1) of section 93 of *chapter 136 of the 2010 Session Laws*
41 *of Kansas*, and amendments thereto, or any attempt or conspiracy, as
42 defined in sections 33 and 34 of *chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto, to commit such offense, when such

1 person being sentenced has a prior conviction for a violation of subsection
2 (a) or (b) of K.S.A. 21-3715, prior to its repeal, 21-3716, prior to its repeal,
3 subsection (a)(1) or (a)(2) of section 93 *of chapter 136 of the 2010 Session*
4 *Laws of Kansas*, or subsection (b) of section 93 *of chapter 136 of the 2010*
5 *Session Laws of Kansas*, and amendments thereto, *or any attempt or*
6 *conspiracy to commit such offense*, shall be ~~presumed~~ *presumptive*
7 imprisonment.

8 (m) The sentence for a violation of K.S.A 22-4903 or subsection (a)
9 (2) of section 138 *of chapter 136 of the 2010 Session Laws of Kansas*, and
10 amendments thereto, shall be presumptive imprisonment. If an offense
11 under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I,
12 the court may impose an optional nonprison sentence as provided in
13 subsection (q).

14 (n) The sentence for a violation of criminal deprivation of property, as
15 defined in section 89 *of chapter 136 of the 2010 Session Laws of Kansas*,
16 and amendments thereto, when such property is a motor vehicle, and when
17 such person being sentenced has any combination of two or more prior
18 convictions of subsection (b) of K.S.A. 21-3705, prior to its repeal, or of
19 criminal deprivation of property, as defined in section 89 *of chapter 136 of*
20 *the 2010 Session Laws of Kansas*, and amendments thereto, when such
21 property is a motor vehicle, shall be presumptive imprisonment. Such
22 sentence shall not be considered a departure and shall not be subject to
23 appeal.

24 (o) The sentence for a felony violation of theft of property as defined
25 in section 87 *of chapter 136 of the 2010 Session Laws of Kansas*, and
26 amendments thereto, or burglary as defined in subsection (a) of section 93
27 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
28 thereto, when such person being sentenced has no prior convictions for a
29 violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of
30 property as defined in section 87 *of chapter 136 of the 2010 Session Laws*
31 *of Kansas*, and amendments thereto, or burglary as defined in subsection
32 (a) of section 93 *of chapter 136 of the 2010 Session Laws of Kansas*, and
33 amendments thereto; or the sentence for a felony violation of theft of
34 property as defined in section 87 *of chapter 136 of the 2010 Session Laws*
35 *of Kansas*, and amendments thereto, when such person being sentenced
36 has one or two prior felony convictions for a violation of K.S.A. 21-3701,
37 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in
38 section 87 *of chapter 136 of the 2010 Session Laws of Kansas*, and
39 amendments thereto, or burglary *or aggravated burglary* as defined in
40 section 93 *of chapter 136 of the 2010 Session Laws of Kansas*, and
41 amendments thereto; or the sentence for a felony violation of burglary as
42 defined in subsection (a) of section 93 *of chapter 136 of the 2010 Session*
43 *Laws of Kansas*, and amendments thereto, when such person being

1 sentenced has one prior felony conviction for a violation of K.S.A. 21-
2 3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as
3 defined in section 87 of chapter 136 of the 2010 Session Laws of Kansas,
4 and amendments thereto, or burglary or aggravated burglary as defined in
5 section 93 of chapter 136 of the 2010 Session Laws of Kansas, and
6 amendments thereto, shall be the sentence as provided by this section,
7 except that the court may order an optional nonprison sentence for a
8 defendant to participate in a drug treatment program, including, but not
9 limited to, an approved after-care plan, if the court makes the following
10 findings on the record:

11 (1) Substance abuse was an underlying factor in the commission of
12 the crime;

13 (2) substance abuse treatment in the community is likely to be more
14 effective than a prison term in reducing the risk of offender recidivism;
15 and

16 (3) participation in an intensive substance abuse treatment program
17 will serve community safety interests.

18 A defendant sentenced to an optional nonprison sentence under
19 this subsection shall be supervised by community correctional services.
20 The provisions of subsection (f)(1) of section 305 of chapter 136 of the
21 2010 Session Laws of Kansas, and amendments thereto, shall apply to a
22 defendant sentenced under this subsection. The sentence under this
23 subsection shall not be considered a departure and shall not be subject to
24 appeal.

25 (p) The sentence for a felony violation of theft of property as defined
26 in section 87 of chapter 136 of the 2010 Session Laws of Kansas, and
27 amendments thereto, when such person being sentenced has any
28 combination of three or more prior felony convictions for violations of
29 K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of
30 property as defined in section 87 of chapter 136 of the 2010 Session Laws
31 of Kansas, and amendments thereto, or burglary or aggravated burglary as
32 defined in section 93 of chapter 136 of the 2010 Session Laws of Kansas;
33 or the sentence for a violation of burglary as defined in subsection (a)
34 of section 93 of chapter 136 of the 2010 Session Laws of Kansas, and
35 amendments thereto, when such person being sentenced has any
36 combination of two or more prior convictions for violations of K.S.A. 21-
37 3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as
38 defined in section 87 of chapter 136 of the 2010 Session Laws of Kansas,
39 and amendments thereto, or burglary or aggravated burglary as defined in
40 section 93 of chapter 136 of the 2010 Session Laws of Kansas, and
41 amendments thereto, shall be presumed imprisonment and the defendant
42 shall be sentenced to prison as provided by this section, except that the
43 court may recommend that an offender be placed in the custody of the

1 secretary of corrections, in a facility designated by the secretary to
2 participate in an intensive substance abuse treatment program, upon
3 making the following findings on the record:

4 (1) Substance abuse was an underlying factor in the commission of
5 the crime;

6 (2) substance abuse treatment with a possibility of an early release
7 from imprisonment is likely to be more effective than a prison term in
8 reducing the risk of offender recidivism; and

9 (3) participation in an intensive substance abuse treatment program
10 with the possibility of an early release from imprisonment will serve
11 community safety interests by promoting offender reformation.

12 The intensive substance abuse treatment program shall be determined
13 by the secretary of corrections, but shall be for a period of at least four
14 months. Upon the successful completion of such intensive treatment
15 program, the offender shall be returned to the court and the court may
16 modify the sentence by directing that a less severe penalty be imposed in
17 lieu of that originally adjudged within statutory limits. If the offender's
18 term of imprisonment expires, the offender shall be placed under the
19 applicable period of postrelease supervision. The sentence under this
20 subsection shall not be considered a departure and shall not be subject to
21 appeal.

22 (q) As used in this section, an "optional nonprison sentence" is a
23 sentence which the court may impose, in lieu of the presumptive sentence,
24 upon making the following findings on the record:

25 (1) An appropriate treatment program exists which is likely to be
26 more effective than the presumptive prison term in reducing the risk of
27 offender recidivism; and

28 (2) the recommended treatment program is available and the offender
29 can be admitted to such program within a reasonable period of time; or

30 (3) the nonprison sanction will serve community safety interests by
31 promoting offender reformation.

32 Any decision made by the court regarding the imposition of an
33 optional nonprison sentence shall not be considered a departure and shall
34 not be subject to appeal.

35 (r) The sentence for a violation of subsection (c)(2) of section 48 of
36 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
37 shall be presumptive imprisonment and shall be served consecutively to
38 any other term or terms of imprisonment imposed. Such sentence shall not
39 be considered a departure and shall not be subject to appeal.

40 (s) *The sentence for a violation of section 76 of chapter 136 of the*
41 *2010 Session Laws of Kansas, and amendments thereto, shall be*
42 *presumptive imprisonment. Such sentence shall not be considered a*
43 *departure and shall not be subject to appeal.*

1 (t) (1) *If the trier of fact makes a finding that an offender wore or*
2 *used ballistic resistant material in the commission of, or attempt to*
3 *commit, or flight from any felony, in addition to the sentence imposed*
4 *pursuant to the Kansas sentencing guidelines act, the offender shall be*
5 *sentenced to an additional 30 months' imprisonment.*

6 (2) *The sentence imposed pursuant to subsection (t)(1) shall be*
7 *presumptive imprisonment and shall be served consecutively to any other*
8 *term or terms of imprisonment imposed. Such sentence shall not be*
9 *considered a departure and shall not be subject to appeal.*

10 (3) *As used in this subsection, "ballistic resistant material" means:*
11 *(A) Any commercially produced material designed with the purpose of*
12 *providing ballistic and trauma protection, including, but not limited to,*
13 *bulletproof vests and kevlar vests; and (B) any homemade or fabricated*
14 *substance or item designed with the purpose of providing ballistic and*
15 *trauma protection.*

16 Sec. 78. Section 291 of chapter 136 of the 2010 Session Laws of
17 Kansas is hereby amended to read as follows: Sec. 291. (a) Criminal
18 history categories contained in the sentencing guidelines grids are based
19 on the following types of prior convictions: Person felony adult
20 convictions, nonperson felony adult convictions, person felony juvenile
21 adjudications, nonperson felony juvenile adjudications, person
22 misdemeanor adult convictions, nonperson class A misdemeanor adult
23 convictions, person misdemeanor juvenile adjudications, nonperson class
24 A misdemeanor juvenile adjudications, select class B nonperson
25 misdemeanor adult convictions, select class B nonperson misdemeanor
26 juvenile adjudications and convictions and adjudications for violations of
27 municipal ordinances or county resolutions which are comparable to any
28 crime classified under the state law of Kansas as a person misdemeanor,
29 select nonperson class B misdemeanor or nonperson class A misdemeanor.
30 A prior conviction is any conviction, other than another count in the
31 current case which was brought in the same information or complaint or
32 which was joined for trial with other counts in the current case pursuant to
33 K.S.A. 22-3203, and amendments thereto, which occurred prior to
34 sentencing in the current case regardless of whether the offense that led to
35 the prior conviction occurred before or after the current offense or the
36 conviction in the current case.

37 (b) A class B nonperson select misdemeanor is a special classification
38 established for weapons violations. Such classification shall be considered
39 and scored in determining an offender's criminal history classification.

40 (c) Except as otherwise provided, all convictions, whether sentenced
41 consecutively or concurrently, shall be counted separately in the offender's
42 criminal history.

43 (d) Except as provided in section 296 of chapter 136 of the 2010

1 *Session Laws of Kansas*, and amendments thereto, the following are
2 applicable to determining an offender's criminal history classification:

3 (1) Only verified convictions will be considered and scored.

4 (2) All prior adult felony convictions, including expungements, will
5 be considered and scored.

6 (3) There will be no decay factor applicable for:

7 (A) Adult convictions;

8 (B) a juvenile adjudication for an offense which would constitute a
9 person felony if committed by an adult;

10 (C) a juvenile adjudication for an offense committed before July 1,
11 1993, which would have been a class A, B or C felony, if committed by an
12 adult; or

13 (D) a juvenile adjudication for an offense committed on or after July
14 1, 1993, which would be an off-grid felony, a nondrug severity level 1, 2,
15 3, 4 or 5 felony, or a drug severity level 1, 2 or 3 felony, if committed by
16 an adult.

17 (4) Except as otherwise provided, a juvenile adjudication will decay if
18 the current crime of conviction is committed after the offender reaches the
19 age of 25, and the juvenile adjudication is for an offense:

20 (A) Committed before July 1, 1993, which would have been a class D
21 or E felony if committed by an adult;

22 (B) committed on or after July 1, 1993, which would be a nondrug
23 level 6, 7, 8, 9 or 10, or drug level 4, nonperson felony if committed by an
24 adult; or

25 (C) which would be a misdemeanor if committed by an adult.

26 (5) All person misdemeanors, class A nonperson misdemeanors and
27 class B select nonperson misdemeanors, and all municipal ordinance and
28 county resolution violations comparable to such misdemeanors, shall be
29 considered and scored.

30 (6) Unless otherwise provided by law, unclassified felonies and
31 misdemeanors, shall be considered and scored as nonperson crimes for the
32 purpose of determining criminal history.

33 (7) Prior convictions of a crime defined by a statute which has since
34 been repealed shall be scored using the classification assigned at the time
35 of such conviction.

36 (8) Prior convictions of a crime defined by a statute which has since
37 been determined unconstitutional by an appellate court shall not be used
38 for criminal history scoring purposes.

39 (9) Prior convictions of any crime shall not be counted in determining
40 the criminal history category if they enhance the severity level or
41 ~~applicable penalties~~, elevate the classification from misdemeanor to felony,
42 or are elements of the present crime of conviction. Except as otherwise
43 provided, all other prior convictions will be considered and scored.

1 Sec. 79. Section 292 of chapter 136 of the 2010 Session Laws of
2 Kansas is hereby amended to read as follows: Sec. 292. In addition to the
3 provisions of section 291 *of chapter 136 of the 2010 Session Laws of*
4 *Kansas*, and amendments thereto, the following shall apply in determining
5 an offender's criminal history classification as contained in the
6 presumptive sentencing guidelines grids:

7 (a) Every three prior adult convictions or juvenile adjudications of
8 class A and class B person misdemeanors in the offender's criminal history,
9 or any combination thereof, shall be rated as one adult conviction or one
10 juvenile adjudication of a person felony for criminal history purposes.
11 Every three prior adult convictions or juvenile adjudications of assault as
12 defined in *K.S.A. 21-3408, prior to its repeal, or subsection (a) of section*
13 *47 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
14 thereto, occurring within a period commencing three years prior to the date
15 of conviction for the current crime of conviction shall be rated as one adult
16 conviction or one juvenile adjudication of a person felony for criminal
17 history purposes.

18 (b) A conviction of *criminal possession of a firearm as defined in*
19 *subsection (a)(1) or (a)(5) of K.S.A. 21-4204, prior to its repeal, criminal*
20 *use of weapons as defined in subsection (a)(8) or (a)(13)(a)(10) or (a)(11)*
21 *of section 186 of chapter 136 of the 2010 Session Laws of Kansas*, and
22 amendments thereto, or *unlawful possession of a firearm on the grounds of*
23 *in the state capitol building as defined in section 194, and amendments*
24 *thereto as in effect on June 30, 2005, and as defined in K.S.A. 21-4218,*
25 *prior to its repeal*, will be scored as a select class B nonperson
26 misdemeanor conviction or adjudication and shall not be scored as a
27 person misdemeanor for criminal history purposes.

28 (c) (1) If the current crime of conviction was committed before July
29 1, 1996, and is for subsection (b) of K.S.A. 21-3404, as in effect on June
30 30, 1996, involuntary manslaughter in the commission of driving under the
31 influence, then, each prior adult conviction or juvenile adjudication for
32 K.S.A. 8-1567, and amendments thereto, shall count as one person felony
33 for criminal history purposes.

34 (2) If the current crime of conviction was committed on or after July
35 1, 1996, and is for a violation of subsection (a)(3) of section 40 *of chapter*
36 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, each
37 prior adult conviction, diversion in lieu of criminal prosecution or juvenile
38 adjudication for: (A) An act described in K.S.A. 8-1567, and amendments
39 thereto; or (B) a violation of a law of another state or an ordinance of any
40 city, or resolution of any county, which prohibits the act described in
41 K.S.A. 8-1567, and amendments thereto, shall count as one person felony
42 for criminal history purposes.

43 (d) Prior burglary adult convictions and juvenile adjudications will be

1 scored for criminal history purposes as follows:

2 (1) As a prior person felony if the prior conviction or adjudication
3 was classified as a burglary as defined in *subsection (a) of K.S.A. 21-3715,*
4 *prior to its repeal, or subsection (a)(1) of section 93 of chapter 136 of the*
5 *2010 Session Laws of Kansas,* and amendments thereto.

6 (2) As a prior nonperson felony if the prior conviction or adjudication
7 was classified as a burglary as defined in *subsection (b) or (c) of K.S.A.*
8 *21-3715, prior to its repeal, or subsection (a)(2) or (a)(3) of section 93 of*
9 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments thereto.

10 The facts required to classify prior burglary adult convictions and
11 juvenile adjudications shall be established by the state by a preponderance
12 of the evidence.

13 (e) Out-of-state convictions and juvenile adjudications shall be used
14 in classifying the offender's criminal history. An out-of-state crime will be
15 classified as either a felony or a misdemeanor according to the convicting
16 jurisdiction. If a crime is a felony in another state, it will be counted as a
17 felony in Kansas. The state of Kansas shall classify the crime as person or
18 nonperson. In designating a crime as person or nonperson comparable
19 offenses shall be referred to. If the state of Kansas does not have a
20 comparable offense, the out-of-state conviction shall be classified as a
21 nonperson crime. Convictions or adjudications occurring within the federal
22 system, other state systems, the District of Columbia, foreign, tribal or
23 military courts are considered out-of-state convictions or adjudications.
24 The facts required to classify out-of-state adult convictions and juvenile
25 adjudications shall be established by the state by a preponderance of the
26 evidence.

27 (f) Except as provided in *subsections (d)(4), (d)(5) or (d)(6) of K.S.A.*
28 *21-4710, prior to its repeal, or subsections (d)(3)(B), (d)(3)(C), (d)(3)(D)*
29 *and (d)(4) of section 291 of chapter 136 of the 2010 Session Laws of*
30 *Kansas,* and amendments thereto, juvenile adjudications will be applied in
31 the same manner as adult convictions. Out-of-state juvenile adjudications
32 will be treated as juvenile adjudications in Kansas.

33 (g) A prior felony conviction of an attempt, a conspiracy or a
34 solicitation as provided in *K.S.A. 21-3301, 21-3302 or 21-3303, prior to*
35 *their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session*
36 *Laws of Kansas,* and amendments thereto, to commit a crime shall be
37 treated as a person or nonperson crime in accordance with the designation
38 assigned to the underlying crime.

39 (h) Drug crimes are designated as nonperson crimes for criminal
40 history scoring.

41 Sec. 80. Section 294 of chapter 136 of the 2010 Session Laws of
42 Kansas is hereby amended to read as follows: Sec. 294. (a) The court shall
43 order the preparation of the presentence investigation report by the court

1 services officer as soon as possible after conviction of the defendant.

2 (b) Each presentence report prepared for an offender to be sentenced
3 for one or more felonies committed on or after July 1, 1993, shall be
4 limited to the following information:

5 (1) A summary of the factual circumstances of the crime or crimes of
6 conviction.

7 (2) If the defendant desires to do so, a summary of the defendant's
8 version of the crime.

9 (3) When there is an identifiable victim, a victim report. The person
10 preparing the victim report shall submit the report to the victim and
11 request that the information be returned to be submitted as a part of the
12 presentence investigation. To the extent possible, the report shall include a
13 complete listing of restitution for damages suffered by the victim.

14 (4) An appropriate classification of each crime of conviction on the
15 crime severity scale.

16 (5) A listing of prior adult convictions or juvenile adjudications for
17 felony or misdemeanor crimes or violations of county resolutions or city
18 ordinances comparable to any misdemeanor defined by state law. Such
19 listing shall include an assessment of the appropriate classification of the
20 criminal history on the criminal history scale and the source of information
21 regarding each listed prior conviction and any available source of journal
22 entries or other documents through which the listed convictions may be
23 verified. If any such journal entries or other documents are obtained by the
24 court services officer, they shall be attached to the presentence
25 investigation report. Any prior criminal history worksheets of the
26 defendant shall also be attached.

27 (6) A proposed grid block classification for each crime, or crimes of
28 conviction and the presumptive sentence for each crime, or crimes of
29 conviction.

30 (7) If the proposed grid block classification is a grid block which
31 presumes imprisonment, the presumptive prison term range and the
32 presumptive duration of postprison supervision as it relates to the crime
33 severity scale.

34 (8) If the proposed grid block classification does not presume prison,
35 the presumptive prison term range and the presumptive duration of the
36 nonprison sanction as it relates to the crime severity scale and the court
37 services officer's professional assessment as to recommendations for
38 conditions to be mandated as part of the nonprison sanction.

39 (9) For defendants who are being sentenced for a conviction of a
40 felony violation of K.S.A. 65-4160 or 65-4162, prior to their repeal or
41 K.S.A. ~~2009~~2010 Supp. 21-36a06, and amendments thereto, and meet the
42 requirements of section 305 of chapter 136 of the 2010 Session Laws of
43 Kansas, and amendments thereto, the drug abuse assessment as provided

1 in section 305 of chapter 136 of the 2010 Session Laws of Kansas, and
2 amendments thereto.

3 (10) For defendants who are being sentenced for a third or subsequent
4 felony conviction of a violation of K.S.A. 65-4160 or 65-4162, prior to
5 their repeal or K.S.A. ~~2009~~2010 Supp. 21-36a06, and amendments thereto,
6 the drug abuse assessment as provided in section 305 of chapter 136 of the
7 2010 Session Laws of Kansas, and amendments thereto.

8 (c) The presentence report will become part of the court record and
9 shall be accessible to the public, except that the official version,
10 defendant's version and the victim's statement, any psychological reports,
11 risk and needs assessments and drug and alcohol reports and assessments
12 shall be accessible only to the parties, the sentencing judge, the department
13 of corrections, and if requested, the Kansas sentencing commission. If the
14 offender is committed to the custody of the secretary of corrections, the
15 report shall be sent to the secretary and, in accordance with K.S.A. 75-
16 5220, and amendments thereto, to the warden of the state correctional
17 institution to which the defendant is conveyed.

18 (d) The criminal history worksheet will not substitute as a presentence
19 report.

20 (e) The presentence report will not include optional report
21 components, which would be subject to the discretion of the sentencing
22 court in each district except for psychological reports and drug and alcohol
23 reports.

24 (f) *Except as provided in section 295 of chapter 136 of the 2010*
25 *Session Laws of Kansas, and amendments thereto*, the court may take
26 judicial notice in a subsequent felony proceeding of an earlier presentence
27 report criminal history worksheet prepared for a prior sentencing of the
28 defendant for a felony committed on or after July 1, 1993.

29 (g) All presentence reports in any case in which the defendant has
30 been convicted of a felony shall be on a form approved by the Kansas
31 sentencing commission.

32 Sec. 81. Section 298 of chapter 136 of the 2010 Session Laws of
33 Kansas is hereby amended to read as follows: Sec. 298. (a) (1) Whenever a
34 person is convicted of a felony, the court upon motion of either the
35 defendant or the state, shall hold a hearing to consider imposition of a
36 departure sentence other than an upward durational departure sentence.
37 The motion shall state the type of departure sought and the reasons and
38 factors relied upon. The hearing shall be scheduled so that the parties have
39 adequate time to prepare and present arguments regarding the issues of
40 departure sentencing. The county or district attorney shall notify the victim
41 of a crime or the victim's family of the right to be present at the hearing.
42 The parties may submit written arguments to the court prior to the date of
43 the hearing and may make oral arguments before the court at the hearing.

1 The court shall review the victim impact statement. Prior to the hearing,
2 the court shall transmit to the defendant or the defendant's attorney and the
3 prosecutor copies of the presentence investigation report.

4 (2) At the conclusion of the hearing or within ~~20~~21 days thereafter,
5 the court shall issue findings of fact and conclusions of law regarding the
6 issues submitted by the parties, and shall enter an appropriate order.

7 (3) If the court decides to depart on its own volition, without a motion
8 from the state or the defendant, the court ~~must~~shall notify all parties of its
9 intent and allow reasonable time for either party to respond if requested.
10 The notice shall state the type of departure intended by the court and the
11 reasons and factors relied upon.

12 (4) In each case in which the court imposes a sentence that deviates
13 from the presumptive sentence, the court shall make findings of fact as to
14 the reasons for departure as provided in this subsection regardless of
15 whether a hearing is requested.

16 (b) (1) Upon motion of the county or district attorney to seek an
17 upward durational departure sentence, the court shall consider imposition
18 of such upward durational departure sentence in the manner provided in
19 subsection (b)(2). The county or district attorney shall file such motion to
20 seek an upward durational departure sentence not less than 30 days prior to
21 the date of trial or if the trial date is to take place in less than 30 days then
22 within ~~five~~seven days from the date of the arraignment.

23 (2) The court shall determine if the presentation of any evidence
24 regarding the alleged fact or factors that may increase the penalty for a
25 crime beyond the statutory maximum, other than a prior conviction, shall
26 be presented to a jury and proved beyond a reasonable doubt during the
27 trial of the matter or whether such evidence should be submitted to the jury
28 in a separate departure sentencing hearing following the determination of
29 the defendant's innocence or guilt.

30 (3) If the presentation of the evidence regarding the alleged fact or
31 factors is submitted to the jury during the trial of the matter as determined
32 by the court, then the provisions of subsections (b)(5), (b)(6) and (b)(7)
33 shall be applicable.

34 (4) If the court determines it is in the interest of justice, the court shall
35 conduct a separate departure sentence proceeding to determine whether the
36 defendant may be subject to an upward durational departure sentence.
37 Such proceeding shall be conducted by the court before the trial jury as
38 soon as practicable. If any person who served on the trial jury is unable to
39 serve on the jury for the upward durational departure sentence proceeding,
40 the court shall substitute an alternate juror who has been impaneled for the
41 trial jury. If there are insufficient alternate jurors to replace trial jurors who
42 are unable to serve at the upward durational departure sentence
43 proceeding, the court may conduct such upward durational departure

1 sentence proceeding before a jury which may have 12 or less jurors, but at
2 no time less than six jurors. Any decision of an upward durational
3 departure sentence proceeding shall be decided by a unanimous decision
4 of the jury. Jury selection procedures, qualifications of jurors and grounds
5 for exemption or challenge of prospective jurors in criminal trials shall be
6 applicable to the selection of such jury. The jury at the upward durational
7 departure sentence proceeding may be waived in the manner provided by
8 K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the
9 jury at the upward durational departure sentence proceeding has been
10 waived or the trial jury has been waived, the upward durational departure
11 sentence proceeding shall be conducted by the court.

12 (5) In the upward durational departure sentence proceeding, evidence
13 may be presented concerning any matter that the court deems relevant to
14 the question of determining if any specific factors exist that may serve to
15 enhance the maximum sentence as provided by section 296 or 297 of
16 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.
17 Only such evidence as the state has made known to the defendant prior to
18 the upward durational departure sentence proceeding shall be admissible,
19 and no evidence secured in violation of the constitution of the United
20 States or of the state of Kansas shall be admissible. No testimony by the
21 defendant at the upward durational departure sentence proceeding shall be
22 admissible against the defendant at any subsequent criminal proceeding.
23 At the conclusion of the evidentiary presentation, the court shall allow the
24 parties a reasonable period of time in which to present oral arguments.

25 (6) The court shall provide oral and written instructions to the jury to
26 guide its deliberations.

27 (7) If, by unanimous vote, the jury finds beyond a reasonable doubt
28 that one or more specific factors exist that may serve to enhance the
29 maximum sentence, the defendant may be sentenced pursuant to sections
30 296 through 299 of *chapter 136 of the 2010 Session Laws of Kansas*, and
31 amendments thereto; otherwise, the defendant shall be sentenced as
32 provided by law. The jury, if its verdict is a unanimous recommendation
33 that one or more of the specific factors that may serve to enhance the
34 maximum sentence exists, shall designate in writing, signed by the
35 foreman of the jury, the specific factor or factors which the jury found
36 beyond a reasonable doubt. If, after a reasonable time for deliberation, the
37 jury is unable to reach a verdict of finding any of the specific factors, the
38 court shall dismiss the jury and shall only impose a sentence as provided
39 by law. In nonjury cases, the court shall follow the requirements of this
40 subsection in determining if one or more of the specific factors exist that
41 may serve to enhance the maximum sentence.

42 Sec. 82. Section 299 of chapter 136 of the 2010 Session Laws of
43 Kansas is hereby amended to read as follows: Sec. 299. (a) When a

1 departure sentence is appropriate, the sentencing judge may depart from
2 the sentencing guidelines as provided in this section. The sentencing judge
3 shall not impose a downward dispositional departure sentence for any
4 crime of extreme sexual violence, as defined in section 296, and
5 amendments thereto. The sentencing judge shall not impose a downward
6 durational departure sentence for any crime of extreme sexual violence, as
7 defined in section 296, and amendments thereto, to less than 50% of the
8 center of the range of the sentence for such crime.

9 (b) When a sentencing judge departs in setting the duration of a
10 presumptive term of imprisonment:

11 (1) The judge shall consider and apply the sentencing guidelines,
12 ~~which is~~ to impose a sentence that is proportionate to the severity of the
13 crime of conviction and the offender's criminal history; and

14 (2) the presumptive term of imprisonment set in such departure shall
15 not total more than double the maximum duration of the presumptive
16 imprisonment term.

17 (c) When a sentencing judge imposes a prison term as a dispositional
18 departure:

19 (1) The judge shall consider and apply ~~the primary purpose of the~~
20 ~~sentencing guidelines, which is~~ to impose a sentence that is proportionate
21 to the severity of the crime of conviction; and

22 (2) the term of imprisonment shall not exceed the maximum duration
23 of the presumptive imprisonment term listed within the sentencing grid.
24 Any sentence inconsistent with the provisions of this section shall
25 constitute an additional departure and shall require substantial and
26 compelling reasons independent of the reasons given for the dispositional
27 departure.

28 (d) If the sentencing judge imposes a nonprison sentence as a
29 dispositional departure from the guidelines, the recommended duration
30 shall be as provided in subsection (c) of section 248 *of chapter 136 of the*
31 *2010 Session Laws of Kansas*, and amendments thereto.

32 Sec. 83. Section 302 of chapter 136 of the 2010 Session Laws of
33 Kansas is hereby amended to read as follows: Sec. 302. (a) The secretary
34 of corrections is hereby authorized to adopt rules and regulations
35 providing for a system of good time calculations. Such rules and
36 regulations shall provide circumstances upon which an inmate may earn
37 good time credits and for the forfeiture of earned credits. Such
38 circumstances may include factors related to program and work
39 participation and conduct and the inmate's willingness to examine and
40 confront past behavioral patterns that resulted in the commission of the
41 inmate's crimes.

42 (b) For purposes of determining release of an inmate, the following
43 shall apply with regard to good time calculations:

1 (1) Good behavior by inmates is the expected norm and negative
2 behavior will be punished; and

3 (2) the amount of good time which can be earned by an inmate and
4 subtracted from any sentence is limited to:

5 (A) For a crime committed on or after July 1, 1993, an amount equal
6 to 15% of the prison part of the sentence; or

7 (B) for a drug severity level 3 or 4 or a nondrug severity level 7
8 through 10 crime committed on or after January 1, 2008, an amount equal
9 to 20% of the prison part of the sentence.

10 (c) Any time which is earned and subtracted from the prison part of
11 the sentence of any inmate pursuant to good time calculation shall be
12 added to such inmate's postrelease supervision term.

13 (d) An inmate shall not be awarded good time credits pursuant to this
14 section for any review period established by the secretary of corrections in
15 which a court finds that the inmate has done any of the following while in
16 the custody of the secretary of corrections:

17 (1) Filed a false or malicious action or claim with the court;

18 (2) brought an action or claim with the court solely or primarily for
19 delay or harassment;

20 (3) testified falsely or otherwise submitted false evidence or
21 information to the court;

22 (4) attempted to create or obtain a false affidavit, testimony or
23 evidence; or

24 (5) abused the discovery process in any judicial action or proceeding.

25 (e) (1) For purposes of determining release of an inmate who is
26 serving only a sentence for a nondrug severity level 4 through 10 crime or
27 a drug severity level 3 or 4 crime committed on or after January 1, 2008,
28 the secretary of corrections is hereby authorized to adopt rules and
29 regulations regarding program credit calculations. Such rules and
30 regulations shall provide circumstances upon which an inmate may earn
31 program credits and for the forfeiture of earned credits and such
32 circumstances may include factors substantially related to program
33 participation and conduct. In addition to any good time credits earned and
34 retained, the following shall apply with regard to program credit
35 calculations:

36 (A) A system shall be developed whereby program credits may be
37 earned by inmates for the successful completion of requirements for a
38 general education diploma, a technical or vocational training program, a
39 substance abuse treatment program or any other program designated by the
40 secretary which has been shown to reduce offender's risk after release; and

41 (B) the amount of time which can be earned and retained by an
42 inmate for the successful completion of programs and subtracted from any
43 sentence is limited to not more than 60 days.

1 (2) Any time which is earned and subtracted from the prison part of
2 the sentence of any inmate pursuant to program credit calculation shall be
3 added to such inmate's postrelease supervision ~~obligation term~~, if
4 applicable.

5 (3) When separate sentences of imprisonment for different crimes are
6 imposed on a defendant on the same date, a defendant shall only be
7 eligible for program credits if such crimes are a nondrug severity level 4
8 through 10 or a drug severity level 3 or 4.

9 (4) Program credits shall not be earned by any offender successfully
10 completing a sex offender treatment program.

11 (5) The secretary of corrections shall report to the Kansas sentencing
12 commission and the Kansas reentry policy council the data on the program
13 credit calculations.

14 Sec. 84. K.S.A. 22-3427 as amended by section 306 of chapter 136 of
15 the 2010 Session Laws of Kansas, is hereby amended to read as follows:
16 22-3427. (a) When any person has been convicted of a violation of any law
17 of the state of Kansas and has been sentenced to confinement, it shall be
18 the duty of the sheriff of the county, upon receipt of a certified copy of the
19 journal entry of judgment, judgment form showing conviction, sentence,
20 and commitment, or an order of commitment supported by a recorded
21 judgment of sentence, to cause such person to be confined in accordance
22 with the sentence.

23 (b) The certified copy of a judgment and sentence to confinement or
24 imprisonment shall be sufficient authority for the jailer or warden or other
25 person in charge of the place of confinement to detain such person for the
26 period of the sentence.

27 (c) The court shall forward a copy of all *complaints, supporting*
28 *affidavits, county and district attorney reports*, presentence investigation
29 reports and other diagnostic reports on the offender received by the district
30 court, including any reports received from the ~~Topeka correctional facility~~
31 ~~—east of the~~ state security hospital, to the officer having the offender in
32 custody for delivery with the offender to the correctional institution.

33 Sec. 85. K.S.A. 2010 Supp. 8-116a is hereby amended to read as
34 follows: 8-116a. (a) Except as provided in K.S.A. 8-170, and amendments
35 thereto, when an application is made for a vehicle which has been
36 assembled, reconstructed, reconstituted or restored from one or more
37 vehicles, or the proper identification number of a vehicle is in doubt, the
38 procedure in this section shall be followed. The owner of the vehicle shall
39 request the Kansas highway patrol to check the vehicle and the highway
40 patrol shall within a reasonable period of time perform such vehicle check.
41 At the time of such check the owner shall supply the highway patrol with
42 information concerning the history of the various parts of the vehicle. Such
43 information shall be supplied by affidavit of the owner, if so requested by

1 the highway patrol. If the highway patrol is satisfied that the vehicle
2 contains no stolen parts, it shall assign an existing or new identification
3 number to the vehicle and direct the places and manner in which the
4 identification number is to be located and affixed or implanted. A charge
5 of \$10 per hour or part thereof, with a minimum charge of \$10, shall be
6 made to the owner of a vehicle requesting check under this subsection, and
7 such charge shall be paid prior to the check under this section. When a
8 check has been made under subsection (b), not more than 60 days prior to
9 a check of the same vehicle identification number, requested by the owner
10 of the vehicle to obtain a regular certificate of title in lieu of a nonhighway
11 certificate of title or obtain a rebuilt salvage title in lieu of a salvage title,
12 no charge shall be made for such second check.

13 (b) Any person making application for any original Kansas title for a
14 used vehicle which, at the time of making application, is titled in another
15 jurisdiction, as a condition precedent to obtaining any Kansas title, shall
16 have such vehicle checked by the Kansas highway patrol for verification
17 that the vehicle identification number shown on the foreign title is genuine
18 and agrees with the identification number on the vehicle. Checks under
19 this section may include inspection for possible violation of ~~K.S.A. 21-~~
20 ~~3757~~*section 121 of chapter 136 of the 2010 Session Laws of Kansas*, and
21 amendments thereto, or other evidence of possible fraud. The verification
22 shall be made upon forms prescribed by the division of vehicles which
23 shall contain such information as the secretary of revenue shall require by
24 rules and regulations. A charge of \$10 per hour or part thereof, with a
25 minimum charge of \$10, shall be made for checks under this subsection.
26 When a vehicle is registered in another state, but is financed by a Kansas
27 financial institution and is repossessed in another state and such vehicle
28 will not be returned to Kansas, the check required by this subsection (b)
29 shall not be required to obtain a valid Kansas title or registration.

30 (c) As used in this act, "identification number" or "vehicle
31 identification number" means an identifying number, serial number, engine
32 number, transmission number or other distinguishing number or mark,
33 placed on a vehicle, engine, transmission or other essential part by its
34 manufacturer or by authority of the division of vehicles or the Kansas
35 highway patrol or in accordance with the laws of another state or country.

36 (d) The checks made under subsection (b) may be made by:

37 (1) A designee of the superintendent of the Kansas highway patrol; or
38 (2) an employee of a new vehicle dealer, as defined in subsection (b)
39 of K.S.A. 8-2401, and amendments thereto, for the purposes provided for
40 in subsection (f). For checks made by a designee, \$1 of each charge shall
41 be remitted to the Kansas highway patrol and the balance of such charges
42 shall be retained by such designee. When a check is made under either
43 subsection (a) or (b) by personnel of the Kansas highway patrol or when a

1 check is made under subsection (b) by an employee of a new vehicle
2 dealer, the entire amount of the charge therefor shall be paid to the
3 highway patrol.

4 (e) There is hereby created the vehicle identification number fee fund.
5 The Kansas highway patrol shall remit all moneys received by the Kansas
6 highway patrol from fees collected under subsection (d) to the state
7 treasurer in accordance with the provisions of K.S.A. 75-4215, and
8 amendments thereto. Upon receipt of each such remittance, the state
9 treasurer shall deposit the entire amount in the state treasury to the credit
10 of the vehicle identification number fee fund. All expenditures from the
11 vehicle identification number fee fund shall be made in accordance with
12 appropriations acts upon warrants of the director of accounts and reports
13 issued pursuant to vouchers approved by the superintendent of the Kansas
14 highway patrol or by a person or persons designated by the superintendent.

15 (f) An employee of a new vehicle dealer, who has received initial
16 training and certification from the highway patrol, and has met continuing
17 certification requirements, in accordance with rules and regulations
18 adopted by the superintendent of the highway patrol, may provide the
19 checks under subsection (b), in accordance with rules and regulations
20 adopted by the superintendent of the highway patrol, on motor vehicles
21 repurchased or reacquired by a manufacturer, distributor or financing
22 subsidiary of such manufacturer and which are purchased by the new
23 vehicle dealer. At any time, after a hearing in accordance with the
24 provisions of the Kansas administrative procedure act, the superintendent
25 of the highway patrol may revoke, suspend, decline to renew or decline to
26 issue certification for failure to comply with the provisions of this
27 subsection, including any rules and regulations.

28 Sec. 86. K.S.A. 8-254 is hereby amended to read as follows: 8-254.

29 (a) Subject to the provisions of subsection (b), the division shall revoke
30 a person's driving privileges upon receiving a record of the person's
31 conviction of any of the following offenses, including municipal
32 violations, when the conviction has become final, or upon receiving a
33 record of a person's adjudication as a juvenile offender for commission of
34 an act which, if committed by a person 18 or more years of age, would
35 constitute any of the following offenses when the adjudication has become
36 final:

37 (1) ~~Aggravated vehicular homicide~~ *Involuntary manslaughter*, as
38 defined by ~~K.S.A. 21-3405~~ *in subsection (a)(2) of section 40 of chapter*
39 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, if the
40 crime is committed while committing a violation of K.S.A. 8-1566 or
41 *subsection (a) of 8-1568*, and amendments thereto, or the ordinance of a
42 city or resolution of a county which prohibits any acts prohibited by those
43 statutes;

1 (2) vehicular homicide, as defined by ~~K.S.A. 21-3405~~ *in section 41 of*
2 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

3 (3) vehicular battery, as defined by ~~K.S.A. 21-3405~~ *in subsection (a)*
4 *(1) of section 48 of chapter 136 of the 2010 Session Laws of Kansas*, and
5 amendments thereto, if the crime is committed while committing a
6 violation of K.S.A. 8-1566 or 8-1568, and amendments thereto, or the
7 ordinance of a city or resolution of a county which prohibits the acts
8 prohibited by those statutes;

9 (4) failure to stop and render aid as required under the laws of this
10 state in the event of a motor vehicle accident resulting in the death or
11 personal injury of another;

12 (5) conviction, or forfeiture of bail not vacated, upon a charge of
13 reckless driving;

14 (6) conviction, or forfeiture of bail not vacated of any felony in the
15 commission of which a motor vehicle is used; or

16 (7) fleeing or attempting to elude a police officer as provided in
17 K.S.A. 8-1568, and amendments thereto, or conviction of violation of an
18 ordinance of any city or a law of another state which is in substantial
19 conformity with such statute.

20 (b) In lieu of revoking a person's driving privileges as provided by
21 subsection (a), the court in which the person is convicted or adjudicated
22 may place restrictions on the person's driving privileges as provided by
23 K.S.A. 8-292, and amendments thereto, unless the violation was
24 committed while operating a commercial motor vehicle, as defined in
25 K.S.A. 8-2,128. Driving privileges are to be automatically revoked if the
26 violation which leads to the subsequent conviction occurs in a commercial
27 motor vehicle, as defined in K.S.A. 8-2,128.

28 Sec. 87. K.S.A. 2010 Supp. 8-255 is hereby amended to read as
29 follows: 8-255. (a) The division is authorized to restrict, suspend or revoke
30 a person's driving privileges upon a showing by its records or other
31 sufficient evidence the person:

32 (1) Has been convicted with such frequency of serious offenses
33 against traffic regulations governing the movement of vehicles as to
34 indicate a disrespect for traffic laws and a disregard for the safety of other
35 persons on the highways;

36 (2) has been convicted of three or more moving traffic violations
37 committed on separate occasions within a 12-month period;

38 (3) is incompetent to drive a motor vehicle;

39 (4) has been convicted of a moving traffic violation, committed at a
40 time when the person's driving privileges were restricted, suspended or
41 revoked; or

42 (5) is a member of the armed forces of the United States stationed at a
43 military installation located in the state of Kansas, and the authorities of

1 the military establishment certify that such person's on-base driving
2 privileges have been suspended, by action of the proper military
3 authorities, for violating the rules and regulations of the military
4 installation governing the movement of vehicular traffic or for any other
5 reason relating to the person's inability to exercise ordinary and reasonable
6 control in the operation of a motor vehicle.

7 (b) (1) The division shall:

8 (A) Suspend a person's driving privileges:

9 (i) When required by K.S.A. 8-262, 8-1014, ~~21-3765~~ or 41-727, and
10 amendments thereto, ~~and shall~~;

11 (ii) upon a person's second conviction of theft, as defined in subsection
12 (a)(5) of section 87 of chapter 136 of the 2010 Session Laws of Kansas,
13 and amendments thereto, for six months; and

14 (iii) upon a person's third or subsequent conviction of theft, as defined
15 in subsection (a)(5) of section 87 of chapter 136 of the 2010 Session Laws
16 of Kansas, and amendments thereto, for one year;

17 (B) disqualify a person's privilege to drive commercial motor vehicles
18 when required by K.S.A. 8-2,142, and amendments thereto. ~~The division~~
19 ~~shall; and~~

20 (C) restrict a person's driving privileges when required by K.S.A.
21 2010 Supp. 39-7,155, and amendments thereto.

22 (2) *As used in this subsection, "conviction" means a final conviction*
23 *without regard to whether the sentence was suspended or probation*
24 *granted after such conviction. Forfeiture of bail, bond or collateral*
25 *deposited to secure a defendant's appearance in court, which forfeiture*
26 *has not been vacated, shall be equivalent to a conviction. "Conviction"*
27 *includes being convicted of a violation of K.S.A. 21-3765, prior to its*
28 *repeal, or subsection (a)(5) of section 87 of chapter 136 of the 2010*
29 *Session Laws of Kansas, and amendments thereto.*

30 (c) When the action by the division restricting, suspending, revoking
31 or disqualifying a person's driving privileges is based upon a report of a
32 conviction or convictions from a convicting court, the person may not
33 request a hearing but, within 30 days after notice of restriction, suspension,
34 revocation or disqualification is mailed, may submit a written request for
35 administrative review and provide evidence to the division to show the
36 person whose driving privileges have been restricted, suspended, revoked
37 or disqualified by the division was not convicted of the offense upon
38 which the restriction, suspension, revocation or disqualification is based.
39 Within 30 days of its receipt of the request for administrative review, the
40 division shall notify the person whether the restriction, suspension,
41 revocation or disqualification has been affirmed or set aside. The request
42 for administrative review shall not stay any action taken by the division.

43 (d) Upon restricting, suspending, revoking or disqualifying the

1 driving privileges of any person as authorized by this act, the division shall
2 immediately notify the person in writing. Except as provided by K.S.A. 8-
3 1002 and 8-2,145, and amendments thereto, and subsections (c) and (g), if
4 the person makes a written request for hearing within 30 days after such
5 notice of restriction, suspension or revocation is mailed, the division shall
6 afford the person an opportunity for a hearing as early as practical not
7 sooner than five days nor more than 30 days after such request is mailed. If
8 the division has not revoked or suspended the person's driving privileges
9 or vehicle registration prior to the hearing, the hearing may be held within
10 not to exceed 45 days. Except as provided by K.S.A. 8-1002 and 8-2,145,
11 and amendments thereto, the hearing shall be held in the person's county of
12 residence or a county adjacent thereto, unless the division and the person
13 agree that the hearing may be held in some other county. Upon the hearing,
14 the director or the director's duly authorized agent may administer oaths
15 and may issue subpoenas for the attendance of witnesses and the
16 production of relevant books and papers and may require an examination
17 or reexamination of the person. When the action proposed or taken by the
18 division is authorized but not required, the division, upon the hearing, shall
19 either rescind or affirm its order of restriction, suspension or revocation or,
20 good cause appearing therefor, extend the restriction or suspension of the
21 person's driving privileges, modify the terms of the restriction or
22 suspension or revoke the person's driving privileges. When the action
23 proposed or taken by the division is required, the division, upon the
24 hearing, shall either affirm its order of restriction, suspension, revocation
25 or disqualification, or, good cause appearing therefor, dismiss the
26 administrative action. If the person fails to request a hearing within the
27 time prescribed or if, after a hearing, the order of restriction, suspension,
28 revocation or disqualification is upheld, the person shall surrender to the
29 division, upon proper demand, any driver's license in the person's
30 possession.

31 (e) In case of failure on the part of any person to comply with any
32 subpoena issued ~~in~~ on behalf of the division or the refusal of any witness
33 to testify to any matters regarding which the witness may be lawfully
34 interrogated, the district court of any county, on application of the division,
35 may compel obedience by proceedings for contempt, as in the case of
36 disobedience of the requirements of a subpoena issued from the court or a
37 refusal to testify in the court. Each witness who appears before the director
38 or the director's duly authorized agent by order or subpoena, other than an
39 officer or employee of the state or of a political subdivision of the state,
40 shall receive for the witness' attendance the fees and mileage provided for
41 witnesses in civil cases in courts of record, which shall be audited and paid
42 upon the presentation of proper vouchers sworn to by the witness.

43 (f) The division, in the interest of traffic and safety, may establish or

1 contract with a private individual, corporation, partnership or association
2 for the services of driver improvement clinics throughout the state and,
3 upon reviewing the driving record of a person whose driving privileges are
4 subject to suspension under subsection (a)(2), may permit the person to
5 retain such person's driving privileges by attending a driver improvement
6 clinic. Any person other than a person issued a commercial driver's license
7 under K.S.A. 8-2,125 et seq., and amendments thereto, desiring to attend a
8 driver improvement clinic shall make application to the division and such
9 application shall be accompanied by the required fee. The secretary of
10 revenue shall adopt rules and regulations prescribing a driver's
11 improvement clinic fee which shall not exceed \$500 and such rules and
12 regulations deemed necessary for carrying out the provisions of this
13 section, including the development of standards and criteria to be utilized
14 by such driver improvement clinics. Amounts received under this
15 subsection shall be remitted to the state treasurer in accordance with the
16 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
17 each such remittance, the state treasurer shall deposit the same in the state
18 treasury as prescribed by subsection (f) of K.S.A. 8-267, and amendments
19 thereto.

20 (g) When the action by the division restricting a person's driving
21 privileges is based upon certification by the secretary of social and
22 rehabilitation services pursuant to K.S.A. 2010 Supp. 39-7,155, and
23 amendments thereto, the person may not request a hearing but, within 30
24 days after notice of restriction is mailed, may submit a written request for
25 administrative review and provide evidence to the division to show the
26 person whose driving privileges have been restricted by the division is not
27 the person certified by the secretary of social and rehabilitation services,
28 did not receive timely notice of the proposed restriction from the secretary
29 of social and rehabilitation services or has been decertified by the secretary
30 of social and rehabilitation services. Within 30 days of its receipt of the
31 request for administrative review, the division shall notify the person
32 whether the restriction has been affirmed or set aside. The request for
33 administrative review shall not stay any action taken by the division.

34 (h) *Any person whose driving privileges have been suspended under*
35 *subsection (b)(1)(A)(ii) or (b)(1)(A)(iii), shall pay a reinstatement fee in*
36 *the amount of \$100 to the division. The division shall remit all revenues*
37 *received from such fees, at least monthly, to the state treasurer in*
38 *accordance with the provisions of K.S.A. 75-4215, and amendments*
39 *thereto, for deposit in the state treasury and credit to the state highway*
40 *fund.*

41 Sec. 88. K.S.A. 2010 Supp. 8-262 is hereby amended to read as
42 follows: 8-262. (a) (1) Any person who drives a motor vehicle on any
43 highway of this state at a time when such person's privilege so to do is

1 canceled, suspended or revoked or while such person's privilege to obtain
2 a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and
3 amendments thereto, shall be guilty of a class B nonperson misdemeanor
4 on the first conviction and a class A nonperson misdemeanor on the second
5 or subsequent conviction.

6 (2) No person shall be convicted under this section if such person was
7 entitled at the time of arrest under K.S.A. 8-257, and amendments thereto,
8 to the return of such person's driver's license.

9 (3) Except as otherwise provided by subsection (a)(4) or (c), every
10 person convicted under this section shall be sentenced to at least five days'
11 imprisonment and fined at least \$100 and upon a second conviction shall
12 not be eligible for parole until completion of five days' imprisonment.

13 (4) Except as otherwise provided by subsection (c), if a person: (A) Is
14 convicted of a violation of this section, committed while the person's
15 privilege to drive or privilege to obtain a driver's license was suspended or
16 revoked for a violation of K.S.A. 8-1567, and amendments thereto, or any
17 ordinance of any city or resolution of any county or a law of another state,
18 which ordinance or law prohibits the acts prohibited by that statute; and
19 (B) is or has been also convicted of a violation of K.S.A. 8-1567, and
20 amendments thereto, or of a municipal ordinance or law of another state,
21 which ordinance or law prohibits the acts prohibited by that statute,
22 committed while the person's privilege to drive or privilege to obtain a
23 driver's license was so suspended or revoked, the person shall not be
24 eligible for suspension of sentence, probation or parole until the person has
25 served at least 90 days' imprisonment, and any fine imposed on such
26 person shall be in addition to such a term of imprisonment.

27 (b) The division, upon receiving a record of the conviction of any
28 person under this section, or any ordinance of any city or resolution of any
29 county or a law of another state which is in substantial conformity with
30 this section, upon a charge of driving a vehicle while the license of such
31 person is revoked or suspended, shall extend the period of such suspension
32 or revocation for an additional period of 90 days.

33 (c) (1) The person found guilty of a class A nonperson misdemeanor
34 on a third or subsequent conviction of this section shall be sentenced to not
35 less than 90 days imprisonment and fined not less than \$1,500 if such
36 person's privilege to drive a motor vehicle is canceled, suspended or
37 revoked because such person:

38 (A) Refused to submit and complete any test of blood, breath or urine
39 requested by law enforcement excluding the preliminary screening test as
40 set forth in K.S.A. 8-1012, and amendments thereto;

41 (B) was convicted of violating the provisions of K.S.A. 40-3104, and
42 amendments thereto, relating to motor vehicle liability insurance coverage;

43 (C) was convicted of vehicular homicide, K.S.A. 21-3405, *prior to its*

1 *repeal, or section 41 of chapter 136 of the 2010 Session Laws of Kansas,*
2 *and amendments thereto, involuntary manslaughter while driving under*
3 *the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or*
4 *involuntary manslaughter as defined in subsection (a)(3) of section 40 of*
5 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*
6 *or any other murder or manslaughter crime resulting from the operation of*
7 *a motor vehicle; or*

8 (D) was convicted of being a habitual violator, K.S.A. 8-287, and
9 amendments thereto.

10 (2) The person convicted shall not be eligible for release on
11 probation, suspension or reduction of sentence or parole until the person
12 has served at least 90 days' imprisonment. The 90 days' imprisonment
13 mandated by this subsection may be served in a work release program only
14 after such person has served 48 consecutive hours' imprisonment, provided
15 such work release program requires such person to return to confinement
16 at the end of each day in the work release program. The court may place
17 the person convicted under a house arrest program pursuant to ~~K.S.A. 21-~~
18 ~~4603~~ *subsection 249 of chapter 136 of the 2010 Session Laws of Kansas,* and
19 amendments thereto, or any municipal ordinance to serve the remainder of
20 the minimum sentence only after such person has served 48 consecutive
21 hours' imprisonment.

22 (d) For the purposes of determining whether a conviction is a first,
23 second, third or subsequent conviction in sentencing under this section,
24 "conviction" includes a conviction of a violation of any ordinance of any
25 city or resolution of any county or a law of another state which is in
26 substantial conformity with this section.

27 Sec. 89. K.S.A. 8-285 is hereby amended to read as follows: 8-285.
28 Except as otherwise provided in this section, as used in this act, the words
29 and phrases defined in K.S.A. 8-234a, and amendments thereto, shall have
30 the meanings ascribed to them therein. The term "habitual violator" means
31 any resident or nonresident person who, within the immediately preceding
32 five years, has been convicted in this or any other state:

33 (a) Three or more times of:

34 (1) Vehicular homicide, as defined by K.S.A. 21-3405, *prior to its*
35 *repeal, or in section 41 of chapter 136 of the 2010 Session Laws of*
36 *Kansas,* and amendments thereto, or as prohibited by any ordinance of any
37 city in this state or any law of another state which is in substantial
38 conformity with that statute;

39 (2) violating K.S.A. 8-1567, and amendments thereto, or violating an
40 ordinance of any city in this state or any law of another state, which
41 ordinance or law declares to be unlawful the acts prohibited by that statute;

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

1 prohibited by K.S.A. 8-262, and amendments thereto, or while such
2 person's privilege to obtain a driver's license is suspended or revoked
3 pursuant to K.S.A. 8-252a, and amendments thereto, or, as prohibited by
4 any ordinance of any city in this state or any law of another state which is
5 in substantial conformity with those statutes;

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

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

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

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

19 (8) violating the provisions of K.S.A. 40-3104, and amendments
20 thereto, relating to motor vehicle liability insurance coverage or an
21 ordinance of any city in this state, which is in substantial conformity with
22 such statute.

23 (b) Three or more times, either singly or in combination, of any of the
24 offenses enumerated in subsection (a).

25 For the purpose of subsection (a)(2), in addition to the definition of
26 "conviction" otherwise provided by law, conviction includes, but is not
27 limited to, a diversion agreement entered into in lieu of further criminal
28 proceedings, or a plea of *nolo contendere*, on a complaint, indictment,
29 information, citation or notice to appear alleging a violation of K.S.A. 8-
30 1567, and amendments thereto, or an ordinance of a city in this state or
31 law of another state, which ordinance or law prohibits the acts prohibited
32 by that statute.

33 Sec. 90. K.S.A. 2010 Supp. 8-287 is hereby amended to read as
34 follows: 8-287. Operation of a motor vehicle in this state while one's
35 driving privileges are revoked pursuant to K.S.A. 8-286, and amendments
36 thereto, is a class A nonperson misdemeanor. The person found guilty of a
37 third or subsequent conviction of this section shall be sentenced to not less
38 than 90 days imprisonment and fined not less than \$1,500. The person
39 convicted shall not be eligible for release on probation, suspension or
40 reduction of sentence or parole until the person has served at least 90 days'
41 imprisonment. The 90 days' imprisonment mandated by this subsection
42 may be served in a work release program only after such person has served
43 48 consecutive hours' imprisonment, provided such work release program

1 requires such person to return to confinement at the end of each day in the
2 work release program. The court may place the person convicted under a
3 house arrest program pursuant to ~~K.S.A. 21-4603b~~ *section 249 of chapter*
4 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, or any
5 municipal ordinance to serve the remainder of the minimum sentence only
6 after such person has served 48 consecutive hours' imprisonment.

7 Sec. 91. K.S.A. 2010 Supp. 8-2,144 is hereby amended to read as
8 follows: 8-2,144. (a) No person shall drive any commercial motor vehicle,
9 as defined in K.S.A. 8-2,128, and amendments thereto, within this state
10 while:

11 (1) The alcohol concentration in the person's blood or breath, as
12 shown by any competent evidence, including other competent evidence, as
13 defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and
14 amendments thereto, is .04 or more;

15 (2) the alcohol concentration in the person's blood or breath, as
16 measured within two hours of the time of driving a commercial motor
17 vehicle, is .04 or more; or

18 (3) committing a violation of subsection (a) of K.S.A. 8-1567, and
19 amendments thereto, or the ordinance of a city or resolution of a county
20 which prohibits any of the acts prohibited thereunder.

21 (b) Upon a first conviction of a violation of this section, a person
22 shall be guilty of a class B, nonperson misdemeanor and sentenced to not
23 less than 48 consecutive hours nor more than six months' imprisonment, or
24 in the court's discretion, 100 hours of public service, and fined not less
25 than \$500 nor more than \$1,000. The person convicted must serve at least
26 48 consecutive hours' imprisonment or 100 hours of public service either
27 before or as a condition of any grant of probation or suspension, reduction
28 of sentence or parole. In addition, the court shall enter an order which
29 requires that the person enroll in and successfully complete an alcohol and
30 drug safety action education program or treatment program as provided in
31 K.S.A. 8-1008, and amendments thereto, or both the education and
32 treatment programs.

33 (c) On a second conviction of a violation of this section, a person
34 shall be guilty of a class A, nonperson misdemeanor and sentenced to not
35 less than 90 days nor more than one year's imprisonment and fined not less
36 than \$1,000 nor more than \$1,500. The person convicted must serve at
37 least five consecutive days' imprisonment before the person is granted
38 probation, suspension or reduction of sentence or parole or is otherwise
39 released. The five days' imprisonment mandated by this subsection may be
40 served in a work release program only after such person has served 48
41 consecutive hours' imprisonment, provided such work release program
42 requires such person to return to confinement at the end of each day in the
43 work release program. The court may place the person convicted under a

1 house arrest program pursuant to ~~K.S.A. 21-4603~~ *section 249 of chapter*
2 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, to serve
3 the remainder of the minimum sentence only after such person has served
4 48 consecutive hours' imprisonment. As a condition of any grant of
5 probation, suspension of sentence or parole or of any other release, the
6 person shall be required to enter into and complete a treatment program for
7 alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments
8 thereto.

9 (d) On the third conviction of a violation of this section, a person
10 shall be guilty of a nonperson felony and sentenced to not less than 90
11 days nor more than one year's imprisonment and fined not less than \$1,500
12 nor more than \$2,500. The person convicted shall not be eligible for
13 release on probation, suspension or reduction of sentence or parole until
14 the person has served at least 90 days' imprisonment. The court also
15 requires as a condition of parole that such person enter into and complete a
16 treatment program for alcohol and drug abuse as provided by K.S.A. 8-
17 1008, and amendments thereto. The 90 days' imprisonment mandated by
18 this subsection may be served in a work release program only after such
19 person has served 48 consecutive hours' imprisonment provided such work
20 release program requires such person to return to confinement at the end of
21 each day in the work release program. The court may place the person
22 convicted under a house arrest program pursuant to ~~K.S.A. 21-~~
23 ~~4603~~ *section 249 of chapter 136 of the 2010 Session Laws of Kansas*, and
24 amendments thereto, to serve the remainder of the minimum sentence only
25 after such person has served 48 consecutive hours' imprisonment.

26 (e) The court shall report every conviction of a violation of this
27 section to the division. Prior to sentencing under the provisions of this
28 section, the court shall request and shall receive from the division a record
29 of all prior convictions obtained against such person for any violation of
30 any of the motor vehicle laws of this state.

31 (f) Upon conviction of a person of a violation of this section or a
32 violation of a city ordinance or county resolution prohibiting the acts
33 prohibited by this section, the division, upon receiving a report of
34 conviction, shall disqualify the person from driving a commercial motor
35 vehicle under K.S.A. 8-2,142, and amendments thereto.

36 (g) For the purpose of this section, "alcohol concentration" means the
37 number of grams of alcohol per 100 milliliters of blood or per 210 liters of
38 breath.

39 Sec. 92. K.S.A. 2010 Supp. 8-1013 is hereby amended to read as
40 follows: 8-1013. As used in K.S.A. 8-1001 through 8-1010, 8-1011, 8-
41 1012, 8-1014, 8-1015, 8-1016, 8-1017 and 8-1018, and amendments
42 thereto, and this section:

43 (a) "Alcohol concentration" means the number of grams of alcohol

1 per 100 milliliters of blood or per 210 liters of breath.

2 (b) (1) "Alcohol or drug-related conviction" means any of the
3 following: (A) Conviction of vehicular battery or aggravated vehicular
4 homicide, if the crime is committed while committing a violation of
5 K.S.A. 8-1567 and amendments thereto or the ordinance of a city or
6 resolution of a county in this state which prohibits any acts prohibited by
7 that statute, or conviction of a violation of K.S.A. 8-1567 and amendments
8 thereto; (B) conviction of a violation of a law of another state which would
9 constitute a crime described in subsection (b)(1)(A) if committed in this
10 state; (C) conviction of a violation of an ordinance of a city in this state or
11 a resolution of a county in this state which would constitute a crime
12 described in subsection (b)(1)(A), whether or not such conviction is in a
13 court of record; or (D) conviction of an act which was committed on a
14 military reservation and which would constitute a violation of K.S.A. 8-
15 1567, and amendments thereto, or would constitute a crime described in
16 subsection (b)(1)(A) if committed off a military reservation in this state.

17 (2) For the purpose of determining whether an occurrence is a first,
18 second or subsequent occurrence: (A) "Alcohol or drug-related conviction"
19 also includes entering into a diversion agreement in lieu of further criminal
20 proceedings on a complaint alleging commission of a crime described in
21 subsection (b)(1), including a diversion agreement entered into prior to the
22 effective date of this act; and (B) it is irrelevant whether an offense
23 occurred before or after conviction or diversion for a previous offense.

24 (c) "Division" means the division of vehicles of the department of
25 revenue.

26 (d) "Ignition interlock device" means a device which uses a breath
27 analysis mechanism to prevent a person from operating a motor vehicle if
28 such person has consumed an alcoholic beverage.

29 (e) "Occurrence" means a test refusal, test failure or alcohol or drug-
30 related conviction, or any combination thereof arising from one arrest,
31 including an arrest which occurred prior to the effective day of this act.

32 (f) "Other competent evidence" includes: (1) Alcohol concentration
33 tests obtained from samples taken two hours or more after the operation or
34 attempted operation of a vehicle; and (2) readings obtained from a partial
35 alcohol concentration test on a breath testing machine.

36 (g) "Samples" includes breath supplied directly for testing, which
37 breath is not preserved.

38 (h) "Test failure" or "fails a test" refers to a person's having results of
39 a test administered pursuant to this act, other than a preliminary screening
40 test, which show an alcohol concentration of .08 or greater in the person's
41 blood or breath, and includes failure of any such test on a military
42 reservation.

43 (i) "Test refusal" or "refuses a test" refers to a person's failure to

1 submit to or complete any test, other than a preliminary screening test, in
2 accordance with this act, and includes refusal of any such test on a military
3 reservation.

4 (j) "Law enforcement officer" has the meaning provided by ~~K.S.A.~~
5 ~~21-3110~~*section 11 of chapter 136 of the 2010 Session Laws of Kansas*, and
6 amendments thereto, and includes any person authorized by law to make
7 an arrest on a military reservation for an act which would constitute a
8 violation of K.S.A. 8-1567, and amendments thereto, if committed off a
9 military reservation in this state.

10 Sec. 93. K.S.A. 2010 Supp. 8-1102 is hereby amended to read as
11 follows: 8-1102. (a) (1) A person shall not use the public highway to
12 abandon vehicles or use the highway to leave vehicles unattended in such
13 a manner as to interfere with public highway operations. When a person
14 leaves a motor vehicle on a public highway or other property open to use
15 by the public, the public agency having jurisdiction of such highway or
16 other property open to use by the public, after 48 hours or when the motor
17 vehicle interferes with public highway operations, may remove and
18 impound the motor vehicle.

19 (2) Any motor vehicle which has been impounded as provided in this
20 section for 30 days or more shall be disposed of in the following manner:
21 If such motor vehicle has displayed thereon a registration plate issued by
22 the division of vehicles and has been registered with the division, the
23 public agency shall request verification from the division of vehicles of the
24 last registered owner and any lienholders, if any. Such verification request
25 shall be submitted to the division of vehicles not more than 30 days after
26 such agency took possession of the vehicle. The public agency shall mail a
27 notice by certified mail to the registered owner thereof, addressed to the
28 address as shown on the certificate of registration, and to the lienholder, if
29 any, of record in the county in which the title shows the owner resides, if
30 registered in this state. The notice shall state that if the owner or lienholder
31 does not claim such motor vehicle and pay the removal and storage
32 charges incurred by such public agency on it within 15 days from the date
33 of the mailing of the notice, that it will be sold at public auction to the
34 highest bidder for cash. The notice shall be mailed within 10 days after
35 receipt of verification of the last owner and any lienholders, if any, as
36 provided in this subsection.

37 After 15 days from date of mailing notice, the public agency shall
38 publish a notice once a week for two consecutive weeks in a newspaper of
39 general circulation in the county where such motor vehicle was abandoned
40 and left, which notice shall describe the motor vehicle by name of maker,
41 model, serial number, and owner, if known, and stating that it has been
42 impounded by the public agency and that it will be sold at public auction
43 to the highest bidder for cash if the owner thereof does not claim it within

1 10 days of the date of the second publication of the notice and pay the
2 removal and storage charges, and publication costs incurred by the public
3 agency. If the motor vehicle does not display a registration plate issued by
4 the division of vehicles and is not registered with the division, the public
5 agency after 30 days from the date of impoundment, shall request
6 verification from the division of vehicles of the last registered owner and
7 any lienholders, if any. Such verification request shall be submitted to the
8 division of vehicles no more than 30 days after such agency took
9 possession of the vehicle. The public agency shall mail a notice by
10 certified mail to the registered owner thereof, addressed to the address as
11 shown on the certificate of registration, and to the lienholder, if any, of
12 record in the county in which the title shows the owner resides, if
13 registered in this state. The notice shall state that if the owner or lienholder
14 does not claim such motor vehicle and pay the removal and storage
15 charges incurred by such public agency on it within 15 days from the date
16 of the mailing of the notice, it will be sold at public auction to the highest
17 bidder for cash. The notice shall be mailed within 10 days after receipt of
18 verification of the last owner and any lienholders, if any, as provided in
19 this subsection. After 15 days from the date of mailing notice, the public
20 agency shall publish a notice in a newspaper of general circulation in the
21 county where such motor vehicle was abandoned and left, which notice
22 shall describe the motor vehicle by name of maker, model, color and serial
23 number and shall state that it has been impounded by said public agency
24 and will be sold at public auction to the highest bidder for cash, if the
25 owner thereof does not claim it within 10 days of the date of the second
26 publication of the notice and pay the removal and storage charges incurred
27 by the public agency.

28 When any public agency has complied with the provisions of this
29 section with respect to an abandoned motor vehicle and the owner thereof
30 does not claim it within the time stated in the notice and pay the removal
31 and storage charges and publication costs incurred by the public agency on
32 such motor vehicle, the public agency may sell the motor vehicle at public
33 auction to the highest bidder for cash.

34 (3) After any sale pursuant to this section, the purchaser may file
35 proof thereof with the division of vehicles, and the division shall issue a
36 certificate of title to the purchaser of such motor vehicle. All moneys
37 derived from the sale of motor vehicles pursuant to this section, after
38 payment of the expenses of the impoundment and sale, shall be paid into
39 the fund of the public agency which is used by it for the construction or
40 maintenance of highways.

41 (b) Any person who abandons and leaves a vehicle on real property,
42 other than public property or property open to use by the public, which is
43 not owned or leased by such person or by the owner or lessee of such

1 vehicle shall be guilty of criminal trespass, as defined by ~~K.S.A. 21-~~
2 ~~372~~*in section 94 of chapter 136 of the 2010 Session Laws of Kansas*, and
3 amendments thereto, and upon request of the owner or occupant of such
4 real property, the public agency in whose jurisdiction such property is
5 situated may remove and dispose of such vehicle in the manner provided
6 in subsection (a), except that the provisions of subsection (a) requiring that
7 a motor vehicle be abandoned for a period of time in excess of 48 hours
8 prior to its removal shall not be applicable to abandoned vehicles which
9 are subject to the provisions of this subsection. Any person removing such
10 vehicle from the real property at the request of such public agency shall
11 have a possessory lien on such vehicle for the costs incurred in removing,
12 towing and storing such vehicle.

13 (c) Whenever any motor vehicle has been left unattended for more
14 than 48 hours or when any unattended motor vehicle interferes with public
15 highway operations, any law enforcement officer is hereby authorized to
16 move such vehicle or cause to have the vehicle moved as provided in
17 K.S.A. 8-1103 *et seq.*, and amendments thereto.

18 (d) The notice provisions of this section shall apply to any motor
19 vehicle which has been impounded as provided in K.S.A. 8-1567, and
20 amendments thereto.

21 (e) Any person attempting to recover a motor vehicle impounded as
22 provided in this section or in accordance with a city ordinance or county
23 resolution providing for the impoundment of motor vehicles, shall show
24 proof of valid registration and ownership of the motor vehicle to the public
25 agency before obtaining the motor vehicle. In addition, the public agency
26 may require payment of all reasonable costs associated with the
27 impoundment of the motor vehicle, including transportation and storage
28 fees, prior to release of the motor vehicle.

29 Sec. 94. K.S.A. 8-1450 is hereby amended to read as follows: 8-1450.
30 "Police officer" means every law enforcement officer, as defined by
31 ~~K.S.A. 21-3110~~*in section 11 of chapter 136 of the 2010 Session Laws of*
32 *Kansas, and amendments thereto*, authorized to direct or regulate traffic or
33 to make arrests for violations of traffic regulations.

34 Sec. 95. K.S.A. 2009 Supp. 8-1567, as amended by section 3 of
35 chapter 153 of the 2010 Session Laws of Kansas, is hereby amended to
36 read as follows: 8-1567. (a) No person shall operate or attempt to operate
37 any vehicle within this state while:

38 (1) The alcohol concentration in the person's blood or breath as shown
39 by any competent evidence, including other competent evidence, as
40 defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and
41 amendments thereto, is .08 or more;

42 (2) the alcohol concentration in the person's blood or breath, as
43 measured within two hours of the time of operating or attempting to

1 operate a vehicle, is .08 or more;

2 (3) under the influence of alcohol to a degree that renders the person
3 incapable of safely driving a vehicle;

4 (4) under the influence of any drug or combination of drugs to a
5 degree that renders the person incapable of safely driving a vehicle; or

6 (5) under the influence of a combination of alcohol and any drug or
7 drugs to a degree that renders the person incapable of safely driving a
8 vehicle.

9 (b) No person shall operate or attempt to operate any vehicle within
10 this state if the person is a habitual user of any narcotic, hypnotic,
11 somnifacient or stimulating drug.

12 (c) If a person is charged with a violation of this section involving
13 drugs, the fact that the person is or has been entitled to use the drug under
14 the laws of this state shall not constitute a defense against the charge.

15 (d) Upon a first conviction of a violation of this section, a person shall
16 be guilty of a class B, nonperson misdemeanor and sentenced to not less
17 than 48 consecutive hours nor more than six months' imprisonment, or in
18 the court's discretion 100 hours of public service, and fined not less than
19 \$500 nor more than \$1,000. The person convicted must serve at least 48
20 consecutive hours' imprisonment or 100 hours of public service either
21 before or as a condition of any grant of probation or suspension, reduction
22 of sentence or parole.

23 In addition, the court shall enter an order which requires that the person
24 enroll in and successfully complete an alcohol and drug safety action
25 education program or treatment program as provided in K.S.A. 8-1008,
26 and amendments thereto, or both the education and treatment programs.

27 (e) On a second conviction of a violation of this section, a person
28 shall be guilty of a class A, nonperson misdemeanor and sentenced to not
29 less than 90 days nor more than one year's imprisonment and fined not less
30 than \$1,000 nor more than \$1,500. The person convicted must serve at
31 least five consecutive days' imprisonment before the person is granted
32 probation, suspension or reduction of sentence or parole or is otherwise
33 released. The five days' imprisonment mandated by this subsection may be
34 served in a work release program only after such person has served 48
35 consecutive hours' imprisonment, provided such work release program
36 requires such person to return to confinement at the end of each day in the
37 work release program. The court may place the person convicted under a
38 house arrest program pursuant to ~~K.S.A. 21-4603b~~ *section 249 of chapter*
39 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, to serve
40 the remainder of the minimum sentence only after such person has served
41 48 consecutive hours' imprisonment.

42 As a condition of any grant of probation, suspension of sentence or
43 parole or of any other release, the person shall be required to enter into and

1 complete a treatment program for alcohol and drug abuse as provided in
2 K.S.A. 8-1008, and amendments thereto.

3 (f) (1) On the third conviction of a violation of this section, a person
4 shall be guilty of a nonperson felony and sentenced to not less than 90
5 days nor more than one year's imprisonment and fined \$2,500. The person
6 convicted shall not be eligible for release on probation, suspension or
7 reduction of sentence or parole until the person has served at least 90 days'
8 imprisonment. The 90 days' imprisonment mandated by this paragraph
9 may be served in a work release program only after such person has served
10 72 consecutive hours' imprisonment, provided such work release program
11 requires such person to return to confinement at the end of each day in the
12 work release program.

13 (2) The court may order that the term of imprisonment imposed
14 pursuant to paragraph (1) be served in a state facility in the custody of the
15 secretary of corrections in a facility designated by the secretary for the
16 provision of substance abuse treatment pursuant to the provisions of
17 ~~K.S.A. 21-4704~~ *section 285 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto. The person shall remain imprisoned at
19 the state facility only while participating in the substance abuse treatment
20 program designated by the secretary and shall be returned to the custody of
21 the sheriff for execution of the balance of the term of imprisonment upon
22 completion of or the person's discharge from the substance abuse treatment
23 program. Custody of the person shall be returned to the sheriff for
24 execution of the sentence imposed in the event the secretary of corrections
25 determines: (A) That substance abuse treatment resources or the capacity
26 of the facility designated by the secretary for the incarceration and
27 treatment of the person is not available; (B) the person fails to
28 meaningfully participate in the treatment program of the designated
29 facility; (C) the person is disruptive to the security or operation of the
30 designated facility; or (D) the medical or mental health condition of the
31 person renders the person unsuitable for confinement at the designated
32 facility. The determination by the secretary that the person either is not to
33 be admitted into the designated facility or is to be transferred from the
34 designated facility is not subject to review. The sheriff shall be responsible
35 for all transportation expenses to and from the state correctional facility.

36 At the time of the filing of the judgment form or journal entry as
37 required by ~~K.S.A. 21-4620~~ *section 280 of chapter 136 of the 2010*
38 *Session Laws of Kansas* or *K.S.A. 22-3426*, and amendments thereto, the
39 court shall cause a certified copy to be sent to the officer having the
40 offender in charge. The law enforcement agency maintaining custody and
41 control of a defendant for imprisonment shall cause a certified copy of the
42 judgment form or journal entry to be sent to the secretary of corrections
43 within three business days of receipt of the judgment form or journal entry

1 from the court and notify the secretary of corrections when the term of
2 imprisonment expires and upon expiration of the term of imprisonment
3 shall deliver the defendant to a location designated by the secretary. After
4 the term of imprisonment imposed by the court, the person shall be placed
5 in the custody of the secretary of corrections for a mandatory one-year
6 period of postrelease supervision, which such period of postrelease
7 supervision shall not be reduced. During such postrelease supervision, the
8 person shall be required to participate in an inpatient or outpatient program
9 for alcohol and drug abuse, including, but not limited to, an approved
10 aftercare plan or mental health counseling, as determined by the secretary
11 and satisfy conditions imposed by the Kansas parole board as provided by
12 K.S.A. 22-3717, and amendments thereto. Any violation of the conditions
13 of such postrelease supervision may subject such person to revocation of
14 postrelease supervision pursuant to K.S.A. 75-5217 et seq., and
15 amendments thereto and as otherwise provided by law.

16 (g) (1) On the fourth or subsequent conviction of a violation of this
17 section, a person shall be guilty of a nonperson felony and sentenced to not
18 less than 180 days nor more than one year's imprisonment and fined
19 \$2,500. The person convicted shall not be eligible for release on probation,
20 suspension or reduction of sentence or parole until the person has served at
21 least 180 days' imprisonment. The 180 days' imprisonment mandated by
22 this paragraph may be served in a work release program only after such
23 person has served 144 consecutive hours' imprisonment, provided such
24 work release program requires such person to return to confinement at the
25 end of each day in the work release program.

26 (2) The court may order that the term of imprisonment imposed
27 pursuant to paragraph (1) be served in a state facility in the custody of the
28 secretary of corrections in a facility designated by the secretary for the
29 provision of substance abuse treatment pursuant to the provisions of
30 ~~K.S.A. 21-4704~~ *section 285 of chapter 136 of the 2010 Session Laws of*
31 *Kansas*, and amendments thereto. The person shall remain imprisoned at
32 the state facility only while participating in the substance abuse treatment
33 program designated by the secretary and shall be returned to the custody of
34 the sheriff for execution of the balance of the term of imprisonment upon
35 completion of or the person's discharge from the substance abuse treatment
36 program. Custody of the person shall be returned to the sheriff for
37 execution of the sentence imposed in the event the secretary of corrections
38 determines: (A) That substance abuse treatment resources or the capacity
39 of the facility designated by the secretary for the incarceration and
40 treatment of the person is not available; (B) the person fails to
41 meaningfully participate in the treatment program of the designated
42 facility; (C) the person is disruptive to the security or operation of the
43 designated facility; or (D) the medical or mental health condition of the

1 person renders the person unsuitable for confinement at the designated
2 facility. The determination by the secretary that the person either is not to
3 be admitted into the designated facility or is to be transferred from the
4 designated facility is not subject to review. The sheriff shall be responsible
5 for all transportation expenses to and from the state correctional facility.

6 At the time of the filing of the judgment form or journal entry as
7 required by ~~K.S.A. 21-4620~~ or *section 280 of chapter 136 of the 2010*
8 *Session Laws of Kansas* or *K.S.A. 22-3426*, and amendments thereto, the
9 court shall cause a certified copy to be sent to the officer having the
10 offender in charge. The law enforcement agency maintaining custody and
11 control of a defendant for imprisonment shall cause a certified copy of the
12 judgment form or journal entry to be sent to the secretary of corrections
13 within three business days of receipt of the judgment form or journal entry
14 from the court and notify the secretary of corrections when the term of
15 imprisonment expires and upon expiration of the term of imprisonment
16 shall deliver the defendant to a location designated by the secretary.

17 (h) Any person convicted of violating this section or an ordinance
18 which prohibits the acts that this section prohibits who had one or more
19 children under the age of 14 years in the vehicle at the time of the offense
20 shall have such person's punishment enhanced by one month of
21 imprisonment. This imprisonment must be served consecutively to any
22 other minimum mandatory penalty imposed for a violation of this section
23 or an ordinance which prohibits the acts that this section prohibits. Any
24 enhanced penalty imposed shall not exceed the maximum sentence
25 allowable by law. During the service of the enhanced penalty, the judge
26 may order the person on house arrest, work release or other conditional
27 release.

28 (i) The court may establish the terms and time for payment of any
29 fines, fees, assessments and costs imposed pursuant to this section. Any
30 assessment and costs shall be required to be paid not later than 90 days
31 after imposed, and any remainder of the fine shall be paid prior to the final
32 release of the defendant by the court.

33 (j) In lieu of payment of a fine imposed pursuant to this section, the
34 court may order that the person perform community service specified by
35 the court. The person shall receive a credit on the fine imposed in an
36 amount equal to \$5 for each full hour spent by the person in the specified
37 community service. The community service ordered by the court shall be
38 required to be performed not later than one year after the fine is imposed
39 or by an earlier date specified by the court. If by the required date the
40 person performs an insufficient amount of community service to reduce to
41 zero the portion of the fine required to be paid by the person, the
42 remaining balance of the fine shall become due on that date.

43 (k) (1) Except as provided in paragraph (5), in addition to any other

1 penalty which may be imposed upon a first conviction of a violation of this
2 section, the court may order that the convicted person's motor vehicle or
3 vehicles be impounded or immobilized for a period not to exceed one year
4 and that the convicted person pay all towing, impoundment and storage
5 fees or other immobilization costs.

6 (2) The court shall not order the impoundment or immobilization of a
7 motor vehicle driven by a person convicted of a violation of this section if
8 the motor vehicle had been stolen or converted at the time it was driven in
9 violation of this section.

10 (3) Prior to ordering the impoundment or immobilization of a motor
11 vehicle or vehicles owned by a person convicted of a violation of this
12 section, the court shall consider, but not be limited to, the following:

13 (A) Whether the impoundment or immobilization of the motor vehicle
14 would result in the loss of employment by the convicted person or a
15 member of such person's family; and

16 (B) whether the ability of the convicted person or a member of such
17 person's family to attend school or obtain medical care would be impaired.

18 (4) Any personal property in a vehicle impounded or immobilized
19 pursuant to this subsection may be retrieved prior to or during the period
20 of such impoundment or immobilization.

21 (5) As used in this subsection, the convicted person's motor vehicle or
22 vehicles shall include any vehicle leased by such person. If the lease on the
23 convicted person's motor vehicle subject to impoundment or
24 immobilization expires in less than one year from the date of the
25 impoundment or immobilization, the time of impoundment or
26 immobilization of such vehicle shall be the amount of time remaining on
27 the lease.

28 (1) (1) Except as provided in paragraph (3), in addition to any other
29 penalty which may be imposed upon a second or subsequent conviction of
30 a violation of this section, the court shall order that each motor vehicle
31 owned or leased by the convicted person shall either be equipped with an
32 ignition interlock device or be impounded or immobilized for a period of
33 two years. The convicted person shall pay all costs associated with the
34 installation, maintenance and removal of the ignition interlock device and
35 all towing, impoundment and storage fees or other immobilization costs.

36 (2) Any personal property in a vehicle impounded or immobilized
37 pursuant to this subsection may be retrieved prior to or during the period
38 of such impoundment or immobilization.

39 (3) As used in this subsection, the convicted person's motor vehicle or
40 vehicles shall include any vehicle leased by such person. If the lease on the
41 convicted person's motor vehicle subject to impoundment or
42 immobilization expires in less than two years from the date of the
43 impoundment or immobilization, the time of impoundment or

1 immobilization of such vehicle shall be the amount of time remaining on
2 the lease.

3 (m) (1) Prior to filing a complaint alleging a violation of this
4 section, a prosecutor shall request and shall receive from the division a
5 record of all prior convictions obtained against such person for any
6 violations of any of the motor vehicle laws of this state.

7 (2) Prior to filing a complaint alleging a violation of this section, a
8 prosecutor shall request and shall receive from the Kansas bureau of
9 investigation central repository all criminal history record information
10 concerning such person.

11 (n) The court shall electronically report every conviction of a
12 violation of this section and every diversion agreement entered into in lieu
13 of further criminal proceedings or a complaint alleging a violation of this
14 section to the division. Prior to sentencing under the provisions of this
15 section, the court shall request and shall receive from the division a record
16 of all prior convictions obtained against such person for any violations of
17 any of the motor vehicle laws of this state.

18 (o) For the purpose of determining whether a conviction is a first,
19 second, third, fourth or subsequent conviction in sentencing under this
20 section:

21 (1) "Conviction" includes being convicted of a violation of this
22 section or entering into a diversion agreement in lieu of further criminal
23 proceedings on a complaint alleging a violation of this section;

24 (2) "conviction" includes being convicted of a violation of a law of
25 another state or an ordinance of any city, or resolution of any county,
26 which prohibits the acts that this section prohibits or entering into a
27 diversion agreement in lieu of further criminal proceedings in a case
28 alleging a violation of such law, ordinance or resolution;

29 (3) any convictions occurring during a person's lifetime shall be taken
30 into account when determining the sentence to be imposed for a first,
31 second, third, fourth or subsequent offender;

32 (4) it is irrelevant whether an offense occurred before or after
33 conviction for a previous offense; and

34 (5) a person may enter into a diversion agreement in lieu of further
35 criminal proceedings for a violation of this section, and amendments
36 thereto, or an ordinance which prohibits the acts of this section, and
37 amendments thereto, only once during the person's lifetime.

38 (p) Upon conviction of a person of a violation of this section or a
39 violation of a city ordinance or county resolution prohibiting the acts
40 prohibited by this section, the division, upon receiving a report of
41 conviction, shall suspend, restrict or suspend and restrict the person's
42 driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

43 (q) (1) (A) Nothing contained in this section shall be construed as

1 preventing any city from enacting ordinances, or any county from adopting
2 resolutions, declaring acts prohibited or made unlawful by this act as
3 unlawful or prohibited in such city or county and prescribing penalties for
4 violation thereof. Except as specifically provided by this subsection, the
5 minimum penalty prescribed by any such ordinance or resolution shall not
6 be less than the minimum penalty prescribed by this act for the same
7 violation, and the maximum penalty in any such ordinance or resolution
8 shall not exceed the maximum penalty prescribed for the same violation.

9 (B) On and after July 1, 2007, and retroactive for ordinance violations
10 committed on or after July 1, 2006, an ordinance may grant to a municipal
11 court jurisdiction over a violation of such ordinance which is concurrent
12 with the jurisdiction of the district court over a violation of this section,
13 notwithstanding that the elements of such ordinance violation are the same
14 as the elements of a violation of this section that would constitute, and be
15 punished as, a felony.

16 (C) Any such ordinance or resolution shall authorize the court to
17 order that the convicted person pay restitution to any victim who suffered
18 loss due to the violation for which the person was convicted. Except as
19 provided in paragraph (5), any such ordinance or resolution may require or
20 authorize the court to order that the convicted person's motor vehicle or
21 vehicles be impounded or immobilized for a period not to exceed one year
22 and that the convicted person pay all towing, impoundment and storage
23 fees or other immobilization costs.

24 (2) The court shall not order the impoundment or immobilization of a
25 motor vehicle driven by a person convicted of a violation of this section if
26 the motor vehicle had been stolen or converted at the time it was driven in
27 violation of this section.

28 (3) Prior to ordering the impoundment or immobilization of a motor
29 vehicle or vehicles owned by a person convicted of a violation of this
30 section, the court shall consider, but not be limited to, the following:

31 (A) Whether the impoundment or immobilization of the motor vehicle
32 would result in the loss of employment by the convicted person or a
33 member of such person's family; and

34 (B) whether the ability of the convicted person or a member of such
35 person's family to attend school or obtain medical care would be impaired.

36 (4) Any personal property in a vehicle impounded or immobilized
37 pursuant to this subsection may be retrieved prior to or during the period
38 of such impoundment or immobilization.

39 (5) As used in this subsection, the convicted person's motor vehicle or
40 vehicles shall include any vehicle leased by such person. If the lease on the
41 convicted person's motor vehicle subject to impoundment or
42 immobilization expires in less than one year from the date of the
43 impoundment or immobilization, the time of impoundment or

1 immobilization of such vehicle shall be the amount of time remaining on
2 the lease.

3 (r) (1) Upon the filing of a complaint, citation or notice to appear
4 alleging a person has violated a city ordinance prohibiting the acts
5 prohibited by this section, and prior to conviction thereof, a city attorney
6 shall request and shall receive from the division a record of all prior
7 convictions obtained against such person for any violations of any of the
8 motor vehicle laws of this state.

9 (2) Upon the filing of a complaint, citation or notice to appear
10 alleging a person has violated a city ordinance prohibiting the acts
11 prohibited by this section, and prior to conviction thereof, a city attorney
12 shall request and shall receive from the Kansas bureau of investigation
13 central repository all criminal history record information concerning such
14 person.

15 (3) If the elements of such ordinance violation are the same as the
16 elements of a violation of this section that would constitute, and be
17 punished as, a felony, the city attorney shall refer the violation to the
18 appropriate county or district attorney for prosecution.

19 (s) No plea bargaining agreement shall be entered into nor shall any
20 judge approve a plea bargaining agreement entered into for the purpose of
21 permitting a person charged with a violation of this section, or a violation
22 of any ordinance of a city or resolution of any county in this state which
23 prohibits the acts prohibited by this section, to avoid the mandatory
24 penalties established by this section or by the ordinance. For the purpose
25 of this subsection, entering into a diversion agreement pursuant to K.S.A.
26 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not
27 constitute plea bargaining.

28 (t) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may
29 be pleaded in the alternative, and the state, city or county, but shall not be
30 required to, may elect one or two of the three prior to submission of the
31 case to the fact finder.

32 (u) Upon a third or subsequent conviction, the judge of any court in
33 which any person is convicted of violating this section, may revoke the
34 person's license plate or temporary registration certificate of the motor
35 vehicle driven during the violation of this section for a period of one year.
36 Upon revoking any license plate or temporary registration certificate
37 pursuant to this subsection, the court shall require that such license plate or
38 temporary registration certificate be surrendered to the court.

39 (v) For the purpose of this section: (1) "Alcohol concentration" means
40 the number of grams of alcohol per 100 milliliters of blood or per 210
41 liters of breath.

42 (2) "Imprisonment" shall include any restrained environment in which
43 the court and law enforcement agency intend to retain custody and control

1 of a defendant and such environment has been approved by the board of
2 county commissioners or the governing body of a city.

3 (3) "Drug" includes toxic vapors as such term is defined in K.S.A.
4 ~~2009~~2010 Supp. 21-36a12, and amendments thereto.

5 (w) The amount of the increase in fines as specified in this section
6 shall be remitted by the clerk of the district court to the state treasurer in
7 accordance with the provisions of K.S.A. 75-4215, and amendments
8 thereto. Upon receipt of remittance of the increase provided in this act, the
9 state treasurer shall deposit the entire amount in the state treasury and the
10 state treasurer shall credit 50% to the community alcoholism and
11 intoxication programs fund and 50% to the department of corrections
12 alcohol and drug abuse treatment fund, which is hereby created in the state
13 treasury.

14 (x) Upon every conviction of a violation of this section, the court
15 shall order such person to submit to a pre-sentence alcohol and drug abuse
16 evaluation pursuant to K.S.A. 8-1008, and amendments thereto. Such pre-
17 sentence evaluation shall be made available, and shall be considered by the
18 sentencing court.

19 Sec. 96. K.S.A. 2010 Supp. 8-2106 is hereby amended to read as
20 follows: 8-2106. (a) A law enforcement officer may prepare and deliver to
21 a person a written traffic citation on a form approved by the division of
22 motor vehicles, if the law enforcement officer stops the person for a
23 violation of:

24 (1) The uniform act regulating traffic on highways, which violation is
25 a misdemeanor or a traffic infraction;

26 (2) K.S.A. 8-262, 8-287, 8-2,144, ~~21-3610, 21-3610a, 21-3722, 21-~~
27 ~~3724, 21-3725, 21-3728, 21-4101,8-1599,~~ 40-3104, 40-3106, 41-715, 41-
28 724, 41-727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273, 66-
29 1314, 66-1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106;*or*
30 subsection (b) of K.S.A. 79-34,122, ~~or K.S.A. 8-1599~~*subsection (a) of*
31 *section 84, section 96, section 101, section 102, subsection (a) of section*
32 *103, or section 181 of chapter 136 of the 2010 Session Laws of Kansas,*
33 and amendments thereto;

34 (3) K.S.A. 31-155 and amendments thereto involving transportation
35 of bottle rockets;

36 (4) K.S.A. 66-1314 or 66-1328, and amendments thereto, and any
37 rules and regulations adopted pursuant thereto;

38 (5) any rules and regulations adopted pursuant to K.S.A. 2-1212, 68-
39 2001 or 31-146, and amendments thereto;

40 (6) any rules and regulations adopted pursuant to K.S.A. 31-133 and
41 amendments thereto relating to transportation of materials or fuel; or

42 (7) K.S.A. 8-1343 through 8-1347 and amendments thereto relating
43 to the child passenger safety act; or

1 (8) K.S.A. 8-2501 through 8-2507 and amendments thereto relating
2 to the safety belt use act.

3 (b) The citation shall contain a notice to appear in court, the name and
4 address of the person, the type of vehicle the person was driving, whether
5 hazardous materials were being transported, whether an accident occurred,
6 the state registration number of the person's vehicle, if any, a statement
7 whether the vehicle is a commercial vehicle, whether the person is
8 licensed to drive a commercial motor vehicle, the offense or offenses
9 charged, the time and place when and where the person shall appear in
10 court, the signature of the law enforcement officer, and any other pertinent
11 information.

12 (c) The time specified in the notice to appear shall be at least five
13 days after the alleged violation unless the person charged with the
14 violation demands an earlier hearing.

15 (d) The place specified in the notice to appear shall be before a judge
16 of the district court within the county in which the offense is alleged to
17 have been committed.

18 (e) Except in the circumstances to which subsection (a) of K.S.A. 8-
19 2104, and amendments thereto, apply, in the discretion of the law
20 enforcement officer, a person charged with a misdemeanor may give
21 written promise to appear in court by signing at least one copy of the
22 written citation prepared by the law enforcement officer, in which event
23 the law enforcement officer shall deliver a copy of the citation to the
24 person and shall not take the person into physical custody.

25 (f) When a person is charged with a traffic infraction, the notice to
26 appear shall provide a place where the person may make a written entry of
27 appearance, waive the right to a trial and plead guilty or no contest. Such
28 notice to appear shall contain a provision that the person's failure to either
29 pay such fine and court costs or appear at the specified time may result in
30 suspension of the person's drivers' license as provided in K.S.A. 8-2110,
31 and amendments thereto. The notice to appear shall provide a space where
32 the law enforcement officer shall enter the appropriate fine specified in the
33 uniform fine schedule contained in K.S.A. 8-2118, and amendments
34 thereto, for the violation charged and court costs in the amount provided
35 by law. If the notice to appear does not do so, the law enforcement officer
36 shall provide a person charged with a traffic infraction a form explaining
37 the person's right to appear and right to a trial and the person's right to pay
38 the appropriate fine and court costs prior to the appearance date. The law
39 enforcement officer shall provide the person with the address of the court
40 to which the written entry of appearance, waiver of trial, plea of guilty or
41 no contest and payment of fine and court costs shall be mailed.

42 (g) Any officer violating any of the provisions of subsection (f) is
43 guilty of misconduct in office and shall be subject to removal from office.

1 Sec. 97. K.S.A. 2010 Supp. 8-2117 is hereby amended to read as
2 follows: 8-2117. (a) Subject to the provisions of this section, a court of
3 competent jurisdiction may hear prosecutions of traffic offenses involving
4 any child 14 or more years of age but less than 18 years of age. The court
5 hearing the prosecution may impose any fine authorized by law for a
6 traffic offense, including a violation of K.S.A. 8-1567 and amendments
7 thereto, and may order that the child be placed in a juvenile detention
8 facility, as defined by K.S.A. 2010 Supp. 38-2302, and amendments
9 thereto, for not more than 10 days. If the child is less than 18 years of age,
10 the child shall not be incarcerated in a jail as defined by K.S.A. 2010
11 Supp. 38-2302, and amendments thereto. If the statute under which the
12 child is convicted requires a revocation or suspension of driving privileges,
13 the court shall revoke or suspend such privileges in accordance with that
14 statute. Otherwise, the court may suspend the license of any person who is
15 convicted of a traffic offense and who was under 18 years of age at the
16 time of commission of the offense. Suspension of a license shall be for a
17 period not exceeding one year, as ordered by the court. Upon suspending
18 any license pursuant to this section, the court shall require that the license
19 be surrendered to the court and shall transmit the license to the division of
20 vehicles with a copy of the court order showing the time for which the
21 license is suspended. The court may modify the time for which the license
22 is suspended, in which case it shall notify the division of vehicles in
23 writing of the modification. After the time period has passed for which the
24 license is suspended, the division of vehicles shall issue an appropriate
25 license to the person whose license had been suspended, upon successful
26 completion of the examination required by K.S.A. 8-241 and amendments
27 thereto and upon proper application and payment of the required fee unless
28 the child's driving privileges have been revoked, suspended or canceled for
29 another cause and the revocation, suspension or cancellation has not
30 expired.

31 (b) Instead of suspending a driver's license pursuant to this section,
32 the court may place restrictions on the child's driver's privileges pursuant
33 to K.S.A. 8-292 and amendments thereto.

34 (c) Instead of the penalties provided in subsections (a) and (b), the
35 court may place the child under a house arrest program, pursuant to ~~K.S.A.~~
36 ~~21-4603~~ *section 249 of chapter 136 of the 2010 Session Laws of Kansas*,
37 and amendments thereto, and sentence the child to the same sentence as an
38 adult traffic offender under K.S.A. 8-2116, and amendments thereto.

39 (d) As used in this section, "traffic offense" means a violation of the
40 uniform act regulating traffic on highways, a violation of articles 1 and 2
41 of chapter 8 of the Kansas Statutes Annotated and a violation of K.S.A.
42 40-3104, and amendments thereto. Traffic offenses shall include a
43 violation of a city ordinance or county resolution which prohibits acts

1 which would constitute a violation of the uniform act regulating traffic on
2 highways, a violation of articles 1 and 2 of chapter 8 of the Kansas
3 Statutes Annotated, or a violation of K.S.A. 40-3104, and amendments
4 thereto, and any violation of a city ordinance or county resolution which
5 prohibits acts which are not violations of state laws and which relate to the
6 regulation of traffic on the roads, highways or streets or the operation of
7 self-propelled or nonself-propelled vehicles of any kind.

8 Sec. 98. K.S.A. 2010 Supp. 8-2410 is hereby amended to read as
9 follows: 8-2410. (a) A license may be denied, suspended or revoked or a
10 renewal may be refused by the director on any of the following grounds:

- 11 (1) Proof of financial unfitness of the applicant;
- 12 (2) material false statement in an application for a license;
- 13 (3) filing a materially false or fraudulent tax return as certified by the
14 director of taxation;
- 15 (4) negligently failing to comply with any applicable provision of this
16 act or any applicable rule or regulation adopted pursuant thereto;
- 17 (5) knowingly defrauding any retail buyer to the buyer's damage;
- 18 (6) negligently failing to perform any written agreement with any
19 buyer;
- 20 (7) failure or refusal to furnish and keep in force any required bond;
- 21 (8) knowingly making a fraudulent sale or transaction;
- 22 (9) knowingly engaging in false or misleading advertising;
- 23 (10) willful misrepresentation, circumvention or concealment,
24 through a subterfuge or device, of any material particulars, or the nature
25 thereof, required by law to be stated or furnished to the retail buyer;
- 26 (11) negligent use of fraudulent devices, methods or practices in
27 contravention of law with respect to the retaking of goods under retail
28 installment contracts and the redemption and resale of such goods;
- 29 (12) knowingly violating any law relating to the sale, distribution or
30 financing of vehicles;
- 31 (13) being a first or second stage manufacturer of vehicles, factory
32 branch, distributor, distributor or factory representative, officer, agent or
33 any representative thereof, who has:
 - 34 (A) Required any new vehicle dealer to order or accept delivery of
35 any new motor vehicle, part or accessory of such part, equipment or any
36 other commodity not required by law, or not necessary for the repair or
37 service, or both, of a new motor vehicle which was not ordered by the new
38 vehicle dealer;
 - 39 (B) unfairly, without due regard to the equities of the vehicle dealer,
40 and without just provocation, canceled, terminated or failed to renew a
41 franchise agreement with any new vehicle dealer; or
 - 42 (C) induced, or has attempted to induce, by coercion, intimidation or
43 discrimination, any vehicle dealer to involuntarily enter into any franchise

1 agreement with such first or second stage manufacturer, factory branch,
2 distributor, or any representative thereof, or to do any other act to a vehicle
3 dealer which may be deemed a violation of this act, or the rules and
4 regulations adopted or orders promulgated under authority of this act, by
5 threatening to cancel or not renew a franchise agreement existing between
6 such parties;

7 (14) being a first or second stage manufacturer, or distributor who for
8 the protection of the buying public fails to specify in writing the delivery
9 and preparation obligations of its vehicle dealers prior to delivery of new
10 vehicles to new vehicle dealers. A copy of such writing shall be filed with
11 the division by every licensed first or second stage manufacturer of
12 vehicles and the contents thereof shall constitute the vehicle dealer's only
13 responsibility for product liability as between the vehicle dealer and the
14 first or second stage manufacturer. Any mechanical, body or parts defects
15 arising from any express or implied warranties of the first or second stage
16 manufacturer shall constitute the product or warranty liability of the first
17 or second stage manufacturer. The first or second stage manufacturer shall
18 reasonably compensate any authorized vehicle dealer for the performance
19 of delivery and preparation obligation;

20 (15) being a first or second stage manufacturer of new vehicles,
21 factory branch or distributor who fails to supply a new vehicle dealer with
22 a reasonable quantity of new vehicles, parts and accessories, in accordance
23 with the franchise agreement. It shall not be deemed a violation of this act
24 if such failure is attributable to factors reasonably beyond the control of
25 such first or second stage manufacturer, factory branch or distributor;

26 (16) knowingly used or permitted the use of dealer plates contrary to
27 law;

28 (17) has failed or refused to permit an agent of the division, during
29 the licensee's regular business hours, to examine or inspect such dealer's
30 records pertaining to titles and purchase and sale of vehicles;

31 (18) has failed to notify the division within 10 days of dealer's plates
32 that have been lost, stolen, mutilated or destroyed;

33 (19) has failed or refused to surrender their dealer's license or dealer's
34 plates to the division or its agent upon demand;

35 (20) has demonstrated that such person is not of good character and
36 reputation in the community in which the dealer resides;

37 (21) has, within five years immediately preceding the date of making
38 application, been convicted of a felony or any crime involving moral
39 turpitude, or has been adjudged guilty of the violations of any law of any
40 state or the United States in connection with such person's operation as a
41 dealer or salesperson;

42 (22) has cross-titled a title to any purchaser of any vehicle. Cross-
43 titling shall include, but not by way of limitation, a dealer or broker or the

1 authorized agent of either selling or causing to be sold, exchanged or
2 transferred any vehicle and not showing a complete chain of title on the
3 papers necessary for the issuance of title for the purchaser. The selling
4 dealer's name must appear on the assigned first or second stage
5 manufacturer's certificate of origin or reassigned certificate of title;

6 (23) has changed the location of such person's established place of
7 business or supplemental place of business prior to approval of such
8 change by the division;

9 (24) having in such person's possession a certificate of title which is
10 not properly completed, otherwise known as an "open title";

11 (25) doing business as a vehicle dealer other than at the dealer's
12 established or supplemental place of business, with the exception that
13 dealers selling new recreational vehicles may engage in business at other
14 than their established or supplemental place of business for a period not to
15 exceed 15 days;

16 (26) any violation of K.S.A. 8-126 et seq., and amendments thereto,
17 in connection with such person's operation as a dealer;

18 (27) any violation of K.S.A. 8-116, and amendments thereto;

19 (28) any violation of ~~K.S.A. 21-3757~~ *section 121 of chapter 136 of*
20 *the 2010 Session Laws of Kansas*, and amendments thereto;

21 (29) any violation of K.S.A. 79-1019, 79-3294 et seq., or 79-3601 et
22 seq., and amendments thereto;

23 (30) failure to provide adequate proof of ownership for motor
24 vehicles in the dealer's possession;

25 (31) being a first or second stage manufacturer who fails to provide
26 the director of property valuation all information necessary for vehicle
27 identification number identification and determination of vehicle
28 classification at least 90 days prior to release for sale of any new make,
29 model or series of vehicles; or

30 (32) displaying motor vehicles at a location other than at the dealer's
31 established place of business or supplemental place of business without
32 obtaining the authorization required in K.S.A. 8-2435, and amendments
33 thereto.

34 (b) In addition to the provisions of subsection (a), and
35 notwithstanding the terms and conditions of any franchise agreement,
36 including any policy, bulletin, practice or guideline with respect thereto or
37 performance thereunder, no first or second stage manufacturer of vehicles,
38 factory branch, distributor, distributor or factory representative, officer or
39 agent or any representative thereof, or any other person may do or cause to
40 be done any of the following acts or practices referenced in this
41 subsection, all of which are also declared to be a violation of the vehicle
42 dealers and manufacturers licensing act, and amendments thereto:

43 (1) Through the use of a written instrument or otherwise,

1 unreasonably fail or refuse to offer to its same line-make new vehicle
2 dealers all models manufactured for that line-make, or unreasonably
3 require a dealer to: (A) Pay any extra fee;

4 (B) purchase unreasonable advertising displays or other materials; or

5 (C) remodel, renovate or recondition the dealer's existing facilities as
6 a prerequisite to receiving a model or series of vehicles. The provisions of
7 this subsection shall not apply to manufacturers of recreational vehicles;

8 (2) require a change in the capital structure of the new vehicle
9 dealership, or the means by or through which the dealer finances the
10 operation of the dealership, if the dealership at all times meets any
11 reasonable capital standards determined by the manufacturer and in
12 accordance with uniformly applied criteria;

13 (3) discriminate unreasonably among competing dealers of the same
14 line-make in the sale of vehicles or availability of incentive programs or
15 sales promotion plans or other similar programs, unless justified by
16 obsolescence;

17 (4) unless required by subpoena or as otherwise compelled by law:

18 (A) Require a new vehicle dealer to release, convey or otherwise provide
19 customer information if to do so is unlawful, or if the customer objects in
20 writing to doing so, unless the information is necessary for the first or
21 second stage manufacturer of vehicles, factory branch or distributor to
22 meet its obligations to consumers or the new vehicle dealer, including
23 vehicle recalls or other requirements imposed by state or federal law; or

24 (B) release to any unaffiliated third party any customer information
25 which has been provided by the dealer to the manufacturer;

26 (5) unless the parties have reached a voluntary agreement where
27 separate and adequate consideration has been offered and accepted in
28 exchange for altering or foregoing the following limitations, through the
29 use of written instrument, or otherwise:

30 (A) Prohibit or prevent a dealer from acquiring, adding or
31 maintaining a sales or service operation for another line-make at the same
32 or expanded facility at which the dealership is located if the prohibition or
33 prevention of such arrangements would be unreasonable in light of all
34 existing circumstances including, but not limited to, debt exposure, cost,
35 return on investment, the dealer's and manufacturer's business plans and
36 other financial and economic conditions and considerations;

37 (B) require a dealer to establish or maintain exclusive facilities,
38 personnel or display space if the imposition of the requirement would be
39 unreasonable in light of all existing circumstances, including, but not
40 limited to, debt exposure, cost, return on investment, the dealer's and
41 manufacturer's business plans and other financial and economic conditions
42 and considerations;

43 (C) to require a dealer to build or relocate and build new facilities, or

1 make a material alteration, expansion or addition to any dealership facility,
2 unless the requirement is reasonable in light of all existing conditions,
3 including, but not limited to, debt exposure, cost, return on investment, the
4 dealer's and manufacturer's business plans and other financial and
5 economic conditions and considerations;

6 (6) through the use of written instrument, or otherwise, require,
7 coerce or force a dealer to underutilize its facilities by requiring the dealer
8 to exclude or remove operations for the display, sale or service of any
9 vehicle for which the dealer has a franchise agreement, except that in light
10 of all existing circumstances the dealer must comply with reasonable
11 facilities requirements. The requirement for a dealer to meet reasonable
12 facilities requirements shall not include any requirement that a dealer
13 establish or maintain exclusive facilities.

14 In the event a dealer decides to add an additional franchise agreement
15 to sell another line-make of new vehicles of a different first or second
16 stage manufacturer or distributor from that currently sold in its existing
17 facility, it shall be a rebuttable presumption that the decision to do so is
18 reasonable. Any dealer adding a franchise agreement for an existing
19 facility shall provide 60 days written notice of its intent to those other
20 parties to franchise agreements it may have. The other party must respond
21 to such notice within 60 days by requesting a hearing before the director in
22 accordance with K.S.A. 8-2411, and amendments thereto. Consent shall be
23 deemed to have been given approving the addition of the line-make if no
24 hearing is timely requested. A party objecting to the addition shall have the
25 burden to overcome such presumption by a preponderance of the evidence;

26 (7) (A) through the use of written instrument, or otherwise, directly or
27 indirectly condition the awarding of a franchise agreement to a prospective
28 dealer, the addition of a line-make or franchise agreement to an existing
29 dealer, the renewal of a franchise agreement, the approval of a dealer or
30 facility relocation, the acquisition of a franchise agreement or the approval
31 of a sale or transfer of a franchise agreement or other arrangement on the
32 willingness of a dealer or a prospective dealer to enter into a site control
33 agreement or exclusive use agreement as defined in this subsection;

34 (B) as used in this paragraph, "site control agreement" and "exclusive
35 use agreement" include any agreement by or required by the first or second
36 stage manufacturer of vehicles, factory branch or distributor
37 ("manufacturer parties" in this paragraph) that has the effect of either:

38 (i) Requiring that the dealer establish or maintain exclusive
39 dealership facilities in violation of the dealer and manufacturers licensing
40 act;

41 (ii) restricting the ability of the dealer, or the ability of the dealer's
42 lessor in the event the dealership facility is being leased, to transfer, sell,
43 lease or change the use of the dealership premises, whether by sublease,

1 lease, collateral pledge of lease or other similar agreement; or
2 (iii) which gives control of the premises to a designated party. "Site
3 control agreement" and "exclusive use agreement" also include
4 manufacturer parties restricting the ability of a dealer to transfer, sell or
5 lease the dealership premises by right of first refusal to purchase or lease,
6 option to purchase, or option to lease, except as otherwise allowed by
7 K.S.A. 8-2416, and amendments thereto, except that voluntary agreements
8 where separate and adequate consideration has been offered and accepted
9 are excluded;

10 (8) through the use of written instrument, or otherwise, require
11 adherence to a performance standard or standards which are not applied
12 uniformly to other similarly situated dealers. In addition to any other
13 requirements by law, the following shall apply:

14 (A) A performance standard, sales objective or program for
15 measuring dealer performance that may have a material effect on a dealer,
16 including the dealer's right to payment under any incentive or
17 reimbursement program and the application of the standard, sales objective
18 or program by a manufacturer, distributor or factory branch shall be fair,
19 reasonable, equitable and based on accurate information;

20 (B) a dealer that claims that the application of a performance
21 standard, sales objective or program for measuring dealership performance
22 does not meet the standards listed in subparagraph (A) may request a
23 hearing before the director pursuant to K.S.A. 8-2411, and amendments
24 thereto; and

25 (C) a first or second stage manufacturer of vehicles, factory branch or
26 distributor has the burden of proving by a preponderance of the evidence
27 that the performance standard, sales objective or program for measuring
28 dealership information complies with this subsection;

29 (9) in addition to any other provisions of law, a franchise agreement
30 or other contract offered to a dealer by a first or second stage manufacturer
31 of vehicles, factory branch or distributor may not contain any provision
32 requiring a dealer to pay the attorney's fees of the first or second stage
33 manufacturer of vehicles, factory branch or distributor related to disputes
34 between the parties.

35 (c) The director may deny the application for the license within 30
36 days after receipt thereof by written notice to the applicant, stating the
37 grounds for such denial. Upon request by the applicant whose license has
38 been so denied, the applicant shall be granted an opportunity to be heard in
39 accordance with the provisions of the Kansas administrative procedure act.

40 (d) If a licensee is a firm or corporation, it shall be sufficient cause
41 for the denial, suspension or revocation of a license that any officer,
42 director or trustee of the firm or corporation, or any member in case of a
43 partnership, has been guilty of any act or omission which would be good

1 cause for refusing, suspending or revoking a license to such party as an
2 individual. Each licensee shall be responsible for the acts of its
3 salespersons or representatives while acting as its agent.

4 (e) Any licensee or other person aggrieved by a final order of the
5 director, may appeal to the district court as provided by the Kansas judicial
6 review act.

7 (f) The revocation or suspension of a first or second stage
8 manufacturer's or distributor's license may be limited to one or more
9 municipalities or counties or any other defined trade area.

10 Sec. 99. K.S.A. 9-2004 is hereby amended to read as follows: 9-2004.

11 (a) Every officer or employee of a bank or trust company required by this
12 act to take an oath or affirmation, who shall willfully swear or affirm
13 falsely, shall be guilty of perjury, and upon conviction shall be punished as
14 provided by ~~K.S.A. 21-3805~~ *section 128 of chapter 136 of the 2010*
15 *Session Laws of Kansas*, and amendments thereto.

16 (b) (1) A violation of subsection (a) as provided in ~~subsection (b)(1)~~
17 ~~of K.S.A. 21-3805(b)(2) of section 128 of chapter 136 of the 2010 Session~~
18 *Laws of Kansas*, and amendments thereto, is a severity level 7, nonperson
19 felony.

20 (2) A violation of subsection (a) as provided in ~~subsection (b)(2) of~~
21 ~~K.S.A. 21-3805(b)(1) of section 128 of chapter 136 of the 2010 Session~~
22 *Laws of Kansas*, and amendments thereto, is a severity level 9, nonperson
23 felony.

24 Sec. 100. K.S.A. 2010 Supp. 12-16,119 is hereby amended to read as
25 follows: 12-16,119. (a) Any person convicted or diverted, or adjudicated or
26 diverted under a preadjudication program, pursuant to K.S.A. 22-2906 et
27 seq., K.S.A. 2010 Supp. 38-2346 et seq., or 12-4414 et seq., and
28 amendments thereto, of a misdemeanor or felony contained in chapters 8,
29 ~~21~~, 41 or 65 of the Kansas Statutes Annotated, *or the Kansas criminal*
30 *code*, and amendments thereto, where fingerprints are required pursuant to
31 K.S.A. 21-2501, and amendments thereto, shall pay a separate court cost if
32 the board of county commissioners or by the governing body of a city,
33 where a city operates a detention facility, votes to adopt such a fee as a
34 booking or processing fee for each complaint.

35 (b) Such fee shall be in addition to and not in substitution for any and
36 all fines and penalties otherwise provided for by law for such offense.

37 (c) Disbursements of these fees shall be to the general fund of the
38 governing body responsible for the funding of the sheriff, police
39 department or countywide law enforcement agency that obtains the
40 fingerprints.

41 (d) Such fee shall not exceed \$45.

42 Sec. 101. K.S.A. 2010 Supp. 12-4104 is hereby amended to read as
43 follows: 12-4104. (a) The municipal court of each city shall have

1 jurisdiction to hear and determine cases involving violations of the
2 ordinances of the city, including concurrent jurisdiction to hear and
3 determine a violation of an ordinance when the elements of such ordinance
4 violation are the same as the elements of a violation of one of the
5 following state statutes and would constitute, and be punished as, a felony
6 if charged in district court:

7 (1) K.S.A. 8-1567, and amendments thereto, driving under the
8 influence;

9 (2) ~~K.S.A. 21-3412~~ *section 49 of chapter 136 of the 2010 Session*
10 *Laws of Kansas*, and amendments thereto, domestic battery;

11 (3) ~~K.S.A. 21-3704~~ *section 87 of chapter 136 of the 2010 Session*
12 *Laws of Kansas*, and amendments thereto, theft;

13 (4) ~~K.S.A. 21-3707~~ *section 107 of chapter 136 of the 2010 Session*
14 *Laws of Kansas*, and amendments thereto, giving a worthless check; or

15 (5) subsection (b)(3) of K.S.A. 2010 Supp. 21-36a06, and
16 amendments thereto, possession of marijuana.

17 (b) Search warrants shall not issue out of a municipal court.

18 Sec. 102. K.S.A. 2010 Supp. 12-4516 is hereby amended to read as
19 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any
20 person who has been convicted of a violation of a city ordinance of this
21 state may petition the convicting court for the expungement of such
22 conviction and related arrest records if three or more years have elapsed
23 since the person:

24 (A) Satisfied the sentence imposed; or

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

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

31 (b) No person may petition for expungement until five or more years
32 have elapsed since the person satisfied the sentence imposed or the terms
33 of a diversion agreement or was discharged from probation, parole,
34 conditional release or a suspended sentence, if such person was convicted
35 of the violation of a city ordinance which would also constitute:

36 (1) Vehicular homicide, as defined by K.S.A. 21-3405, *prior to its*
37 *repeal, or section 41 of chapter 136 of the 2010 Session Laws of Kansas*,
38 and amendments thereto;

39 (2) driving while the privilege to operate a motor vehicle on the
40 public highways of this state has been canceled, suspended or revoked, as
41 prohibited by K.S.A. 8-262, and amendments thereto;

42 (3) perjury resulting from a violation of K.S.A. 8-261a, and
43 amendments thereto;

1 (4) a violation of the provisions of the fifth clause of K.S.A. 8-142,
2 and amendments thereto, relating to fraudulent applications;

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

5 (6) failing to stop at the scene of an accident and perform the duties
6 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;

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

9 (8) a violation of K.S.A. 21-3405b, ~~and amendments thereto~~*prior to*
10 *its repeal.*

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

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

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

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

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

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

24 (6) the identity of the convicting court, arresting law enforcement
25 agency or diverting authority. A municipal court may prescribe a fee to be
26 charged as costs for a person petitioning for an order of expungement
27 pursuant to this section. Any person who may have relevant information
28 about the petitioner may testify at the hearing. The court may inquire into
29 the background of the petitioner and shall have access to any reports or
30 records relating to the petitioner that are on file with the secretary of
31 corrections or the Kansas parole board.

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

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

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

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

40 (f) When the court has ordered an arrest record, conviction or
41 diversion expunged, the order of expungement shall state the information
42 required to be contained in the petition. The clerk of the court shall send a
43 certified copy of the order of expungement to the Kansas bureau of

1 investigation which shall notify the federal bureau of investigation, the
2 secretary of corrections and any other criminal justice agency which may
3 have a record of the arrest, conviction or diversion. After the order of
4 expungement is entered, the petitioner shall be treated as not having been
5 arrested, convicted or diverted of the crime, except that:

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

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

11 (A) In any application for employment as a detective with a private
12 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
13 as security personnel with a private patrol operator, as defined by K.S.A.
14 75-7b01, and amendments thereto; or with an institution, as defined in
15 K.S.A. 76-12a01, and amendments thereto, of the department of social and
16 rehabilitation services;

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

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

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

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

34 (F) upon application for a commercial driver's license under K.S.A.
35 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

3 (K) for applications received on and after July 1, 2006, to aid in
4 determining the petitioner's qualifications for a license to carry a concealed
5 weapon pursuant to the personal and family protection act, K.S.A. 2010
6 Supp. 75-7c01 et seq., and amendments thereto;

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

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

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

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

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

29 (1) The person whose record was expunged;

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

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

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

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

43 (6) a prosecuting attorney, and such request is accompanied by a

1 statement that the request is being made in conjunction with a prosecution
2 of an offense that requires a prior conviction as one of the elements of such
3 offense;

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

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

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

22 (10) the Kansas racing and gaming commission, or a designee of the
23 commission, and the request is accompanied by a statement that the
24 request is being made to aid in determining qualifications of the following
25 under the Kansas expanded lottery act: (A) Lottery gaming facility
26 managers and prospective managers, racetrack gaming facility managers
27 and prospective managers, licensees and certificate holders; and (B) their
28 officers, directors, employees, owners, agents and contractors;

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

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

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

1 (14) the Kansas sentencing commission;

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

6 (16) a law enforcement agency and the request is accompanied by a
7 statement that the request is being made to aid in determining eligibility
8 for employment as a law enforcement officer as defined by K.S.A. 22-
9 2202, and amendments thereto.

10 Sec. 103. K.S.A. 2010 Supp. 12-4516a is hereby amended to read as
11 follows: 12-4516a. (a) Any person who has been arrested on a violation of
12 a city ordinance of this state may petition the court for the expungement of
13 such arrest record.

14 (b) When a petition for expungement is filed, the court shall set a date
15 for hearing on such petition and shall cause notice of such hearing to be
16 given to the prosecuting attorney and the arresting law enforcement
17 agency. When a petition for expungement is filed, the official court file
18 shall be separated from the other records of the court, and shall be
19 disclosed only to a judge of the court and members of the staff of the court
20 designated by a judge of the district court, the prosecuting attorney, the
21 arresting law enforcement agency, or any other person when authorized by
22 a court order, subject to any conditions imposed by the order. The petition
23 shall state: (1) The petitioner's full name;

24 (2) the full name of the petitioner at the time of arrest, if different
25 than the petitioner's current name;

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

27 (4) the crime for which the petitioner was arrested;

28 (5) the date of the petitioner's arrest, and

29 (6) the identity of the arresting law enforcement agency.

30 A municipal court may prescribe a fee to be charged as costs for a
31 person petitioning for an order of expungement pursuant to this section,
32 except that no fee shall be charged to a person who was arrested as a result
33 of being a victim of identity theft under K.S.A. 21-4018, *prior to its*
34 *repeal, or section 177 of chapter 136 of the 2010 Session Laws of Kansas,*
35 and amendments thereto. Any person who may have relevant information
36 about the petitioner may testify at the hearing. The court may inquire into
37 the background of the petitioner.

38 (c) At the hearing on a petition for expungement, the court shall order
39 the arrest record and subsequent court proceedings, if any, expunged upon
40 finding: (1) The arrest occurred because of mistaken identity;

41 (2) a court has found that there was no probable cause for the arrest;

42 (3) the petitioner was found not guilty in court proceedings; or

43 (4) the expungement would be in the best interests of justice and (A)

1 charges have been dismissed; or (B) no charges have been or are likely to
2 be filed.

3 (d) When the court has ordered expungement of an arrest record and
4 subsequent court proceedings, if any, the order shall state the information
5 required to be stated in the petition and shall state the grounds for
6 expungement under subsection (c). The clerk of the court shall send a
7 certified copy of the order to the Kansas bureau of investigation which
8 shall notify the federal bureau of investigation, the secretary of corrections
9 and any other criminal justice agency which may have a record of the
10 arrest. If an order of expungement is entered, the petitioner shall be treated
11 as not having been arrested.

12 (e) If the ground for expungement is as provided in subsection (c)(4),
13 the court shall determine whether, in the interest of public welfare, the
14 records should be available for any of the following purposes: (1) In any
15 application for employment as a detective with a private detective agency,
16 as defined by K.S.A. 75-7b01 and amendments thereto; as security
17 personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and
18 amendments thereto; or with an institution, as defined in K.S.A. 76-12a01
19 and amendments thereto, of the department of social and rehabilitation
20 services;

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

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

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

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

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

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

40 (8) in any other circumstances which the court deems appropriate.

41 (f) Subject to any disclosures required under subsection (e), in any
42 application for employment, license or other civil right or privilege, or any
43 appearance as a witness, a person whose arrest records have been

1 expunged as provided in this section may state that such person has never
2 been arrested.

3 (g) Whenever a petitioner's arrest records have been expunged as
4 provided in this section, the custodian of the records of arrest,
5 incarceration due to arrest or court proceedings related to the arrest, shall
6 not disclose the arrest or any information related to the arrest, except as
7 directed by the order of expungement or when requested by the person
8 whose arrest record was expunged.

9 Sec. 104. K.S.A. 2010 Supp. 12-4517 is hereby amended to read as
10 follows: 12-4517. (a) (1) The municipal court judge shall ensure that all
11 persons convicted of violating municipal ordinance provisions that
12 prohibit conduct comparable to a class A or B misdemeanor or assault as
13 defined in ~~K.S.A. 21-3408~~ *subsection (a) of section 47 of chapter 136 of*
14 *the 2010 Session Laws of Kansas*, and amendments thereto, under a
15 Kansas criminal statute are fingerprinted and processed.

16 (2) The municipal court judge shall ensure that all persons arrested or
17 charged with a violation of a city ordinance prohibiting the acts prohibited
18 by K.S.A. 8-1567, and amendments thereto, are fingerprinted and
19 processed at the time of booking or first appearance, whichever occurs
20 first.

21 (b) The municipal court judge shall order the individual to be
22 fingerprinted at an appropriate location as determined by the municipal
23 court judge. Failure of the person to be fingerprinted after court order
24 issued by the municipal judge shall constitute contempt of court. To
25 reimburse the city or other entity for costs associated with fingerprinting,
26 the municipal court judge may assess reasonable court costs, in addition to
27 other court costs imposed by the state or municipality.

28 Sec. 105. K.S.A. 2010 Supp. 17-12a508 is hereby amended to read as
29 follows: 17-12a508. (a) *Criminal penalties.* (1) Except as provided in
30 subsections (a)(2) through (a)(4), a conviction for an intentional violation
31 of the Kansas uniform securities act, or a rule adopted or order issued
32 under this act, except K.S.A. 17-12a504, and amendments thereto, or the
33 notice filing requirements of K.S.A. 17-12a302 or 17-12a405, and
34 amendments thereto, is a severity level 7, nonperson felony. An individual
35 convicted of violating a rule or order under this act may be fined, but may
36 not be imprisoned, if the individual did not have knowledge of the rule or
37 order.

38 (2) A conviction for an intentional violation of K.S.A. 17-12a501 or
39 17-12a502, and amendments thereto, if the violation resulted in a loss of
40 an amount of:

41 (A) \$1,000,000 or more is a severity level 2, nonperson felony;

42 (B) at least \$250,000 but less than \$1,000,000 is a severity level 3,
43 nonperson felony;

1 (C) at least \$100,000 but less than \$250,000 is a severity level 4,
2 nonperson felony;

3 (D) at least \$25,000 but less than \$100,000 is a severity level 5,
4 nonperson felony; or

5 (E) less than \$25,000 is a severity level 6, nonperson felony.

6 (3) A conviction for an intentional violation of K.S.A. 17-12a301, 17-
7 12a401(a), 17-12a402(a), 17-12a403(a) or 17-12a404(a), and amendments
8 thereto, is:

9 (A) A severity level 5, nonperson felony if the violation resulted in a
10 loss of \$100,000 or more;

11 (B) a severity level 6, nonperson felony if the violation resulted in a
12 loss of at least \$25,000 but less than \$100,000; or

13 (C) a severity level 7, nonperson felony if the violation resulted in a
14 loss of less than \$25,000.

15 (4) A conviction for an intentional violation of:

16 (A) K.S.A. 17-12a404(e) or 17-12a505, and amendments thereto, or
17 an order to cease and desist issued by the administrator pursuant to K.S.A.
18 17-12a412(c) or 17-12a604(a), and amendments thereto, is a severity level
19 5, nonperson felony.

20 (B) K.S.A. 17-12a401(c), 17-12a403(c) or 17-12a506, and
21 amendments thereto, is a severity level 6, nonperson felony.

22 (C) K.S.A. 17-12a402(d) or 17-12a403(d), and amendments thereto,
23 is a severity level 7, nonperson felony.

24 (5) Any violation of K.S.A. 17-12a301, 17-12a401(a), 17-12a402(a),
25 17-12a403(a), 17-12a404(a), 17-12a501 or 17-12a502, and amendments
26 thereto, resulting in a loss of \$25,000 or more shall be presumed
27 imprisonment.

28 (b) *Statute of Limitations.* Except as provided by subsection (5) of
29 ~~K.S.A. 21-3106(e)~~ of section 7 of chapter 136 of the 2010 Session Laws of
30 Kansas, and amendments thereto, no prosecution for any crime under this
31 act may be commenced more than 10 years after the alleged violation if
32 the victim is the Kansas public employees retirement system and no
33 prosecution for any other crime under this act may be commenced more
34 than five years after the alleged violation. A prosecution is commenced
35 when a complaint or information is filed, or an indictment returned, and a
36 warrant thereon is delivered to the sheriff or other officer for execution,
37 except that no prosecution shall be deemed to have been commenced if the
38 warrant so issued is not executed without unreasonable delay.

39 (c) *Criminal reference.* The administrator may refer such evidence as
40 may be available concerning violations of this act or of any rules and
41 regulations or order hereunder to the attorney general or the proper county
42 or district attorney, who may in the prosecutor's discretion, with or without
43 such a reference, institute the appropriate criminal proceedings under this

1 act. Upon receipt of such reference, the attorney general or the county
2 attorney or district attorney may request that a duly employed attorney of
3 the administrator prosecute or assist in the prosecution of such violation or
4 violations on behalf of the state. Upon approval of the administrator, such
5 employee shall be appointed a special prosecutor for the attorney general
6 or the county attorney or district attorney to serve without compensation
7 from the attorney general or the county attorney or district attorney. Such
8 special prosecutor shall have all the powers and duties prescribed by law
9 for assistant attorneys general or assistant county or district attorneys and
10 such other powers and duties as are lawfully delegated to such special
11 prosecutor by the attorney general or the county attorney or district
12 attorney. If an attorney employed by the administrator acts as a special
13 prosecutor, the administrator may pay extradition and witness expenses
14 associated with the case.

15 (d) *No limitation on other criminal enforcement.* This act does not
16 limit the power of this state to punish a person for conduct that constitutes
17 a crime under other laws of this state.

18 Sec. 106. K.S.A. 19-101d is hereby amended to read as follows: 19-
19 101d. (a) (1) The board of county commissioners of any county shall have
20 the power to enforce all resolutions passed pursuant to county home rule
21 powers, as designated by K.S.A. 19-101c, and amendments thereto.
22 Resolutions may be enforced by enjoining violations, by prescribing
23 penalties for violations by fine, by confinement in the county jail or by
24 both fine and confinement. Unless otherwise provided by the resolution
25 that defines and makes punishable the violation of such resolution, the
26 penalty imposed shall be in accordance with the penalties established by
27 law for conviction of a class C misdemeanor. In no event shall the penalty
28 imposed for the violation of a resolution exceed the penalties established
29 by law for conviction of a class B misdemeanor.

30 (2) Prosecution for any violation shall be commenced in the district
31 court in the name of the county and, except as provided in subsection (b),
32 shall be conducted in the manner provided by law for the prosecution of
33 misdemeanor violations of state laws. Writs and process necessary for the
34 prosecution of such violations shall be in the form prescribed by the judge
35 or judges of the courts vested with jurisdiction of such violations by this
36 act, and shall be substantially in the form of writs and process issued for
37 the prosecution of misdemeanor violations of state laws. Each county shall
38 provide all necessary supplies, forms and records at its own expense.

39 (b) (1) In addition to all other procedures authorized for the
40 enforcement of county codes and resolutions, in Crawford, Douglas,
41 Franklin, Jefferson, Johnson, Leavenworth, Miami, Riley, Sedgwick,
42 Shawnee and Wyandotte counties, the prosecution for violation of codes
43 and resolutions adopted by the board of county commissioners may be

1 commenced in the district court in the name of the county and may be
2 conducted, except as otherwise provided in this section, in the manner
3 provided for and in accordance with the provisions of the code for the
4 enforcement of county codes and resolutions.

5 (2) The board of county commissioners of any county which has not
6 provided for the enforcement of county codes and resolutions in
7 accordance with provisions of the code for enforcement of county codes
8 and resolutions on or before July 1, 2007, and which desires to utilize the
9 provisions of the code for enforcement of county codes and resolutions set
10 forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and
11 amendments thereto, shall cause a notice of its intention to utilize the
12 provisions of the code for enforcement of county codes and resolutions set
13 forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and
14 amendments thereto, be published in the official newspaper of the county.
15 If within 30 days next following the date of the publication of such notice
16 a petition, signed by electors equal in number to not less than 5% of the
17 electors of the county, requesting an election thereon, shall be filed in the
18 office of the county election officer, no utilization of the provisions of the
19 code for enforcement of county codes and resolutions set forth in article 47
20 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto,
21 may be made without such proposition having first been submitted to and
22 having been approved by a majority of the electors of the county voting at
23 an election called and held thereon. Any election shall be called, noticed
24 and held in the manner provided by K.S.A. 10-120, and amendments
25 thereto.

26 (3) For the purposes of aiding in the enforcement of county codes and
27 resolutions, the board of county commissioners may employ or appoint
28 code enforcement officers for the county who shall have power to sign,
29 issue and execute notices to appear and uniform citations or uniform
30 complaints and notices to appear, as provided in the appendix of forms of
31 the code contained in this act to enforce violations of county codes and
32 resolutions, but shall have no power to issue warrants or make arrests. All
33 warrants shall be issued and arrests made by law enforcement officers
34 pursuant to and in the manner provided in ~~chapter 21 of the Kansas~~
35 ~~Statutes Annotated~~ *the Kansas criminal code*.

36 (4) The board of county commissioners may employ or appoint
37 attorneys for the purpose of prosecuting actions for the enforcement of
38 county codes and resolutions. The attorneys shall have the duties, powers
39 and authorities provided by the board that are necessary to prosecute
40 actions under the code.

41 (5) All costs for the enforcement and prosecution of violations of
42 county codes and resolutions, except for compensation and expenses of the
43 district court judge, shall be paid from the revenues of the county. The

1 board of county commissioners may establish a special law enforcement
2 fund for the purpose of paying for the costs of code enforcement within the
3 county.

4 (c) Notwithstanding the provisions of subsection (b), any action
5 commenced in the district court for the enforcement of county codes and
6 resolutions, in which a person may be subject to detention or arrest or in
7 which an accused person, if found guilty, would or might be deprived of
8 the person's liberty, shall be conducted in the manner provided by law for
9 the prosecution of misdemeanor violations of state laws under the Kansas
10 code of criminal procedure and not under the code for the enforcement of
11 county codes and resolutions.

12 Sec. 107. K.S.A. 19-27,139 is hereby amended to read as follows: 19-
13 27,139. Any person violating the rules and regulations adopted under
14 authority of this act, shall, upon conviction, be deemed guilty of a
15 misdemeanor and punished as provided in ~~K.S.A. 21-112~~*section 242 of*
16 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.*

17 Sec. 108. K.S.A. 19-4804 is hereby amended to read as follows: 19-
18 4804. (a) An application for compensation shall be made in the manner
19 and form prescribed by the state crime victims compensation board. A
20 victim may seek compensation under this act whether or not an offender
21 has been charged with the crime which results in the victim's loss.

22 (b) Compensation may not be awarded unless the crime has been
23 reported to an appropriate law enforcement agency within 72 hours after
24 its discovery and the claim has been filed with the local board within 60
25 days after the filing of such report, unless the local board finds there was
26 good cause for the failure to report such crime within the time required.

27 (c) Compensation may not be awarded to a victim who was the
28 offender or an accomplice of the offender and may not be awarded to
29 another person if the award would unjustly benefit the offender or
30 accomplice.

31 (d) Compensation may not be awarded unless the local board finds
32 the victim has fully cooperated with appropriate law enforcement
33 agencies. The local board may deny, withdraw or reduce an award of
34 compensation for noncooperativeness.

35 (e) Compensation otherwise payable to a victim shall be diminished:

36 (1) To the extent, if any, that the economic loss upon which the
37 victim's claim is based is recouped from other persons, including collateral
38 sources; or

39 (2) to the extent a local board deems reasonable because of the
40 contributory misconduct of the victim.

41 (f) Compensation may be awarded only if the local board finds a
42 genuine need is present.

43 (g) No compensation payment may exceed \$500 if the property crime

1 results in a felony charge. If the crime is committed by a juvenile, whether
2 this subsection applies shall be determined on the basis of whether a
3 felony would be charged had the offender been an adult.

4 (h) No compensation payment may exceed \$250 if the property crime
5 results in a misdemeanor or traffic charge. If the crime is committed by a
6 juvenile, whether this subsection applies shall be determined on the basis
7 of whether a misdemeanor would be charged had the offender been an
8 adult. If the original crime charged was a felony and through plea
9 negotiations the adult or juvenile offender is charged with and pleads
10 guilty or *nolo contendere* to a misdemeanor, in the discretion of the local
11 board, subsection (g) limits may apply to the compensation payment.

12 (i) If extraordinary circumstances are present and subject to the
13 requirements imposed by subsection (c) of K.S.A. 19-4803 and
14 amendments thereto, the local board may exceed the amounts in
15 subsections (g) and (h).

16 (j) Compensation for work loss or personal injury due to criminally
17 injurious conduct shall be governed by K.S.A. 74-7301 et seq. and
18 amendments thereto, and rules and regulations promulgated by the state
19 crime victims compensation board for that purpose. No local board may
20 duplicate compensation for criminally injurious conduct through payments
21 under this act.

22 (k) The local board may determine a floor amount of compensation
23 which would be administratively wasteful. Once such an amount is chosen
24 it shall be made public and must be uniformly applied to all persons filing
25 claims with the local board.

26 (l) The local board may provide written policy for the handling of an
27 expedited claims process where prompt assistance and payment of services
28 needed to repair property damage is needed to thwart the possibility of the
29 onset of illness or disease to the victim or victim's family, and where the
30 victim has no other means of paying for such services.

31 (m) No award made pursuant to this act shall be subject to execution,
32 attachment, garnishment or other legal process, except that an award for
33 allowable expenses shall not be exempt from a claim of a creditor to the
34 extent the creditor has provided products, services or accommodations the
35 costs of which are included in the payment made pursuant to this act.

36 (n) No assignment or agreement to assign any right to compensation
37 for loss under this act shall be enforceable in this state.

38 (o) No local fund shall pay any single individual or such individual's
39 immediate family member compensation on more than two claims within a
40 given fiscal year.

41 (p) No claim shall be allowed unless the crime charged is pursuant to
42 article 37 of chapter 21 of Kansas Statutes Annotated, *prior to their*
43 *repeal, or sections 87 through 125 and subsection (a)(6) of section 223 of*

1 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*
2 *or similar crimes in county or municipal penal codes. If the crime charged*
3 *is pursuant to K.S.A. 21-3707, 21-3708, 21-3722, 21-3725, 21-3734, 21-*
4 *3736, 21-3737, 21-3739, 21-3748, 21-3749, 21-3750, 21-3753, 21-3754*
5 *and 21-3756, prior to their repeal, and section 92, section 101, subsection*
6 *(a) of section 103, section 106, section 107, section 116, section 117,*
7 *section 118 and section 123 of chapter 136 of the 2010 Session Laws of*
8 *Kansas, and amendments thereto, no claim for compensation under this act*
9 *shall be allowed. In addition to claims that may be made for criminally*
10 *injurious conduct with the state crime victims compensation board, a claim*
11 *for compensation for property damage may be allowed under this act for*
12 *crimes charged under K.S.A. 21-3418, 21-3426 or 21-3427, prior to their*
13 *repeal, and section 55 or section 63 of chapter 136 of the 2010 Session*
14 *Laws of Kansas, and amendments thereto.*

15 (q) Payment or payments made from a local fund under this act shall
16 not limit, impair or preclude the ability of a court or the parole board to
17 order restitution, and prescribe the manner and conditions of payment of
18 restitution, as allowed by law.

19 Sec. 109. K.S.A. 20-369, as amended by section 4 of chapter 101 of
20 the 2010 Session Laws of Kansas, is hereby amended to read as follows:
21 20-369. (a) If a judicial district creates a local fund, the court may impose
22 a fee as provided in this section against any defendant for crimes involving
23 a family or household member as provided in ~~K.S.A. 21-3412a~~ *section 49*
24 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
25 *thereto, and against any defendant found to have committed a domestic*
26 *violence offense pursuant to section 1 of chapter 101 of the 2010 Session*
27 *Laws of Kansas, and amendments thereto. The chief judge of each judicial*
28 *district where such fee is imposed shall set the amount of such fee by rules*
29 *adopted in such judicial district in an amount not to exceed \$100 per case.*

30 (b) Such fees shall be deposited into the local fund and disbursed
31 pursuant to recommendations of the chief judge under this act. All moneys
32 collected by this section shall be paid into the domestic violence special
33 programs fund in the county where the fee is collected, as established by
34 the judicial district .

35 (c) Expenditures made in each judicial district shall be determined by
36 the chief judge and shall be paid to domestic violence programs
37 administered by the court and to local programs within the judicial district
38 that enhance a coordinated community justice response to the issue of
39 domestic violence.

40 Sec. 110. K.S.A. 2010 Supp. 20-2207 is hereby amended to read as
41 follows: 20-2207. (a) The judicial council may fix, charge and collect fees
42 for sale and distribution of legal publications in order to recover direct and
43 indirect costs incurred for preparation, publication and distribution of legal

1 publications. The judicial council may request and accept gifts, grants and
2 donations from any person, firm, association or corporation or from the
3 federal government or any agency thereof for preparation, publication or
4 distribution of legal publications.

5 (b) The publications fee fund of the judicial council which was
6 established in the state treasury pursuant to appropriation acts is hereby
7 continued in existence and shall be administered by the judicial council.
8 Revenue from the following sources shall be deposited in the state treasury
9 and credited to such fund:

10 (1) All moneys received by or for the judicial council from fees
11 collected under this section; and

12 (2) all moneys received as gifts, grants or donations for preparation,
13 publication or distribution of legal publications.

14 (c) Moneys deposited in the publications fee fund of the judicial
15 council may be expended for operating expenditures related to preparation,
16 publication and distribution of legal publications of the judicial council
17 and for operating expenses that are not related to publication activities,
18 ~~including expenditures to fund the Kansas criminal code recodification~~
19 ~~commission on July 1, 2009, through June 30, 2010.~~

20 (d) All expenditures from the publications fee fund shall be made in
21 accordance with appropriation acts upon warrants of the director of
22 accounts and reports issued pursuant to vouchers approved by the
23 chairperson of the judicial council or the chairperson's designee.

24 Sec. 111. K.S.A. 2010 Supp. 20-2208 is hereby amended to read as
25 follows: 20-2208. There is hereby established in the state treasury the
26 judicial council fund. All expenditures from the judicial council fund shall
27 be made in accordance with appropriation acts and upon warrants of the
28 director of accounts and reports issued pursuant to expenditures approved
29 by the chairperson of the Kansas judicial council or by a person or persons
30 designated by the chairperson of the Kansas judicial council. ~~Expenditures~~
31 ~~from the judicial council fund may be made to fund the Kansas criminal~~
32 ~~code recodification commission on July 1, 2009, through June 30, 2010.~~

33 Sec. 112. K.S.A. 2010 Supp. 20-3207 is hereby amended to read as
34 follows: 20-3207. On and after July 1, 2006, there is hereby established in
35 the state treasury the judicial performance fund. All moneys credited to the
36 fund shall be used for the judicial performance evaluation process, ~~except~~
37 ~~on July 1, 2009, through June 30, 2010, moneys credited to the fund may~~
38 ~~be used to fund the Kansas criminal code recodification commission.~~ All
39 expenditures from the judicial performance fund shall be made in
40 accordance with appropriation acts and upon warrants of the director of
41 accounts and reports issued pursuant to expenditures approved by the
42 chairperson of the Kansas judicial council or by the person or persons
43 designated by the chairperson of the Kansas judicial council.

1 Sec. 113. K.S.A. 2010 Supp. 22-2310 is hereby amended to read as
2 follows: 22-2310. (a) All law enforcement agencies in this state shall adopt
3 written policies regarding allegations of stalking as provided in subsection
4 (b). These policies shall be made available to all officers of such agency.

5 (b) Such written policies shall include, but not be limited to, the
6 following:

7 (1) A statement directing that the officers shall make an arrest when
8 they have probable cause to believe that a crime is being committed or has
9 been committed;

10 (2) a statement defining stalking pursuant to ~~K.S.A. 21-3438~~*section*
11 *62 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
12 thereto;

13 (3) a statement describing the dispatchers' responsibilities;

14 (4) a statement describing the responding officers' responsibilities and
15 procedures to follow when responding to an allegation of stalking and the
16 suspect is at the scene;

17 (5) a statement describing the responding officers' responsibilities and
18 procedures to follow when responding to an allegation of stalking and the
19 suspect has left the scene;

20 (6) procedures for both misdemeanor and felony cases;

21 (7) procedures for law enforcement officers to follow when handling
22 an allegation of stalking involving court orders, including any protective
23 order as defined by ~~K.S.A. 21-3843~~*section 149 of chapter 136 of the 2010*
24 *Session Laws of Kansas*, and amendments thereto;

25 (8) a statement that the law enforcement agency shall provide the
26 following information to victims, in writing:

27 (A) Availability of emergency and medical telephone numbers, if
28 needed;

29 (B) the law enforcement agency's report number;

30 (C) the address and telephone number of the prosecutor's office the
31 victim should contact to obtain information about victims' rights pursuant
32 to K.S.A. 74-7333 and 74-7335, and amendments thereto;

33 (D) the name and address of the crime victims' compensation board
34 and information about possible compensation benefits;

35 (E) advise the victim that the details of the crime may be made
36 public;

37 (F) advise the victim of such victims' rights under K.S.A. 74-7333
38 and 74-7335, and amendments thereto; and

39 (G) advise the victim of known available resources which may assist
40 the victim; and

41 (9) whether an arrest is made or not, a standard offense report shall be
42 completed on all such incidents and sent to the Kansas bureau of
43 investigation.

1 (c) No law enforcement agency or employee of such agency acting
2 within the scope of employment shall be liable for damages resulting from
3 the adoption or enforcement of any policy adopted under this section.

4 Sec. 114. K.S.A. 2010 Supp. 22-2410 is hereby amended to read as
5 follows: 22-2410. (a) Any person who has been arrested in this state may
6 petition the district court for the expungement of such arrest record.

7 (b) When a petition for expungement is filed, the court shall set a date
8 for hearing on such petition and shall cause notice of such hearing to be
9 given to the prosecuting attorney and the arresting law enforcement
10 agency. When a petition for expungement is filed, the official court file
11 shall be separated from the other records of the court, and shall be
12 disclosed only to a judge of the court and members of the staff of the court
13 designated by a judge of the district court, the prosecuting attorney, the
14 arresting law enforcement agency, or any other person when authorized by
15 a court order, subject to any conditions imposed by the order. Except as
16 otherwise provided by law, a petition for expungement shall be
17 accompanied by a docket fee in the amount of \$100. Except as provided
18 further, the docket fee established in this section shall be the only fee
19 collected or moneys in the nature of a fee collected for the docket fee.
20 Such fee shall only be established by an act of the legislature and no other
21 authority is established by law or otherwise to collect a fee. On and after
22 the effective date of this act through June 30, 2011, the supreme court may
23 impose an additional charge, not to exceed \$15 per docket fee, to fund the
24 costs of non-judicial personnel. The petition shall state:

25 (1) The petitioner's full name;

26 (2) the full name of the petitioner at the time of arrest, if different
27 than the petitioner's current name;

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

29 (4) the crime for which the petitioner was arrested;

30 (5) the date of the petitioner's arrest; and

31 (6) the identity of the arresting law enforcement agency.

32 No surcharge or fee shall be imposed to any person filing a petition
33 pursuant to this section, who was arrested as a result of being a victim of
34 identity theft under K.S.A. 21-4018, *prior to its repeal, or section 177 of*
35 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.
36 Any person who may have relevant information about the petitioner may
37 testify at the hearing. The court may inquire into the background of the
38 petitioner.

39 (c) At the hearing on a petition for expungement, the court shall order
40 the arrest record and subsequent court proceedings, if any, expunged upon
41 finding: (1) The arrest occurred because of mistaken identity;

42 (2) a court has found that there was no probable cause for the arrest;

43 (3) the petitioner was found not guilty in court proceedings; or

1 (4) the expungement would be in the best interests of justice and (A)
2 charges have been dismissed; or (B) no charges have been or are likely to
3 be filed.

4 (d) When the court has ordered expungement of an arrest record and
5 subsequent court proceedings, if any, the order shall state the information
6 required to be stated in the petition and shall state the grounds for
7 expungement under subsection (c). The clerk of the court shall send a
8 certified copy of the order to the Kansas bureau of investigation which
9 shall notify the federal bureau of investigation, the secretary of corrections
10 and any other criminal justice agency which may have a record of the
11 arrest. If an order of expungement is entered, the petitioner shall be treated
12 as not having been arrested.

13 (e) If the ground for expungement is as provided in subsection (c)(4),
14 the court shall determine whether, in the interests of public welfare, the
15 records should be available for any of the following purposes: (1) In any
16 application for employment as a detective with a private detective agency,
17 as defined in K.S.A. 75-7b01, and amendments thereto; as security
18 personnel with a private patrol operator, as defined by K.S.A. 75-7b01,
19 and amendments thereto; or with an institution, as defined in K.S.A. 76-
20 12a01, and amendments thereto, of the department of social and
21 rehabilitation services;

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

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

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

34 (5) in any application for a commercial driver's license under K.S.A.
35 8-2,125 through 8-2,142, and amendments thereto;

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

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

41 (8) in any other circumstances which the court deems appropriate.

42 (f) Subject to any disclosures required under subsection (e), in any
43 application for employment, license or other civil right or privilege, or any

1 appearance as a witness, a person whose arrest records have been
2 expunged as provided in this section may state that such person has never
3 been arrested.

4 (g) Whenever a petitioner's arrest records have been expunged as
5 provided in this section, the custodian of the records of arrest,
6 incarceration due to arrest or court proceedings related to the arrest, shall
7 not disclose the arrest or any information related to the arrest, except as
8 directed by the order of expungement or when requested by the person
9 whose arrest record was expunged.

10 (h) The docket fee collected at the time the petition for expungement
11 is filed shall be disbursed in accordance with K.S.A. 20-362, and
12 amendments thereto.

13 Sec. 115. K.S.A. 22-2411 is hereby amended to read as follows: 22-
14 2411. (a) A federal law enforcement officer who enters this state may
15 arrest a person, without a warrant, when in the judgment of the federal law
16 enforcement officer a person:

17 (1) Asserts physical force or uses forcible compulsion likely to cause
18 death or great bodily harm to any person; or

19 (2) is committing an inherently dangerous felony as defined in ~~K.S.A.~~
20 ~~21-3436~~ *section 37 of chapter 136 of the 2010 Session Laws of Kansas*, and
21 amendments thereto.

22 (b) To provide assistance to law enforcement officers, a federal law
23 enforcement officer shall have the same authority as a law enforcement
24 officer where:

25 (1) The federal law enforcement officer is rendering assistance at the
26 request of any law enforcement officer; or

27 (2) the federal law enforcement officer is effecting an arrest or
28 providing assistance as part of a bona fide task force or joint investigation
29 in which law enforcement officers are participating.

30 (c) Any lawful actions pursuant to this section shall be deemed to be
31 within the scope of the federal law enforcement officer's employment.

32 (d) As used in this section:

33 (1) "Federal law enforcement officer" means a person employed by
34 the United States government and assigned to the federal bureau of
35 investigation who is empowered to effect an arrest with or without a
36 warrant for violation of the United States code and who is authorized to
37 carry a firearm in the performance of the person's official duties as a
38 federal law enforcement officer.

39 (2) "Law enforcement officer" has the meaning ascribed thereto in
40 ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of*
41 *Kansas*, and amendments thereto.

42 (e) This section shall be a part of and supplemental to the Kansas
43 ~~criminal~~ code of *criminal procedure*.

1 Sec. 116. K.S.A. 2010 Supp. 22-2512 is hereby amended to read as
2 follows: 22-2512. (1) Property seized under a search warrant or validly
3 seized without a warrant shall be safely kept by the officer seizing the
4 same unless otherwise directed by the magistrate, and shall be so kept as
5 long as necessary for the purpose of being produced as evidence on any
6 trial. The property seized may not be taken from the officer having it in
7 custody so long as it is or may be required as evidence in any trial. The
8 officer seizing the property shall give a receipt to the person detained or
9 arrested particularly describing each article of property being held and
10 shall file a copy of such receipt with the magistrate before whom the
11 person detained or arrested is taken. Where seized property is no longer
12 required as evidence in the prosecution of any indictment or information,
13 the court which has jurisdiction of such property may transfer the same to
14 the jurisdiction of any other court, including courts of another state or
15 federal courts, where it is shown to the satisfaction of the court that such
16 property is required as evidence in any prosecution in such other court.

17 (2) (a) Notwithstanding the provisions of subsection (1) and with the
18 approval of the affected court, any law enforcement officer who seizes
19 hazardous materials as evidence related to a criminal investigation may
20 collect representative samples of such hazardous materials, and lawfully
21 destroy or dispose of, or direct another person to lawfully destroy or
22 dispose of the remaining quantity of such hazardous materials.

23 (b) In any prosecution, representative samples of hazardous materials
24 accompanied by photographs, videotapes, laboratory analysis reports or
25 other means used to verify and document the identity and quantity of the
26 material shall be deemed competent evidence of such hazardous materials
27 and shall be admissible in any proceeding, hearing or trial as if such
28 materials had been introduced as evidence.

29 (c) As used in this section, the term "hazardous materials" means any
30 substance which is capable of posing an unreasonable risk to health, safety
31 and property. It shall include any substance which by its nature is
32 explosive, flammable, corrosive, poisonous, radioactive, a biological
33 hazard or a material which may cause spontaneous combustion. It shall
34 include, but not be limited to, substances listed in the table of hazardous
35 materials contained in the code of federal regulations title 49 and national
36 fire protection association's fire protection guide on hazardous materials.

37 (d) The provisions of this subsection shall not apply to ammunition
38 and components thereof.

39 (3) When property seized is no longer required as evidence, it shall be
40 disposed of as follows:

41 (a) Property stolen, embezzled, obtained by false pretenses, or
42 otherwise obtained unlawfully from the rightful owner thereof shall be
43 restored to the owner;

1 (b) money shall be restored to the owner unless it was contained in a
2 slot machine or otherwise used in unlawful gambling or lotteries, in which
3 case it shall be forfeited, and shall be paid to the state treasurer pursuant to
4 K.S.A. 20-2801, and amendments thereto;

5 (c) property which is unclaimed or the ownership of which is
6 unknown shall be sold at public auction to be held by the sheriff and the
7 proceeds, less the cost of sale and any storage charges incurred in
8 preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-
9 2801, and amendments thereto;

10 (d) articles of contraband shall be destroyed, except that any such
11 articles the disposition of which is otherwise provided by law shall be
12 dealt with as so provided and any such articles the disposition of which is
13 not otherwise provided by law and which may be capable of innocent use
14 may in the discretion of the court be sold and the proceeds disposed of as
15 provided in subsection (2)(b);

16 (e) firearms, ammunition, explosives, bombs and like devices, which
17 have been used in the commission of crime, may be returned to the rightful
18 owner, or in the discretion of the court having jurisdiction of the property,
19 destroyed or forfeited to the Kansas bureau of investigation as provided in
20 ~~K.S.A. 21-4206~~ *section 192 of chapter 136 of the 2010 Session Laws of*
21 *Kansas*, and amendments thereto;

22 (f) controlled substances forfeited for violations of K.S.A. 2010 Supp.
23 21-36a01 through 21-36a17, and amendments thereto, shall be dealt with
24 as provided under K.S.A. 60-4101 through 60-4126, and amendments
25 thereto;

26 (g) unless otherwise provided by law, all other property shall be
27 disposed of in such manner as the court in its sound discretion shall direct.

28 Sec. 117. K.S.A. 22-2615 is hereby amended to read as follows: 22-
29 2615. A person who has been released from custody upon an appearance
30 bond given in one county for appearance in another county, and who fails
31 to appear, as provided in ~~K.S.A. 21-3813 and 21-3814~~ *section 140 of*
32 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto*,
33 may be prosecuted for such failure to appear either in the county where the
34 appearance bond was given or the county where the defendant was bound
35 to appear.

36 Sec. 118. K.S.A. 2010 Supp. 22-2802 is hereby amended to read as
37 follows: 22-2802. (1) Any person charged with a crime shall, at the
38 person's first appearance before a magistrate, be ordered released pending
39 preliminary examination or trial upon the execution of an appearance bond
40 in an amount specified by the magistrate and sufficient to assure the
41 appearance of such person before the magistrate when ordered and to
42 assure the public safety. If the person is being bound over for a felony, the
43 bond shall also be conditioned on the person's appearance in the district

1 court or by way of a two-way electronic audio-video communication as
2 provided in subsection (14) at the time required by the court to answer the
3 charge against such person and at any time thereafter that the court
4 requires. Unless the magistrate makes a specific finding otherwise, if the
5 person is being bonded out for a person felony or a person misdemeanor,
6 the bond shall be conditioned on the person being prohibited from having
7 any contact with the alleged victim of such offense for a period of at least
8 72 hours. The magistrate may impose such of the following additional
9 conditions of release as will reasonably assure the appearance of the
10 person for preliminary examination or trial:

11 (a) Place the person in the custody of a designated person or
12 organization agreeing to supervise such person;

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

15 (c) impose any other condition deemed reasonably necessary to
16 assure appearance as required, including a condition requiring that the
17 person return to custody during specified hours;

18 (d) place the person under a house arrest program pursuant to ~~K.S.A.~~
19 ~~21-4603b~~ *subsection 249 of chapter 136 of the 2010 Session Laws of Kansas,*
20 and amendments thereto; or

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

24 (2) In addition to any conditions of release provided in subsection (1),
25 for any person charged with a felony, the magistrate may order such
26 person to submit to a drug abuse examination and evaluation in a public or
27 private treatment facility or state institution and, if determined by the head
28 of such facility or institution that such person is a drug abuser or
29 incapacitated by drugs, to submit to treatment for such drug abuse, as a
30 condition of release.

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

36 (4) A deposit of cash in the amount of the bond may be made in lieu
37 of the execution of the bond pursuant to paragraph (3). Except as provided
38 in paragraph (5), such deposit shall be in the full amount of the bond and
39 in no event shall a deposit of cash in less than the full amount of bond be
40 permitted. Any person charged with a crime who is released on a cash
41 bond shall be entitled to a refund of all moneys paid for the cash bond,
42 after deduction of any outstanding restitution, costs, fines and fees, after
43 the final disposition of the criminal case if the person complies with all

1 requirements to appear in court. The court may not exclude the option of
2 posting bond pursuant to paragraph (3).

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

12 (A) Is a resident of the state of Kansas;

13 (B) has a criminal history score category of G, H or I;

14 (C) has no prior history of failure to appear for any court
15 appearances;

16 (D) has no detainer or hold from any other jurisdiction;

17 (E) has not been extradited from, and is not awaiting extradition to,
18 another state; and

19 (F) has not been detained for an alleged violation of probation.

20 (6) In the discretion of the court, a person charged with a crime may
21 be released upon the person's own recognizance by guaranteeing payment
22 of the amount of the bond for the person's failure to comply with all
23 requirements to appear in court. The release of a person charged with a
24 crime upon the person's own recognizance shall not require the deposit of
25 any cash by the person.

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

27 (8) In determining which conditions of release will reasonably assure
28 appearance and the public safety, the magistrate shall, on the basis of
29 available information, take into account the nature and circumstances of
30 the crime charged; the weight of the evidence against the defendant; the
31 defendant's family ties, employment, financial resources, character, mental
32 condition, length of residence in the community, record of convictions,
33 record of appearance or failure to appear at court proceedings or of flight
34 to avoid prosecution; the likelihood or propensity of the defendant to
35 commit crimes while on release, including whether the defendant will be
36 likely to threaten, harass or cause injury to the victim of the crime or any
37 witnesses thereto; and whether the defendant is on probation or parole
38 from a previous offense at the time of the alleged commission of the
39 subsequent offense.

40 (9) The appearance bond shall set forth all of the conditions of
41 release.

42 (10) A person for whom conditions of release are imposed and who
43 continues to be detained as a result of the person's inability to meet the

1 conditions of release shall be entitled, upon application, to have the
2 conditions reviewed without unnecessary delay by the magistrate who
3 imposed them. If the magistrate who imposed conditions of release is not
4 available, any other magistrate in the county may review such conditions.

5 (11) A magistrate ordering the release of a person on any conditions
6 specified in this section may at any time amend the order to impose
7 additional or different conditions of release. If the imposition of additional
8 or different conditions results in the detention of the person, the provisions
9 of subsection (10) shall apply.

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

14 (13) The appearance bond and any security required as a condition of
15 the defendant's release shall be deposited in the office of the magistrate or
16 the clerk of the court where the release is ordered. If the defendant is
17 bound to appear before a magistrate or court other than the one ordering
18 the release, the order of release, together with the bond and security shall
19 be transmitted to the magistrate or clerk of the court before whom the
20 defendant is bound to appear.

21 (14) Proceedings before a magistrate as provided in this section to
22 determine the release conditions of a person charged with a crime
23 including release upon execution of an appearance bond may be conducted
24 by two-way electronic audio-video communication between the defendant
25 and the judge in lieu of personal presence of the defendant or defendant's
26 counsel in the courtroom in the discretion of the court. The defendant may
27 be accompanied by the defendant's counsel. The defendant shall be
28 informed of the defendant's right to be personally present in the courtroom
29 during such proceeding if the defendant so requests. Exercising the right to
30 be present shall in no way prejudice the defendant.

31 (15) The magistrate may order the person to pay for any costs
32 associated with the supervision of the conditions of release of the
33 appearance bond in an amount not to exceed \$15 per week of such
34 supervision.

35 Sec. 119. K.S.A. 2010 Supp. 22-2901 is hereby amended to read as
36 follows: 22-2901. (1) Except as provided in subsection (7), when an arrest
37 is made in the county where the crime charged is alleged to have been
38 committed, the person arrested shall be taken without unnecessary delay
39 before a magistrate of the court from which the warrant was issued. If the
40 arrest has been made on probable cause, without a warrant, he shall be
41 taken without unnecessary delay before the nearest available magistrate
42 and a complaint shall be filed forthwith.

43 (2) Except as provided in subsection (7), when an arrest is made in a

1 county other than where the crime charged is alleged to have been
2 committed, the person arrested may be taken directly to the county
3 wherein the crime is alleged to have been committed without unnecessary
4 delay or at the request of the defendant he shall be taken without
5 unnecessary delay before the nearest available magistrate. Such magistrate
6 shall ascertain the nature of the crime charged in the warrant and the
7 amount of the bond, if any, endorsed on the warrant. If no warrant for the
8 arrest of the person is before the magistrate he shall make use of
9 telephonic, telegraphic or radio communication to ascertain the nature of
10 the charge and the substance of any warrant that has been issued. If no
11 warrant has been issued, a complaint shall be filed and a warrant issued in
12 the county where the crime is alleged to have been committed, and the
13 nature of the charge, the substance of the warrant, and the amount of the
14 bond shall be communicated to the magistrate before whom the defendant
15 is in custody. Upon receipt of such information, the magistrate shall
16 proceed as hereinafter provided.

17 (3) The magistrate shall fix the terms and conditions of the
18 appearance bond upon which the defendant may be released. If the first
19 appearance is before a magistrate in a county other than where the crime is
20 alleged to have been committed, the magistrate may release the defendant
21 on an appearance bond in an amount not less than that endorsed on the
22 warrant. The defendant shall be required to appear before the magistrate
23 who issued the warrant or a magistrate of a court having jurisdiction on a
24 day certain, not more than 14 days thereafter.

25 (4) If the defendant is released on an appearance bond to appear
26 before the magistrate in another county, the magistrate who accepts the
27 appearance bond shall forthwith transmit such appearance bond and all
28 other papers relating to the case to the magistrate before whom the
29 defendant is to appear.

30 (5) If the person arrested cannot provide an appearance bond, or if the
31 crime is not bailable, the magistrate shall commit him to jail pending
32 further proceedings or shall order him delivered to a law enforcement
33 officer of the county where the crime is alleged to have been committed.

34 (6) The provisions of this section shall not apply to a person who is
35 arrested on a bench warrant. Such persons shall without unnecessary delay
36 be taken before the magistrate who issued the bench warrant.

37 (7) If a person is arrested on a warrant or arrested on probable cause
38 without a warrant, pursuant to a violation of subsection (a)(1)(C) of ~~K.S.A.~~
39 ~~21-3721~~*section 94 of chapter 136 of the 2010 Session Laws of Kansas*, and
40 amendments thereto, such person shall not be allowed to post bond
41 pending such person's first appearance in court provided that a first
42 appearance occurs within 48 hours after arrest. The magistrate may fix as a
43 condition of release on the appearance bond that such person report to a

1 court services officer. Nothing in this section shall be construed to be an
2 unnecessary delay as such term is used in this section.

3 Sec. 120. K.S.A. 22-2307, as amended by section 8 of chapter 101 of
4 the 2010 Session Laws of Kansas, is hereby amended to read as follows:
5 22-2307. (a) All law enforcement agencies in this state shall adopt written
6 policies regarding domestic violence calls as provided in subsection (b).
7 These policies shall be made available to all officers of such agency.

8 (b) Such written policies shall include, but not be limited to, the
9 following:

10 (1) A statement directing that when a law enforcement officer
11 determines that there is probable cause to believe that a crime or offense
12 involving domestic violence, as defined in ~~K.S.A. 21-3110~~ *section 11 of*
13 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
14 has been committed, the officer shall, without undue delay, arrest the
15 person for which the officer has probable cause to believe committed the
16 crime or offense if such person's actions were not an act of defense of a
17 person or property as provided in ~~K.S.A. 21-3211, 21-3212, 21-3213, 21-~~
18 ~~3218 or 21-3219~~*section 21, section 22, section 23, section 28 or section 29*
19 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
20 thereto;

21 (2) a statement that nothing shall be construed to require a law
22 enforcement officer to:

23 (A) Arrest either party involved in an alleged act of domestic
24 violence when the law enforcement officer determines there is no probable
25 cause to believe that a crime or offense has been committed; or

26 (B) arrest both parties involved in an alleged act of domestic violence
27 when both claim to have been victims of such domestic violence;

28 (3) a statement directing that if a law enforcement officer receives
29 complaints of domestic violence from two or more opposing persons, the
30 officer shall evaluate each complaint separately to determine if there is
31 probable cause that each accused person committed a crime or offense and
32 their actions were not an act of defense of a person or property as provided
33 in ~~K.S.A. 21-3211, 21-3212, 21-3213, 21-3218 or 21-3219~~*section 21,*
34 *section 22, section 23, section 28 or section 29 of chapter 136 of the 2010*
35 *Session Laws of Kansas*, and amendments thereto;

36 (4) a statement defining domestic violence in accordance with ~~K.S.A.~~
37 ~~21-3110~~*section 11 of chapter 136 of the 2010 Session Laws of Kansas*, and
38 amendments thereto;

39 (5) a statement describing the dispatchers' responsibilities;

40 (6) a statement describing the responding officers' responsibilities and
41 procedures to follow when responding to a domestic violence call and the
42 suspect is at the scene;

43 (7) a statement regarding procedures when the suspect has left the

1 scene of the crime;

2 (8) procedures for both misdemeanor and felony cases;

3 (9) procedures for law enforcement officers to follow when handling
4 domestic violence calls involving court orders, including protection from
5 abuse orders, restraining orders and a protective order issued by a court of
6 any state or Indian tribe;

7 (10) a statement that the law enforcement agency shall provide the
8 following information to victims, in writing:

9 (A) Availability of emergency and medical telephone numbers, if
10 needed;

11 (B) the law enforcement agency's report number;

12 (C) the address and telephone number of the prosecutor's office the
13 victim should contact to obtain information about victims' rights pursuant
14 to K.S.A. 74-7333 and 74-7335 and amendments thereto;

15 (D) the name and address of the crime victims' compensation board
16 and information about possible compensation benefits;

17 (E) advise the victim that the details of the crime may be made
18 public;

19 (F) advise the victim of such victims' rights under K.S.A. 74-7333
20 and 74-7335 and amendments thereto; and

21 (G) advise the victim of known available resources which may assist
22 the victim; and

23 (11) whether an arrest is made or not, a standard offense report shall
24 be completed on all such incidents and sent to the Kansas bureau of
25 investigation.

26 Sec. 121. K.S.A. 22-2908, as amended by section 9 of chapter 101 of
27 the 2010 Session Laws of Kansas, is hereby amended to read as follows:
28 22-2908. (a) In determining whether diversion of a defendant is in the
29 interests of justice and of benefit to the defendant and the community, the
30 county or district attorney shall consider at least the following factors
31 among all factors considered:

32 (1) The nature of the crime charged and the circumstances
33 surrounding it;

34 (2) any special characteristics or circumstances of the defendant;

35 (3) whether the defendant is a first-time offender and if the defendant
36 has previously participated in diversion, according to the certification of
37 the Kansas bureau of investigation or the division of vehicles of the
38 department of revenue;

39 (4) whether there is a probability that the defendant will cooperate
40 with and benefit from diversion;

41 (5) whether the available diversion program is appropriate to the
42 needs of the defendant;

43 (6) the impact of the diversion of the defendant upon the community;

1 (7) recommendations, if any, of the involved law enforcement
2 agency;

3 (8) recommendations, if any, of the victim;

4 (9) provisions for restitution; and

5 (10) any mitigating circumstances.

6 (b) A county or district attorney shall not enter into a diversion
7 agreement in lieu of further criminal proceedings on a complaint if:

8 (1) The complaint alleges a violation of K.S.A. 8-1567 and
9 amendments thereto and the defendant: (A) Has previously participated in
10 diversion upon a complaint alleging a violation of that statute or an
11 ordinance of a city in this state which prohibits the acts prohibited by that
12 statute; (B) has previously been convicted of or pleaded nolo contendere to
13 a violation of that statute or a violation of a law of another state or of a
14 political subdivision of this or any other state, which law prohibits the acts
15 prohibited by that statute; or (C) during the time of the alleged violation
16 was involved in a motor vehicle accident or collision resulting in personal
17 injury or death;

18 (2) the complaint alleges that the defendant committed a class A or B
19 felony or for crimes committed on or after July 1, 1993, an off-grid crime,
20 a severity level 1, 2 or 3 felony for nondrug crimes or drug severity level 1
21 or 2 felony for drug crimes; or

22 (3) the complaint alleges a domestic violence offense, as defined in
23 ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of*
24 *Kansas*, and amendments thereto, and the defendant has participated in
25 two or more diversions in the previous five year period upon complaints
26 alleging a domestic violence offense.

27 (c) A county or district attorney may enter into a diversion agreement
28 in lieu of further criminal proceedings on a complaint for violations of
29 article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments
30 thereto, if such diversion carries the same penalties as the conviction for
31 the corresponding violations. If the defendant has previously participated
32 in one or more diversions for violations of article 10 of chapter 32 of the
33 Kansas Statutes Annotated, and amendments thereto, then each subsequent
34 diversion shall carry the same penalties as the conviction for the
35 corresponding violations.

36 Sec. 122. K.S.A. 2009 Supp. 22-2909, as amended by section 10 of
37 chapter 101 of the 2010 Session Laws of Kansas, is hereby amended to
38 read as follows: 22-2909. (a) A diversion agreement shall provide that if
39 the defendant fulfills the obligations of the program described therein, as
40 determined by the attorney general or county or district attorney, such
41 attorney shall act to have the criminal charges against the defendant
42 dismissed with prejudice. The diversion agreement shall include
43 specifically the waiver of all rights under the law or the constitution of

1 Kansas or of the United States to a speedy arraignment, preliminary
2 examinations and hearings, and a speedy trial, and in the case of diversion
3 under subsection (c) waiver of the rights to counsel and trial by jury. The
4 diversion agreement may include, but is not limited to, provisions
5 concerning payment of restitution, including court costs and diversion
6 costs, residence in a specified facility, maintenance of gainful employment,
7 and participation in programs offering medical, educational, vocational,
8 social and psychological services, corrective and preventive guidance and
9 other rehabilitative services. If a county creates a local fund under the
10 property crime restitution and compensation act, a county or district
11 attorney may require in all diversion agreements as a condition of
12 diversion the payment of a diversion fee in an amount not to exceed \$100.
13 Such fees shall be deposited into the local fund and disbursed pursuant to
14 recommendations of the local board under the property crime restitution
15 and victims compensation act.

16 (b) The diversion agreement shall state: (1) The defendant's full
17 name; (2) the defendant's full name at the time the complaint was filed, if
18 different from the defendant's current name; (3) the defendant's sex, race
19 and date of birth; (4) the crime with which the defendant is charged; (5)
20 the date the complaint was filed; and (6) the district court with which the
21 agreement is filed.

22 (c) If a diversion agreement is entered into in lieu of further criminal
23 proceedings on a complaint alleging a violation of K.S.A. 8-1567, and
24 amendments thereto, the diversion agreement shall include a stipulation,
25 agreed to by the defendant, the defendant's attorney if the defendant is
26 represented by an attorney and the attorney general or county or district
27 attorney, of the facts upon which the charge is based and a provision that if
28 the defendant fails to fulfill the terms of the specific diversion agreement
29 and the criminal proceedings on the complaint are resumed, the
30 proceedings, including any proceedings on appeal, shall be conducted on
31 the record of the stipulation of facts relating to the complaint. In addition,
32 the agreement shall include a requirement that the defendant:

33 (1) Pay a fine specified by the agreement in an amount equal to an
34 amount authorized by K.S.A. 8-1567, and amendments thereto, for a first
35 offense or, in lieu of payment of the fine, perform community service
36 specified by the agreement, in accordance with K.S.A. 8-1567, and
37 amendments thereto; and

38 (2) enroll in and successfully complete an alcohol and drug safety
39 action program or a treatment program, or both, as provided in K.S.A. 8-
40 1008, and amendments thereto, and specified by the agreement, and pay
41 the assessment required by K.S.A. 8-1008, and amendments thereto.

42 (d) If a diversion agreement is entered into in lieu of further criminal
43 proceedings on a complaint alleging a domestic violence offense, as

1 defined in ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session*
 2 *Laws of Kansas*, and amendments thereto, the diversion agreement shall
 3 include a requirement that the defendant undergo a domestic violence
 4 offender assessment and follow all recommendations unless otherwise
 5 agreed to with the prosecutor in the diversion agreement. The defendant
 6 shall be required to pay for such assessment and, unless otherwise agreed
 7 to with the prosecutor in the diversion agreement, for completion of all
 8 recommendations.

9 (e) If a diversion agreement is entered into in lieu of further criminal
 10 proceedings on a complaint alleging a violation other than K.S.A. 8-1567
 11 and amendments thereto, the diversion agreement may include a
 12 stipulation, agreed to by the defendant, the defendant's attorney if the
 13 defendant is represented by an attorney and the attorney general or county
 14 or district attorney, of the facts upon which the charge is based and a
 15 provision that if the defendant fails to fulfill the terms of the specific
 16 diversion agreement and the criminal proceedings on the complaint are
 17 resumed, the proceedings, including any proceedings on appeal, shall be
 18 conducted on the record of the stipulation of facts relating to the
 19 complaint.

20 (f) If the person entering into a diversion agreement is a nonresident,
 21 the attorney general or county or district attorney shall transmit a copy of
 22 the diversion agreement to the division. The division shall forward a copy
 23 of the diversion agreement to the motor vehicle administrator of the
 24 person's state of residence.

25 (g) If the attorney general or county or district attorney elects to offer
 26 diversion in lieu of further criminal proceedings on the complaint and the
 27 defendant agrees to all of the terms of the proposed agreement, the
 28 diversion agreement shall be filed with the district court and the district
 29 court shall stay further proceedings on the complaint. If the defendant
 30 declines to accept diversion, the district court shall resume the criminal
 31 proceedings on the complaint.

32 (h) Except as provided in subsection (h), if a diversion agreement is
 33 entered into in lieu of further criminal proceedings alleging commission of
 34 a misdemeanor by the defendant, while under 21 years of age, under
 35 K.S.A. ~~20092010~~ Supp. 21-36a01 through 21-36a17, and amendments
 36 thereto, or K.S.A. 41-719, 41-727, 41-804, 41-2719 or 41-2720, and
 37 amendments thereto, the agreement shall require the defendant to submit
 38 to and complete an alcohol and drug evaluation by a community-based
 39 alcohol and drug safety action program certified pursuant to K.S.A. 8-
 40 1008, and amendments thereto, and to pay a fee not to exceed the fee
 41 established by that statute for such evaluation. If the attorney general or
 42 county or district attorney finds that the defendant is indigent, the fee may
 43 be waived.

1 (i) If the defendant is 18 or more years of age but less than 21 years
2 of age and allegedly committed a violation of K.S.A. 41-727, and
3 amendments thereto, involving cereal malt beverage, the provisions of
4 subsection (g) are permissive and not mandatory.

5 (j) Except diversion agreements reported under subsection (j), the
6 attorney general or county or district attorney shall forward to the Kansas
7 bureau of investigation a copy of the diversion agreement at the time such
8 agreement is filed with the district court. The copy of the agreement shall
9 be made available upon request to the attorney general or any county,
10 district or city attorney or court.

11 (k) At the time of filing the diversion agreement with the district
12 court, the attorney general or county or district attorney shall forward to
13 the division of vehicles of the state department of revenue a copy of any
14 diversion agreement entered into in lieu of further criminal proceedings on
15 a complaint alleging a violation of K.S.A. 8-1567, and amendments
16 thereto. The copy of the agreement shall be made available upon request to
17 the attorney general or any county, district or city attorney or court.

18 Sec. 123. K.S.A. 22-3008 is hereby amended to read as follows: 22-
19 3008. (1) Whenever required by any grand jury, its presiding juror or the
20 prosecuting attorney, the clerk of the court in which the jury is impaneled
21 shall issue subpoenas and other process to bring witnesses to testify before
22 the grand jury.

23 (2) If any witness duly summoned to appear and testify before a
24 grand jury fails or refuses to obey, compulsory process shall be issued to
25 enforce the witness' attendance, and the court may punish the delinquent in
26 the same manner and upon the same proceedings as provided by law for
27 disobedience of a subpoena issued out of the court in other cases.

28 (3) If any witness appearing before a grand jury refuses to testify or
29 to answer any questions asked in the course of the witness' examination,
30 the fact shall be communicated to a district judge of the judicial district in
31 writing, on which the question refused to be answered shall be stated. The
32 judge shall then determine whether the witness is bound to answer or not,
33 and the grand jury shall be immediately informed of the decision.

34 (4) No witness before a grand jury shall be required to incriminate the
35 witness' self.

36 (5) (a) The county or district attorney, or the attorney general, at any
37 time, on behalf of the state, and the district judge, upon determination that
38 the interest of justice requires, and after giving notice to the prosecuting
39 attorney and hearing the prosecuting attorney's recommendations on the
40 matter, may grant in writing to any person:

41 (i) Transactional immunity. Any person granted transactional
42 immunity shall not be prosecuted for any crime which has been committed
43 for which such immunity is granted or for any other transactions arising

1 out of the same incident.

2 (ii) Use and derivative immunity. Any person granted use and
3 derivative use immunity may be prosecuted for any crime, but the state
4 shall not use any testimony against such person provided under a grant of
5 such immunity or any evidence derived from such testimony. Any
6 defendant may file with the court a motion to suppress in writing to
7 prevent the state from using evidence on the grounds that the evidence was
8 derived from and obtained against the defendant as a result of testimony or
9 statements made under such grant of immunity. The motion shall state
10 facts supporting the allegations. Upon a hearing on such motion, the state
11 shall have the burden to prove by clear and convincing evidence that the
12 evidence was obtained independently and from a collateral source.

13 (b) Any person granted immunity under either or both of subsections
14 (5)(a)(i) or (ii) may not refuse to testify on grounds that such testimony
15 may self incriminate unless such testimony may form the basis for a
16 violation of federal law for which immunity under federal law has not
17 been conferred. No person shall be compelled to testify in any proceeding
18 where the person is a defendant.

19 (c) No immunity shall be granted for perjury as provided in ~~K.S.A.~~
20 ~~21-3805~~ *section 128 of chapter 136 of the 2010 Session Laws of Kansas,*
21 and amendments thereto, which was committed in giving such evidence.

22 (6) If the judge determines that the witness must answer and if the
23 witness persists in refusing to answer, the witness shall be brought before
24 the judge, who shall proceed in the same manner as if the witness had been
25 interrogated and had refused to answer in open court.

26 Sec. 124. K.S.A. 22-3102 is hereby amended to read as follows: 22-
27 3102. (a) No person called as a witness at an inquisition shall be required
28 to make any statement which will incriminate such person.

29 (b) The county or district attorney, or the attorney general, may at any
30 time, on behalf of the state, grant in writing to any person:

31 (1) Transactional immunity. Any person granted transactional
32 immunity shall not be prosecuted for any crime which has been committed
33 for which such immunity is granted or for any other transactions arising
34 out of the same incident.

35 (2) Use and derivative immunity. Any person granted use and
36 derivative use immunity may be prosecuted for any crime, but the state
37 shall not use any testimony against such person provided under a grant of
38 such immunity or any evidence derived from such testimony. Any
39 defendant may file with the court a motion to suppress in writing to
40 prevent the state from using evidence on the grounds that the evidence was
41 derived from and obtained against the defendant as a result of testimony or
42 statements made under such grant of immunity. The motion shall state
43 facts supporting the allegations. Upon a hearing on such motion, the state

1 shall have the burden to prove by clear and convincing evidence that the
2 evidence was obtained independently and from a collateral source.

3 (c) Any person granted immunity under either or both subsections (b)
4 (1) or (2) may not refuse to testify on grounds that such testimony may self
5 incriminate unless such testimony may form the basis for a violation of
6 federal law for which immunity under federal law has not been conferred.
7 No person shall be compelled to testify in any proceeding where the
8 person is a defendant.

9 (d) No immunity shall be granted for perjury as provided in ~~K.S.A.~~
10 ~~21-3805~~ *section 128 of chapter 136 of the 2010 Session Laws of Kansas*,
11 and amendments thereto, which was committed in giving such evidence.

12 Sec. 125. K.S.A. 2010 Supp. 22-3212 is hereby amended to read as
13 follows: 22-3212. (a) Upon request, the prosecuting attorney shall permit
14 the defendant to inspect and copy or photograph the following, if relevant:
15 (1) Written or recorded statements or confessions made by the defendant,
16 or copies thereof, which are or have been in the possession, custody or
17 control of the prosecution, the existence of which is known, or by the
18 exercise of due diligence may become known, to the prosecuting attorney;
19 (2) results or reports of physical or mental examinations, and of scientific
20 tests or experiments made in connection with the particular case, or copies
21 thereof, the existence of which is known, or by the exercise of due
22 diligence may become known, to the prosecuting attorney; (3) recorded
23 testimony of the defendant before a grand jury or at an inquisition; and (4)
24 memoranda of any oral confession made by the defendant and a list of the
25 witnesses to such confession, the existence of which is known, or by the
26 exercise of due diligence may become known to the prosecuting attorney.

27 (b) (1) Upon request, the prosecuting attorney shall permit the
28 defendant to inspect and copy or photograph books, papers, documents,
29 tangible objects, buildings or places, or copies, or portions thereof, which
30 are or have been within the possession, custody or control of the
31 prosecution, and which are material to the case and will not place an
32 unreasonable burden upon the prosecution.

33 (2) Except as provided in subsections (a)(2) and (a)(4), this section
34 does not authorize the discovery or inspection of reports, memoranda or
35 other internal government documents made by officers in connection with
36 the investigation or prosecution of the case, or of statements made by state
37 witnesses or prospective state witnesses, other than the defendant, except
38 as may be provided by law.

39 (3) Except as provided in subsection (e), this section does not require
40 the prosecuting attorney to provide unredacted vehicle identification
41 numbers or personal identifiers of persons mentioned in such books,
42 papers or documents.

43 (4) As used in this subsection, personal identifiers include, but are not

1 limited to, birthdates, social security numbers, taxpayer identification
2 numbers, drivers license numbers, account numbers of active financial
3 accounts, home addresses and personal telephone numbers of any victims
4 or material witnesses.

5 (5) If the prosecuting attorney does provide the defendant's counsel
6 with unredacted vehicle identification numbers or personal identifiers, the
7 defendant's counsel shall not further disclose the unredacted numbers or
8 identifiers to the defendant or any other person, directly or indirectly,
9 except as authorized by order of the court.

10 (6) If the prosecuting attorney provides books, papers or documents
11 to the defendant's counsel with vehicle identification numbers or personal
12 identifiers redacted by the prosecuting attorney, the prosecuting attorney
13 shall provide notice to the defendant's counsel that such books, papers or
14 documents had such numbers or identifiers redacted by the prosecuting
15 attorney.

16 (7) Any redaction of vehicle identification numbers or personal
17 identifiers by the prosecuting attorney shall be by alteration or truncation
18 of such numbers or identifiers and shall not be by removal.

19 (c) If the defendant seeks discovery and inspection under subsection
20 (a)(2) or subsection (b), the defendant shall permit the attorney for the
21 prosecution to inspect and copy or photograph scientific or medical
22 reports, books, papers, documents, tangible objects, or copies or portions
23 thereof, which the defendant intends to produce at any hearing, and which
24 are material to the case and will not place an unreasonable burden on the
25 defense. Except as to scientific or medical reports, this subsection does not
26 authorize the discovery or inspection of reports, memoranda or other
27 internal defense documents made by the defendant, or the defendant's
28 attorneys or agents in connection with the investigation or defense of the
29 case, or of statements made by the defendant, or by prosecution or defense
30 witnesses, or by prospective prosecution or defense witnesses, to the
31 defendant, the defendant's agents or attorneys.

32 (d) The prosecuting attorney and the defendant shall cooperate in
33 discovery and reach agreement on the time, place and manner of making
34 the discovery and inspection permitted, so as to avoid the necessity for
35 court intervention.

36 (e) Upon a sufficient showing the court may at any time order that the
37 discovery or inspection be denied, restricted, enlarged or deferred or make
38 such other order as is appropriate. Upon motion, the court may permit
39 either party to make such showing, in whole or in part, in the form of a
40 written statement to be inspected privately by the court. If the court enters
41 an order granting relief following such a private showing, the entire text of
42 the statement shall be sealed and preserved in the records of the court to be
43 made available to the appellate court in the event of an appeal.

1 (f) Discovery under this section must be completed no later than
2 2021 days after arraignment or at such reasonable later time as the court
3 may permit.

4 (g) If, subsequent to compliance with an order issued pursuant to this
5 section, and prior to or during trial, a party discovers additional material
6 previously requested or ordered which is subject to discovery or inspection
7 under this section, the party shall promptly notify the other party or the
8 party's attorney or the court of the existence of the additional material. If at
9 any time during the course of the proceedings it is brought to the attention
10 of the court that a party has failed to comply with this section or with an
11 order issued pursuant to this section, the court may order such party to
12 permit the discovery or inspection of materials not previously disclosed,
13 grant a continuance, or prohibit the party from introducing in evidence the
14 material not disclosed, or it may enter such other order as it deems just
15 under the circumstances.

16 (h) For crimes committed on or after July 1, 1993, the prosecuting
17 attorney shall provide all prior convictions of the defendant known to the
18 prosecuting attorney that would affect the determination of the defendant's
19 criminal history for purposes of sentencing under a presumptive
20 sentencing guidelines system as provided in K.S.A. 21-4701 et seq., *prior*
21 *to their repeal, or the revised Kansas sentencing guidelines act, sections*
22 *282 through 305 of chapter 136 of the 2010 Session Laws of Kansas,* and
23 amendments thereto.

24 (i) The prosecuting attorney and defendant shall be permitted to
25 inspect and copy any juvenile files and records of the defendant for the
26 purpose of discovering and verifying the criminal history of the defendant.

27 Sec. 126. K.S.A. 2010 Supp. 22-3303 is hereby amended to read as
28 follows: 22-3303. (1) A defendant who is charged with a felony and is
29 found to be incompetent to stand trial shall be committed for evaluation
30 and treatment to the state security hospital or any appropriate county or
31 private institution. A defendant who is charged with a misdemeanor and is
32 found to be incompetent to stand trial shall be committed for evaluation
33 and treatment to any appropriate state, county or private institution. At the
34 time of such commitment the institution of commitment shall notify the
35 secretary of corrections for the purpose of providing victim notification.
36 Any such commitment shall be for a period of not to exceed 90 days.
37 Within 90 days after the defendant's commitment to such institution, the
38 chief medical officer of such institution shall certify to the court whether
39 the defendant has a substantial probability of attaining competency to
40 stand trial in the foreseeable future. If such probability does exist, the court
41 shall order the defendant to remain in an appropriate state, county or
42 private institution until the defendant attains competency to stand trial or
43 for a period of six months from the date of the original commitment,

1 whichever occurs first. If such probability does not exist, the court shall
2 order the secretary of social and rehabilitation services to commence
3 involuntary commitment proceedings pursuant to article 29 of chapter 59
4 of the Kansas Statutes Annotated, and ~~any~~ amendments thereto. When a
5 defendant is charged with any off-grid felony, any nondrug severity level 1
6 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-
7 3603 or 21-3719, *prior to their repeal, or subsection (b) of section 69,*
8 *subsection (b) of section 70, subsection (b) of section 72, subsection (b) of*
9 *section 81 or subsection (b) of section 98 of chapter 136 of the 2010*
10 *Session Laws of Kansas*, and amendments thereto, and commitment
11 proceedings have commenced, for such proceeding, "mentally ill person
12 subject to involuntary commitment for care and treatment" means a
13 mentally ill person, as defined in subsection (e) of K.S.A. 59-2946, and
14 amendments thereto, who is likely to cause harm to self and others, as
15 defined in subsection (f)(3) of K.S.A. 59-2946, and amendments thereto.
16 The other provisions of subsection (f) of K.S.A. 59-2946, and amendments
17 thereto, shall not apply.

18 (2) If a defendant who was found to have had a substantial
19 probability of attaining competency to stand trial, as provided in
20 subsection (1), has not attained competency to stand trial within six
21 months from the date of the original commitment, the court shall order the
22 secretary of social and rehabilitation services to commence involuntary
23 commitment proceedings pursuant to article 29 of chapter 59 of the Kansas
24 Statutes Annotated, and ~~any~~ amendments thereto. When a defendant is
25 charged with any off-grid felony, any nondrug severity level 1 through 3
26 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or
27 21-3719, *prior to their repeal, or subsection (b) of section 69, subsection*
28 *(b) of section 70, subsection (b) of section 72, subsection (b) of section 81*
29 *or subsection (b) of section 98 of chapter 136 of the 2010 Session Laws of*
30 *Kansas*, and amendments thereto, and commitment proceedings have
31 commenced, for such proceeding, "mentally ill person subject to
32 involuntary commitment for care and treatment" means a mentally ill
33 person, as defined in subsection (e) of K.S.A. 59-2946, and amendments
34 thereto, who is likely to cause harm to self and others, as defined in
35 subsection (f)(3) of K.S.A. 59-2946, and amendments thereto. The other
36 provisions of subsection (f) of K.S.A. 59-2946, and amendments thereto,
37 shall not apply.

38 (3) When reasonable grounds exist to believe that a defendant who
39 has been adjudged incompetent to stand trial is competent, the court in
40 which the criminal case is pending shall conduct a hearing in accordance
41 with K.S.A. 22-3302, and amendments thereto, to determine the person's
42 present mental condition. Such court shall give reasonable notice of such
43 hearings to the prosecuting attorney, the defendant, the defendant's

1 attorney of record, if any, and the secretary of corrections for the purpose
2 of providing victim notification. If the court, following such hearing, finds
3 the defendant to be competent, the proceedings pending against the
4 defendant shall be resumed.

5 (4) A defendant committed to a public institution under the provisions
6 of this section who is thereafter sentenced for the crime charged at the time
7 of commitment may be credited with all or any part of the time during
8 which the defendant was committed and confined in such public
9 institution.

10 Sec. 127. K.S.A. 22-3414 is hereby amended to read as follows: 22-
11 3414. (1) The prosecuting attorney shall state the case and offer evidence
12 in support of the prosecution. The defendant may make an opening
13 statement prior to the prosecution's offer of evidence, or may make such
14 statement and offer evidence in support of such statement after the
15 prosecution rests.

16 (2) The parties may then respectively offer rebutting testimony only,
17 unless the court, for good cause, permits them to offer evidence upon their
18 original case.

19 (3) At the close of the evidence or at such earlier time during the trial
20 as the judge reasonably directs, any party may file written requests that the
21 court instruct the jury on the law as set forth in the requests. The judge
22 shall instruct the jury at the close of the evidence before argument and the
23 judge, in the judge's discretion, after the opening statements, may instruct
24 the jury on such matters as in the judge's opinion will assist the jury in
25 considering the evidence as it is presented. In cases where there is some
26 evidence which would reasonably justify a conviction of some lesser
27 included crime as provided in subsection ~~(2)~~ of ~~K.S.A. 21-3107~~ *(b)* of
28 *section 9 of chapter 136 of the 2010 Session Laws of Kansas*, and
29 amendments thereto, the judge shall instruct the jury as to the crime
30 charged and any such lesser included crime.

31 The court shall pass upon the objections to the instructions and shall
32 either give each instruction as requested or proposed or refuse to do so, or
33 give the requested instruction with modification. All instructions given or
34 requested must be filed as a part of the record of the case.

35 The court reporter shall record all objections to the instructions given or
36 refused by the court, together with modifications made, and the rulings of
37 the court.

38 No party may assign as error the giving or failure to give an instruction,
39 including a lesser included crime instruction, unless the party objects
40 thereto before the jury retires to consider its verdict stating distinctly the
41 matter to which the party objects and the grounds of the objection unless
42 the instruction or the failure to give an instruction is clearly erroneous.
43 Opportunity shall be given to make the objections out of the hearing of the

1 jury.

2 (4) When the jury has been instructed, unless the case is submitted to
3 the jury on either side or on both sides without argument, the prosecuting
4 attorney may commence and may conclude the argument. If there is more
5 than one defendant, the court shall determine their relative order in
6 presentation of evidence and argument. In arguing the case, comment may
7 be made upon the law of the case as given in the instructions, as well as
8 upon the evidence.

9 Sec. 128. K.S.A. 22-3415 is hereby amended to read as follows: 22-
10 3415. (a) The provisions of law in civil cases relative to compelling the
11 attendance and testimony of witnesses, their examination, the
12 administration of oaths and affirmations, and proceedings as for contempt,
13 to enforce the remedies and protect the rights of the parties, shall extend to
14 criminal cases so far as they are in their nature applicable, unless other
15 provision is made by statute.

16 (b) The county or district attorney or the attorney general may at any
17 time, on behalf of the state, grant in writing to any person:

18 (1) Transactional immunity. Any person granted transactional
19 immunity shall not be prosecuted for any crime which has been committed
20 for which such immunity is granted or for any other transactions arising
21 out of the same incident.

22 (2) Use and derivative immunity. Any person granted use and
23 derivative use immunity may be prosecuted for any crime, but the state
24 shall not use any testimony against such person provided under a grant of
25 such immunity or any evidence derived from such testimony. Any
26 defendant may file with the court a motion to suppress in writing to
27 prevent the state from using evidence on the grounds that the evidence was
28 derived from and obtained against the defendant as a result of testimony or
29 statements made under such grant of immunity. The motion shall state
30 facts supporting the allegations. Upon a hearing on such motion, the state
31 shall have the burden to prove by clear and convincing evidence that the
32 evidence was obtained independently and from a collateral source.

33 (c) Any person granted immunity under either or both of subsection
34 (b)(1) or (2) may not refuse to testify on grounds that such testimony may
35 self incriminate unless such testimony may form the basis for a violation
36 of federal law for which immunity under federal law has not been
37 conferred. No person shall be compelled to testify in any proceeding
38 where the person is a defendant.

39 (d) No immunity shall be granted for perjury as provided in ~~K.S.A.~~
40 ~~21-3805~~ *section 128 of chapter 136 of the 2010 Session Laws of Kansas,*
41 and amendments thereto, which was committed in giving such evidence.

42 Sec. 129. K.S.A. 2010 Supp. 22-3426 is hereby amended to read as
43 follows: 22-3426. (a) When judgment is rendered or sentence of

1 imprisonment is imposed, upon a plea or verdict of guilty, a record thereof
2 shall be made upon the journal of the court, reflecting, if applicable,
3 conviction or other judgment, the sentence if imposed, and the
4 commitment, which record among other things shall contain a statement of
5 the crime charged, and under what statute; the plea or verdict and the
6 judgment rendered or sentence imposed, and under what statute, and a
7 statement that the defendant was duly represented by counsel naming such
8 counsel, or a statement that the defendant has stated on the record or in
9 writing that the defendant did not want representation of counsel.

10 (b) If defendant is sentenced to the custody of the secretary of
11 corrections the journal entry shall record, in a judgment form, if used, all
12 the information required under ~~K.S.A. 21-4620~~*section 280 of chapter 136*
13 *of the 2010 Session Laws of Kansas*, and amendments thereto, unless such
14 section is not applicable.

15 (c) It shall be the duty of the court personally to examine the journal
16 entry and to sign the same.

17 (d) For felony convictions for crimes committed on or after July 1,
18 1993, in addition to the provisions of subsections (a) through (c), the
19 journal entry shall contain the following information:

- 20 (1) Court case number;
- 21 (2) Kansas bureau of investigation number;
- 22 (3) case transaction number;
- 23 (4) court O.R.I. number;
- 24 (5) the type of counsel;
- 25 (6) type of trial, if any;
- 26 (7) pretrial status of the offender;
- 27 (8) the date of the sentencing hearing;
- 28 (9) a listing of offenses for which the defendant is convicted;
- 29 (10) the criminal history classification;
- 30 (11) the sentence imposed for each offense including postrelease or
31 probation supervision durations;
- 32 (12) whether the sentences run concurrently or consecutively;
- 33 (13) amount of credit for time spent incarcerated;
- 34 (14) period ordered in county jail as a condition of probation;
- 35 (15) a listing of offenses in which a departure sentence is imposed;
- 36 (16) type of departure sentence; and
- 37 (17) factors cited as a basis for departure sentence.

38 The journal entry shall be recorded on a form approved by the Kansas
39 sentencing commission.

40 Sec. 130. K.S.A. 22-3429 is hereby amended to read as follows: 22-
41 3429. After conviction and prior to sentence and as part of the presentence
42 investigation authorized by ~~K.S.A. 21-4604~~*section 272 of chapter 136 of*
43 *the 2010 Session Laws of Kansas*, and amendments thereto or for crimes

1 committed on or after July 1, 1993, a presentence investigation report as
 2 provided in ~~K.S.A. 21-4714~~ *section 294 of chapter 136 of the 2010 Session*
 3 *Laws of Kansas*, and amendments thereto, the trial judge may order the
 4 defendant committed for mental examination, evaluation and report. If the
 5 defendant is convicted of a felony, the commitment shall be to the state
 6 security hospital or any suitable local mental health facility. If the
 7 defendant is convicted of a misdemeanor, the commitment shall be to a
 8 state hospital or any suitable local mental health facility. If adequate
 9 private facilities are available and if the defendant is willing to assume the
 10 expense thereof, commitment may be to a private hospital. A report of the
 11 examination and evaluation shall be furnished to the judge and shall be
 12 made available to the prosecuting attorney and counsel for the defendant.
 13 A defendant may not be detained for more than 120 days under a
 14 commitment made under this section.

15 Sec. 131. K.S.A. 22-3436 is hereby amended to read as follows: 22-
 16 3436. If a defendant is charged with a crime pursuant to ~~article 34, 35 or~~
 17 ~~36 of chapter 21 of the Kansas Statutes Annotated~~ *sections 36 through 86,*
 18 *174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session Laws*
 19 *of Kansas*, and amendments thereto;

20 (a) The prosecuting attorney, as defined in K.S.A. 22-2202, and
 21 amendments thereto, shall: (1) inform the victim or the victim's family
 22 before any dismissal or declining of prosecuting charges; (2) inform the
 23 victim or the victim's family of the nature of any proposed plea agreement;
 24 and (3) inform and give notice to the victim or the victim's family of the
 25 rights established in subsection (b);

26 (b) The victim of a crime or the victim's family have the right to be
 27 present at any hearing where a plea agreement is reviewed or accepted and
 28 the parties may submit written arguments to the court prior to the date of
 29 the hearing.

30 Sec. 132. K.S.A. 22-3439 is hereby amended to read as follows: 22-
 31 3439. (a) For all felony convictions for offenses committed on or after July
 32 1, 1993, the court shall forward a signed copy of the journal entry, attached
 33 together with the presentence investigation report as provided by ~~K.S.A.~~
 34 ~~21-4714~~ *section 294 of chapter 136 of the 2010 Session Laws of Kansas*,
 35 and amendments thereto, to the Kansas sentencing commission within 30
 36 days after sentencing.

37 (b) For probation revocations which result in the defendant's
 38 imprisonment in the custody of the department of corrections, the court
 39 shall forward a signed copy of the journal entry of revocation to the
 40 Kansas sentencing commission within 30 days of final disposition.

41 (c) The court shall insure that information concerning dispositions for
 42 all other felony probation revocations based upon crimes committed on or
 43 after July 1, 1993, and for all class A and B misdemeanor crimes and

1 assault as defined in K.S.A. 21-3408, *prior to its repeal, or subsection (a)*
2 *of section 47 of chapter 136 of the 2010 Session Laws of Kansas*, and
3 amendments thereto, committed on or after July 1, 1993, is forwarded to
4 the Kansas bureau of investigation central repository. Such information
5 shall be transmitted on a form or in a format approved by the attorney
6 general within 30 days of that final disposition.

7 Sec. 133. K.S.A. 22-3602 is hereby amended to read as follows: 22-
8 3602. (a) Except as otherwise provided, an appeal to the appellate court
9 having jurisdiction of the appeal may be taken by the defendant as a matter
10 of right from any judgment against the defendant in the district court and
11 upon appeal any decision of the district court or intermediate order made
12 in the progress of the case may be reviewed. No appeal shall be taken by
13 the defendant from a judgment of conviction before a district judge upon a
14 plea of guilty or *nolo contendere*, except that jurisdictional or other
15 grounds going to the legality of the proceedings may be raised by the
16 defendant as provided in K.S.A. 60-1507, and amendments thereto.

17 (b) Appeals to the court of appeals may be taken by the prosecution
18 from cases before a district judge as a matter of right in the following
19 cases, and no others:

- 20 (1) From an order dismissing a complaint, information or indictment;
- 21 (2) from an order arresting judgment;
- 22 (3) upon a question reserved by the prosecution; or
- 23 (4) upon an order granting a new trial in any case involving a class A
24 or B felony or for crimes committed on or after July 1, 1993, in any case
25 involving an off-grid crime.

26 (c) Procedures for appeals by the prosecution enumerated in
27 subsection (b) shall be as provided in supreme court rules.

28 (d) Appeals to a district judge may be taken by the prosecution from
29 cases before a district magistrate judge as a matter of right in the cases
30 enumerated in subsection (b) and from orders enumerated in K.S.A. 22-
31 3603, and amendments thereto.

32 (e) Any criminal case on appeal to the court of appeals may be
33 transferred to the supreme court as provided in K.S.A. 20-3016 and 20-
34 3017, and amendments thereto, and any party to such case may petition the
35 supreme court for review of any decision of the court of appeals as
36 provided in subsection (b) of K.S.A. 20-3018, and amendments thereto,
37 except that any such party may appeal to the supreme court as a matter of
38 right in any case in which a question under the constitution of either the
39 United States or the state of Kansas arises for the first time as a result of
40 the decision of the court of appeals.

41 (f) For crimes committed on or after July 1, 1993, an appeal by the
42 prosecution or the defendant relating to sentences imposed pursuant to a
43 presumptive sentencing guidelines system as provided in K.S.A. 21-4701

1 et seq., *prior to their repeal, or the revised Kansas sentencing guidelines*
2 *act, sections 282 through 305 of chapter 136 of the 2010 Session Laws of*
3 *Kansas, and amendments thereto, shall be as provided in K.S.A. 21-4721,*
4 *prior to its repeal, or section 301 of chapter 136 of the 2010 Session Laws*
5 *of Kansas, and amendments thereto.*

6 Sec. 134. K.S.A. 22-3701 is hereby amended to read as follows: 22-
7 3701. (1) The governor may pardon, or commute the sentence of, any
8 person convicted of a crime in any court of this state upon such terms and
9 conditions as prescribed in the order granting the pardon or commutation.

10 (2) The Kansas parole board, hereafter referred to as the board, shall
11 adopt rules and regulations governing the procedure for initiating,
12 processing, and reviewing applications for pardon, or commutation of
13 sentence filed by and on behalf of persons convicted of crime.

14 (3) Except as otherwise provided, no pardon or commutation of
15 sentence shall be granted until more than 30 days after written notice of
16 the application therefor has been given to: (a) The prosecuting attorney
17 and the judge of the court in which the defendant was convicted; and (b)
18 any victim of the person's crime or the victim's family, if the person was
19 convicted of a crime specified in article 34, 35 or 36 of chapter 21 of the
20 Kansas Statutes Annotated, *prior to their repeal, or sections 36 through*
21 *86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
22 *Laws of Kansas, and amendments thereto.* Notice of such application for
23 pardon or commutation of sentence shall be given by the secretary of
24 corrections to the victim who is alive and whose address is known to the
25 secretary of corrections, or if the victim is deceased, to the victim's family
26 if the family's address is known to the secretary of corrections. Notice of
27 the receipt of such application shall be given by publication in the official
28 county paper of the county of conviction. The form of notice shall be
29 prescribed by the board. If the applicant executes a poverty affidavit, the
30 cost of one publication of the notice during a twelve-month period shall be
31 paid by the state. If more than one notice of application is published during
32 any twelve-month period the additional cost of publication shall be paid by
33 the applicant. Subject to the provisions of subsection (4), if written
34 notification is not given to such victim who is alive and whose address is
35 known to the secretary of corrections or, if the victim is deceased, to the
36 victim's family if the family's address is known to the secretary of
37 corrections, the governor shall not grant or deny such application until a
38 time at least 30 days after notification is given by publication as provided
39 in this section.

40 (4) All applications for pardon or commutation of sentence shall be
41 referred to the board. The board shall examine each case and submit a
42 report, together with such information as the board may have concerning
43 the applicant, to the governor within 120 days after referral to the board.

1 The governor shall not grant or deny any such application until the
2 governor has received the report of the board or until 120 days after the
3 referral to the board, whichever time is the shorter and the provisions of
4 subsection (3) have been satisfied.

5 Sec. 135. K.S.A. 2010 Supp. 22-3716 is hereby amended to read as
6 follows: 22-3716. (a) At any time during probation, assignment to a
7 community correctional services program, suspension of sentence or
8 pursuant to subsection (d) for defendants who committed a crime prior to
9 July 1, 1993, and at any time during which a defendant is serving a
10 nonprison sanction for a crime committed on or after July 1, 1993, or
11 pursuant to subsection (d), the court may issue a warrant for the arrest of a
12 defendant for violation of any of the conditions of release or assignment, a
13 notice to appear to answer to a charge of violation or a violation of the
14 defendant's nonprison sanction. The notice shall be personally served upon
15 the defendant. The warrant shall authorize all officers named in the
16 warrant to return the defendant to the custody of the court or to any
17 certified detention facility designated by the court. Any court services
18 officer or community correctional services officer may arrest the defendant
19 without a warrant or may deputize any other officer with power of arrest to
20 do so by giving the officer a written or verbal statement setting forth that
21 the defendant has, in the judgment of the court services officer or
22 community correctional services officer, violated the conditions of the
23 defendant's release or a nonprison sanction. A written statement delivered
24 to the official in charge of a county jail or other place of detention shall be
25 sufficient warrant for the detention of the defendant. After making an
26 arrest, the court services officer or community correctional services officer
27 shall present to the detaining authorities a similar statement of the
28 circumstances of violation. Provisions regarding release on bail of persons
29 charged with a crime shall be applicable to defendants arrested under these
30 provisions.

31 (b) Upon arrest and detention pursuant to subsection (a), the court
32 services officer or community correctional services officer shall
33 immediately notify the court and shall submit in writing a report showing
34 in what manner the defendant has violated the conditions of release or
35 assignment or a nonprison sanction. Thereupon, or upon an arrest by
36 warrant as provided in this section, the court shall cause the defendant to
37 be brought before it without unnecessary delay for a hearing on the
38 violation charged. The hearing shall be in open court and the state shall
39 have the burden of establishing the violation. The defendant shall have the
40 right to be represented by counsel and shall be informed by the judge that,
41 if the defendant is financially unable to obtain counsel, an attorney will be
42 appointed to represent the defendant. The defendant shall have the right to
43 present the testimony of witnesses and other evidence on the defendant's

1 behalf. Relevant written statements made under oath may be admitted and
2 considered by the court along with other evidence presented at the hearing.
3 Except as otherwise provided, if the violation is established, the court may
4 continue or revoke the probation, assignment to a community correctional
5 services program, suspension of sentence or nonprison sanction and may
6 require the defendant to serve the sentence imposed, or any lesser
7 sentence, and, if imposition of sentence was suspended, may impose any
8 sentence which might originally have been imposed. Except as otherwise
9 provided, no offender for whom a violation of conditions of release or
10 assignment or a nonprison sanction has been established as provided in
11 this section shall be required to serve any time for the sentence imposed or
12 which might originally have been imposed in a state facility in the custody
13 of the secretary of corrections for such violation, unless such person has
14 already at least one prior assignment to a community correctional services
15 program related to the crime for which the original sentence was imposed,
16 except these provisions shall not apply to offenders who violate a
17 condition of release or assignment or a nonprison sanction by committing
18 a new misdemeanor or felony offense. The provisions of this subsection
19 shall not apply to adult felony offenders as described in subsection (a)(3)
20 of K.S.A. 75-5291, and amendments thereto. The court may require an
21 offender for whom a violation of conditions of release or assignment or a
22 nonprison sanction has been established as provided in this section to serve
23 any time for the sentence imposed or which might originally have been
24 imposed in a state facility in the custody of the secretary of corrections
25 without a prior assignment to a community correctional services program
26 if the court finds and sets forth with particularity the reasons for finding
27 that the safety of the members of the public will be jeopardized or that the
28 welfare of the inmate will not be served by such assignment to a
29 community correctional services program. When a new felony is
30 committed while the offender is on probation or assignment to a
31 community correctional services program, the new sentence shall be
32 imposed pursuant to the consecutive sentencing requirements of ~~K.S.A.~~
33 ~~21-4608~~ *section 246 of chapter 136 of the 2010 Session Laws of Kansas*,
34 and amendments thereto, and the court may sentence the offender to
35 imprisonment for the new conviction, even when the new crime of
36 conviction otherwise presumes a nonprison sentence. In this event,
37 imposition of a prison sentence for the new crime does not constitute a
38 departure.

39 (c) A defendant who is on probation, assigned to a community
40 correctional services program, under suspension of sentence or serving a
41 nonprison sanction and for whose return a warrant has been issued by the
42 court shall be considered a fugitive from justice if it is found that the
43 warrant cannot be served. If it appears that the defendant has violated the

1 provisions of the defendant's release or assignment or a nonprison
 2 sanction, the court shall determine whether the time from the issuing of the
 3 warrant to the date of the defendant's arrest, or any part of it, shall be
 4 counted as time served on probation, assignment to a community
 5 correctional services program, suspended sentence or pursuant to a
 6 nonprison sanction.

7 (d) The court shall have 30 days following the date probation,
 8 assignment to a community correctional service program, suspension of
 9 sentence or a nonprison sanction was to end to issue a warrant for the
 10 arrest or notice to appear for the defendant to answer a charge of a
 11 violation of the conditions of probation, assignment to a community
 12 correctional service program, suspension of sentence or a nonprison
 13 sanction.

14 (e) Notwithstanding the provisions of any other law to the contrary,
 15 an offender whose nonprison sanction is revoked and a term of
 16 imprisonment imposed pursuant to either the sentencing guidelines grid for
 17 nondrug or drug crimes shall not serve a period of postrelease supervision
 18 upon the completion of the prison portion of that sentence. The provisions
 19 of this subsection shall not apply to offenders sentenced to a nonprison
 20 sanction pursuant to a dispositional departure, whose offense falls within a
 21 border box of either the sentencing guidelines grid for nondrug or drug
 22 crimes, offenders sentenced for a "sexually violent crime" or a "sexually
 23 motivated crime" as defined by K.S.A. 22-3717, and amendments thereto,
 24 offenders sentenced pursuant to ~~K.S.A. 21-4704~~ *section 285 of chapter 136*
 25 *of the 2010 Session Laws of Kansas*, and amendments thereto, wherein the
 26 sentence is presumptive imprisonment but a nonprison sanction may be
 27 imposed without a departure or offenders whose nonprison sanction was
 28 revoked as a result of a conviction for a new misdemeanor or felony
 29 offense. The provisions of this subsection shall not apply to offenders who
 30 are serving or are to begin serving a sentence for any other felony offense
 31 that is not excluded from postrelease supervision by this subsection on the
 32 effective date of this subsection. The provisions of this subsection shall be
 33 applied retroactively. The department of corrections shall conduct a review
 34 of all persons who are in the custody of the department as a result of only a
 35 revocation of a nonprison sanction. On or before September 1, 2000, the
 36 department shall have discharged from postrelease supervision those
 37 offenders as required by this subsection.

38 (f) Offenders who have been sentenced pursuant to ~~K.S.A. 21-~~
 39 ~~4729~~ *section 305 of chapter 136 of the 2010 Session Laws of Kansas*, and
 40 amendments thereto, and who subsequently violate a condition of the drug
 41 and alcohol abuse treatment program shall be subject to an additional
 42 nonprison sanction for any such subsequent violation. Such nonprison
 43 sanctions shall include, but not be limited to, up to 60 days in a county jail,

1 fines, community service, intensified treatment, house arrest and electronic
2 monitoring.

3 Sec. 136. K.S.A. 2010 Supp. 22-3717 is hereby amended to read as
4 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.
5 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638,
6 *prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642,*
7 *prior to its repeal; sections 257, 260, 263, 264, 265 and 266 of chapter*
8 *136 of the 2010 Session Laws of Kansas, and amendments thereto; and*
9 *K.S.A. 8-1567, and amendments thereto; ~~K.S.A. 21-4642, and~~*
10 *~~amendments thereto; and K.S.A. 21-4624, and amendments thereto,~~ an*
11 inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, *prior*
12 *to its repeal, or section 276 of chapter 136 of the 2010 Session Laws of*
13 *Kansas, and amendments thereto, shall be eligible for parole after serving*
14 the entire minimum sentence imposed by the court, less good time credits.

15 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, *prior*
16 *to their repeal, and sections 260, 263, 264 and 265 of chapter 136 of the*
17 *2010 Session Laws of Kansas, and amendments thereto, an inmate*
18 sentenced to imprisonment for the crime of capital murder, or an inmate
19 sentenced for the crime of murder in the first degree based upon a finding
20 of premeditated murder, committed on or after July 1, 1994, shall be
21 eligible for parole after serving 25 years of confinement, without
22 deduction of any good time credits.

23 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
24 Supp. 21-4628, prior to its repeal, ~~and~~ K.S.A. 21-4635 through 21-4638,
25 *prior to their repeal, and sections 260, 263, 264 and 265 of chapter 136 of*
26 *the 2010 Session Laws of Kansas, and amendments thereto, an inmate*
27 sentenced to imprisonment for an off-grid offense committed on or after
28 July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after
29 serving 15 years of confinement, without deduction of any good time
30 credits and an inmate sentenced to imprisonment for an off-grid offense
31 committed on or after July 1, 1999, shall be eligible for parole after
32 serving 20 years of confinement without deduction of any good time
33 credits.

34 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
35 repeal, an inmate sentenced for a class A felony committed before July 1,
36 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, *prior to*
37 *its repeal, or section 276 of chapter 136 of the 2010 Session Laws of*
38 *Kansas, and amendments thereto, shall be eligible for parole after serving*
39 15 years of confinement, without deduction of any good time credits.

40 (4) An inmate sentenced to imprisonment for a violation of
41 subsection (a) of K.S.A. 21-3402, *prior to its repeal, ~~and amendments~~*
42 *~~thereto,~~ committed on or after July 1, 1996, but prior to July 1, 1999, shall*
43 be eligible for parole after serving 10 years of confinement without

1 deduction of any good time credits.

2 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
3 4643, *prior to its repeal, or section 267 of chapter 136 of the 2010 Session*
4 *Laws of Kansas*, and amendments thereto, committed on or after July 1,
5 2006, shall be eligible for parole after serving the mandatory term of
6 imprisonment without deduction of any good time credits.

7 (c) (1) Except as provided in subsection (e), if an inmate is sentenced
8 to imprisonment for more than one crime and the sentences run
9 consecutively, the inmate shall be eligible for parole after serving the total
10 of:

11 (A) The aggregate minimum sentences, as determined pursuant to
12 K.S.A. 21-4608, *prior to its repeal, or section 246 of chapter 136 of the*
13 *2010 Session Laws of Kansas*, and amendments thereto, less good time
14 credits for those crimes which are not class A felonies; and

15 (B) an additional 15 years, without deduction of good time credits,
16 for each crime which is a class A felony.

17 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
18 4643, *prior to its repeal, or section 267 of chapter 136 of the 2010 Session*
19 *Laws of Kansas*, and amendments thereto, for crimes committed on or
20 after July 1, 2006, the inmate shall be eligible for parole after serving the
21 mandatory term of imprisonment.

22 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
23 committed on or after July 1, 1993, or persons subject to subparagraph
24 (G), will not be eligible for parole, but will be released to a mandatory
25 period of postrelease supervision upon completion of the prison portion of
26 their sentence as follows:

27 (A) Except as provided in subparagraphs (D) and (E), persons
28 sentenced for nondrug severity level 1 through 4 crimes and drug severity
29 levels 1 and 2 crimes must serve 36 months, plus the amount of good time
30 and program credit earned and retained pursuant to K.S.A. 21-4722, *prior*
31 *to its repeal, or section 302 of chapter 136 of the 2010 Session Laws of*
32 *Kansas*, and amendments thereto, on postrelease supervision.

33 (B) Except as provided in subparagraphs (D) and (E), persons
34 sentenced for nondrug severity levels 5 and 6 crimes and drug severity
35 level 3 crimes must serve 24 months, plus the amount of good time and
36 program credit earned and retained pursuant to K.S.A. 21-4722, *prior to*
37 *its repeal, or section 302 of chapter 136 of the 2010 Session Laws of*
38 *Kansas*, and amendments thereto, on postrelease supervision.

39 (C) Except as provided in subparagraphs (D) and (E), persons
40 sentenced for nondrug severity level 7 through 10 crimes and drug severity
41 level 4 crimes must serve 12 months, plus the amount of good time and
42 program credit earned and retained pursuant to K.S.A. 21-4722, *prior to*
43 *its repeal, or section 302 of chapter 136 of the 2010 Session Laws of*

1 *Kansas*, and amendments thereto, on postrelease supervision.

2 (D) (i) The sentencing judge shall impose the postrelease supervision
3 period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless
4 the judge finds substantial and compelling reasons to impose a departure
5 based upon a finding that the current crime of conviction was sexually
6 motivated. In that event, departure may be imposed to extend the
7 postrelease supervision to a period of up to 60 months.

8 (ii) If the sentencing judge departs from the presumptive postrelease
9 supervision period, the judge shall state on the record at the time of
10 sentencing the substantial and compelling reasons for the departure.
11 Departures in this section are subject to appeal pursuant to K.S.A. 21-
12 4721, *prior to its repeal, or section 301 of chapter 136 of the 2010 Session*
13 *Laws of Kansas*, and amendments thereto.

14 (iii) In determining whether substantial and compelling reasons exist,
15 the court shall consider:

16 (a) Written briefs or oral arguments submitted by either the defendant
17 or the state;

18 (b) any evidence received during the proceeding;

19 (c) the presentence report, the victim's impact statement and any
20 psychological evaluation as ordered by the court pursuant to subsection (e)
21 of K.S.A. 21-4714, *prior to its repeal, or subsection (e) of section 294 of*
22 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;
23 and

24 (d) any other evidence the court finds trustworthy and reliable.

25 (iv) The sentencing judge may order that a psychological evaluation
26 be prepared and the recommended programming be completed by the
27 offender. The department of corrections or the parole board shall ensure
28 that court ordered sex offender treatment be carried out.

29 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
30 shall refer to K.S.A. 21-4718, *prior to its repeal, or section 298 of chapter*
31 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

32 (vi) Upon petition, the parole board may provide for early discharge
33 from the postrelease supervision period upon completion of court ordered
34 programs and completion of the presumptive postrelease supervision
35 period, as determined by the crime of conviction, pursuant to subparagraph
36 (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease
37 supervision is at the discretion of the parole board.

38 (vii) Persons convicted of crimes deemed sexually violent or sexually
39 motivated, shall be registered according to the offender registration act,
40 K.S.A. 22-4901 through 22-4910, and amendments thereto.

41 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, *prior to their*
42 *repeal, or section 72 of chapter 136 of the 2010 Session Laws of Kansas*,
43 and amendments thereto, shall be required to participate in a treatment

1 program for sex offenders during the postrelease supervision period.

2 (E) The period of postrelease supervision provided in subparagraphs
3 (A) and (B) may be reduced by up to 12 months and the period of
4 postrelease supervision provided in subparagraph (C) may be reduced by
5 up to six months based on the offender's compliance with conditions of
6 supervision and overall performance while on postrelease supervision. The
7 reduction in the supervision period shall be on an earned basis pursuant to
8 rules and regulations adopted by the secretary of corrections.

9 (F) In cases where sentences for crimes from more than one severity
10 level have been imposed, the offender shall serve the longest period of
11 postrelease supervision as provided by this section available for any crime
12 upon which sentence was imposed irrespective of the severity level of the
13 crime. Supervision periods will not aggregate.

14 (G) Except as provided in subsection (u), persons convicted of a
15 sexually violent crime committed on or after July 1, 2006, and who are
16 released from prison, shall be released to a mandatory period of
17 postrelease supervision for the duration of the person's natural life.

18 (2) As used in this section, "sexually violent crime" means:

19 (A) Rape, K.S.A. 21-3502, *prior to its repeal, or section 67 of*
20 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

21 (B) indecent liberties with a child, K.S.A. 21-3503, *prior to its*
22 *repeal, or subsection (a) of section 70 of chapter 136 of the 2010 Session*
23 *Laws of Kansas*, and amendments thereto;

24 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, *prior*
25 *to its repeal, or subsection (b) of section 70 of chapter 136 of the 2010*
26 *Session Laws of Kansas*, and amendments thereto;

27 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
28 *prior to its repeal, or subsection (a)(3) and (a)(4) of section 68 of chapter*
29 *136 of the 2010 Session Laws of Kansas*, and amendments thereto;

30 (E) aggravated criminal sodomy, K.S.A. 21-3506, *prior to its repeal,*
31 *or subsection (b) of section 68 of chapter 136 of the 2010 Session Laws of*
32 *Kansas*, and amendments thereto;

33 (F) indecent solicitation of a child, K.S.A. 21-3510, *prior to its*
34 *repeal, or subsection (a) of section 72 of chapter 136 of the 2010 Session*
35 *Laws of Kansas*, and amendments thereto;

36 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, *prior*
37 *to its repeal, or subsection (b) of section 72 of chapter 136 of the 2010*
38 *Session Laws of Kansas*, and amendments thereto;

39 (H) sexual exploitation of a child, K.S.A. 21-3516, *prior to its repeal,*
40 *or section 74 of chapter 136 of the 2010 Session Laws of Kansas*, and
41 amendments thereto;

42 (I) aggravated sexual battery, K.S.A. 21-3518, *prior to its repeal, or*
43 *subsection (b) of section 69 of chapter 136 of the 2010 Session Laws of*

1 *Kansas*, and amendments thereto;

2 (J) aggravated incest, K.S.A. 21-3603, *prior to its repeal, or*
3 *subsection (b) of section 81 of chapter 136 of the 2010 Session Laws of*
4 *Kansas*, and amendments thereto; or

5 (K) an attempt, conspiracy or criminal solicitation, as defined in
6 K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or sections 33,*
7 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas*, and
8 amendments thereto, of a sexually violent crime as defined in this section.

9 "Sexually motivated" means that one of the purposes for which the
10 defendant committed the crime was for the purpose of the defendant's
11 sexual gratification.

12 (e) If an inmate is sentenced to imprisonment for a crime committed
13 while on parole or conditional release, the inmate shall be eligible for
14 parole as provided by subsection (c), except that the Kansas parole board
15 may postpone the inmate's parole eligibility date by assessing a penalty not
16 exceeding the period of time which could have been assessed if the
17 inmate's parole or conditional release had been violated for reasons other
18 than conviction of a crime.

19 (f) If a person is sentenced to prison for a crime committed on or after
20 July 1, 1993, while on probation, parole, conditional release or in a
21 community corrections program, for a crime committed prior to July 1,
22 1993, and the person is not eligible for retroactive application of the
23 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
24 4724, *prior to its repeal, and amendments thereto*, the new sentence shall
25 not be aggregated with the old sentence, but shall begin when the person is
26 paroled or reaches the conditional release date on the old sentence. If the
27 offender was past the offender's conditional release date at the time the
28 new offense was committed, the new sentence shall not be aggregated with
29 the old sentence but shall begin when the person is ordered released by the
30 Kansas parole board or reaches the maximum sentence expiration date on
31 the old sentence, whichever is earlier. The new sentence shall then be
32 served as otherwise provided by law. The period of postrelease supervision
33 shall be based on the new sentence, except that those offenders whose old
34 sentence is a term of imprisonment for life, imposed pursuant to K.S.A.
35 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with
36 a maximum term of life imprisonment, for which there is no conditional
37 release or maximum sentence expiration date, shall remain on postrelease
38 supervision for life or until discharged from supervision by the Kansas
39 parole board.

40 (g) Subject to the provisions of this section, the Kansas parole board
41 may release on parole those persons confined in institutions who are
42 eligible for parole when: (1) The board believes that the inmate should be
43 released for hospitalization, for deportation or to answer the warrant or

1 other process of a court and is of the opinion that there is reasonable
2 probability that the inmate can be released without detriment to the
3 community or to the inmate; or (2) the secretary of corrections has
4 reported to the board in writing that the inmate has satisfactorily
5 completed the programs required by any agreement entered under K.S.A.
6 75-5210a, and amendments thereto, or any revision of such agreement, and
7 the board believes that the inmate is able and willing to fulfill the
8 obligations of a law abiding citizen and is of the opinion that there is
9 reasonable probability that the inmate can be released without detriment to
10 the community or to the inmate. Parole shall not be granted as an award of
11 clemency and shall not be considered a reduction of sentence or a pardon.

12 (h) The Kansas parole board shall hold a parole hearing at least the
13 month prior to the month an inmate will be eligible for parole under
14 subsections (a), (b) and (c). At least the month preceding the parole
15 hearing, the county or district attorney of the county where the inmate was
16 convicted shall give written notice of the time and place of the public
17 comment sessions for the inmate to any victim of the inmate's crime who
18 is alive and whose address is known to the county or district attorney or, if
19 the victim is deceased, to the victim's family if the family's address is
20 known to the county or district attorney. Except as otherwise provided,
21 failure to notify pursuant to this section shall not be a reason to postpone a
22 parole hearing. In the case of any inmate convicted of an off-grid felony or
23 a class A felony the secretary of corrections shall give written notice of the
24 time and place of the public comment session for such inmate at least one
25 month preceding the public comment session to any victim of such
26 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
27 amendments thereto. If notification is not given to such victim or such
28 victim's family in the case of any inmate convicted of an off-grid felony or
29 a class A felony, the board shall postpone a decision on parole of the
30 inmate to a time at least 30 days after notification is given as provided in
31 this section. Nothing in this section shall create a cause of action against
32 the state or an employee of the state acting within the scope of the
33 employee's employment as a result of the failure to notify pursuant to this
34 section. If granted parole, the inmate may be released on parole on the date
35 specified by the board, but not earlier than the date the inmate is eligible
36 for parole under subsections (a), (b) and (c). At each parole hearing and, if
37 parole is not granted, at such intervals thereafter as it determines
38 appropriate, the Kansas parole board shall consider: (1) Whether the
39 inmate has satisfactorily completed the programs required by any
40 agreement entered under K.S.A. 75-5210a, and amendments thereto, or
41 any revision of such agreement; and (2) all pertinent information regarding
42 such inmate, including, but not limited to, the circumstances of the offense
43 of the inmate; the presentence report; the previous social history and

1 criminal record of the inmate; the conduct, employment, and attitude of the
2 inmate in prison; the reports of such physical and mental examinations as
3 have been made, including, but not limited to, risk factors revealed by any
4 risk assessment of the inmate; comments of the victim and the victim's
5 family including in person comments, contemporaneous comments and
6 prerecorded comments made by any technological means; comments of
7 the public; official comments; any recommendation by the staff of the
8 facility where the inmate is incarcerated; proportionality of the time the
9 inmate has served to the sentence a person would receive under the Kansas
10 sentencing guidelines for the conduct that resulted in the inmate's
11 incarceration; and capacity of state correctional institutions.

12 (i) In those cases involving inmates sentenced for a crime committed
13 after July 1, 1993, the parole board will review the inmates proposed
14 release plan. The board may schedule a hearing if they desire. The board
15 may impose any condition they deem necessary to insure public safety, aid
16 in the reintegration of the inmate into the community, or items not
17 completed under the agreement entered into under K.S.A. 75-5210a, and
18 amendments thereto. The board may not advance or delay an inmate's
19 release date. Every inmate while on postrelease supervision shall remain in
20 the legal custody of the secretary of corrections and is subject to the orders
21 of the secretary.

22 (j) (1) Before ordering the parole of any inmate, the Kansas parole
23 board shall have the inmate appear either in person or via a video
24 conferencing format and shall interview the inmate unless impractical
25 because of the inmate's physical or mental condition or absence from the
26 institution. Every inmate while on parole shall remain in the legal custody
27 of the secretary of corrections and is subject to the orders of the secretary.
28 Whenever the Kansas parole board formally considers placing an inmate
29 on parole and no agreement has been entered into with the inmate under
30 K.S.A. 75-5210a, and amendments thereto, the board shall notify the
31 inmate in writing of the reasons for not granting parole. If an agreement
32 has been entered under K.S.A. 75-5210a, and amendments thereto, and the
33 inmate has not satisfactorily completed the programs specified in the
34 agreement, or any revision of such agreement, the board shall notify the
35 inmate in writing of the specific programs the inmate must satisfactorily
36 complete before parole will be granted. If parole is not granted only
37 because of a failure to satisfactorily complete such programs, the board
38 shall grant parole upon the secretary's certification that the inmate has
39 successfully completed such programs. If an agreement has been entered
40 under K.S.A. 75-5210a, and amendments thereto, and the secretary of
41 corrections has reported to the board in writing that the inmate has
42 satisfactorily completed the programs required by such agreement, or any
43 revision thereof, the board shall not require further program participation.

1 However, if the board determines that other pertinent information
2 regarding the inmate warrants the inmate's not being released on parole,
3 the board shall state in writing the reasons for not granting the parole. If
4 parole is denied for an inmate sentenced for a crime other than a class A or
5 class B felony or an off-grid felony, the board shall hold another parole
6 hearing for the inmate not later than one year after the denial unless the
7 parole board finds that it is not reasonable to expect that parole would be
8 granted at a hearing if held in the next three years or during the interim
9 period of a deferral. In such case, the parole board may defer subsequent
10 parole hearings for up to three years but any such deferral by the board
11 shall require the board to state the basis for its findings. If parole is denied
12 for an inmate sentenced for a class A or class B felony or an off-grid
13 felony, the board shall hold another parole hearing for the inmate not later
14 than three years after the denial unless the parole board finds that it is not
15 reasonable to expect that parole would be granted at a hearing if held in
16 the next 10 years or during the interim period of a deferral. In such case,
17 the parole board may defer subsequent parole hearings for up to 10 years
18 but any such deferral shall require the board to state the basis for its
19 findings.

20 (2) Inmates sentenced for a class A or class B felony who have not
21 had a parole board hearing in the five years prior to July 1, 2010, shall
22 have such inmates' cases reviewed by the parole board on or before July 1,
23 2012. Such review shall begin with the inmates with the oldest deferral
24 date and progress to the most recent. Such review shall be done utilizing
25 existing resources unless the parole board determines that such resources
26 are insufficient. If the parole board determines that such resources are
27 insufficient, then the provisions of this paragraph are subject to
28 appropriations therefor.

29 (k) Parolees and persons on postrelease supervision shall be assigned,
30 upon release, to the appropriate level of supervision pursuant to the criteria
31 established by the secretary of corrections.

32 (l) The Kansas parole board shall adopt rules and regulations in
33 accordance with K.S.A. 77-415 et seq., and amendments thereto, not
34 inconsistent with the law and as it may deem proper or necessary, with
35 respect to the conduct of parole hearings, postrelease supervision reviews,
36 revocation hearings, orders of restitution, reimbursement of expenditures
37 by the state board of indigents' defense services and other conditions to be
38 imposed upon parolees or releasees. Whenever an order for parole or
39 postrelease supervision is issued it shall recite the conditions thereof.

40 (m) Whenever the Kansas parole board orders the parole of an inmate
41 or establishes conditions for an inmate placed on postrelease supervision,
42 the board:

43 (1) Unless it finds compelling circumstances which would render a

1 plan of payment unworkable, shall order as a condition of parole or
2 postrelease supervision that the parolee or the person on postrelease
3 supervision pay any transportation expenses resulting from returning the
4 parolee or the person on postrelease supervision to this state to answer
5 criminal charges or a warrant for a violation of a condition of probation,
6 assignment to a community correctional services program, parole,
7 conditional release or postrelease supervision;

8 (2) to the extent practicable, shall order as a condition of parole or
9 postrelease supervision that the parolee or the person on postrelease
10 supervision make progress towards or successfully complete the
11 equivalent of a secondary education if the inmate has not previously
12 completed such educational equivalent and is capable of doing so;

13 (3) may order that the parolee or person on postrelease supervision
14 perform community or public service work for local governmental
15 agencies, private corporations organized not-for-profit or charitable or
16 social service organizations performing services for the community;

17 (4) may order the parolee or person on postrelease supervision to pay
18 the administrative fee imposed pursuant to K.S.A. 22-4529, and
19 amendments thereto, unless the board finds compelling circumstances
20 which would render payment unworkable; and

21 (5) unless it finds compelling circumstances which would render a
22 plan of payment unworkable, shall order that the parolee or person on
23 postrelease supervision reimburse the state for all or part of the
24 expenditures by the state board of indigents' defense services to provide
25 counsel and other defense services to the person. In determining the
26 amount and method of payment of such sum, the parole board shall take
27 account of the financial resources of the person and the nature of the
28 burden that the payment of such sum will impose. Such amount shall not
29 exceed the amount claimed by appointed counsel on the payment voucher
30 for indigents' defense services or the amount prescribed by the board of
31 indigents' defense services reimbursement tables as provided in K.S.A. 22-
32 4522, and amendments thereto, whichever is less, minus any previous
33 payments for such services.

34 (n) If the court which sentenced an inmate specified at the time of
35 sentencing the amount and the recipient of any restitution ordered as a
36 condition of parole or postrelease supervision, the Kansas parole board
37 shall order as a condition of parole or postrelease supervision that the
38 inmate pay restitution in the amount and manner provided in the journal
39 entry unless the board finds compelling circumstances which would render
40 a plan of restitution unworkable.

41 (o) Whenever the Kansas parole board grants the parole of an inmate,
42 the board, within ~~10~~ 14 days of the date of the decision to grant parole,
43 shall give written notice of the decision to the county or district attorney of

1 the county where the inmate was sentenced.

2 (p) When an inmate is to be released on postrelease supervision, the
3 secretary, within 30 days prior to release, shall provide the county or
4 district attorney of the county where the inmate was sentenced written
5 notice of the release date.

6 (q) Inmates shall be released on postrelease supervision upon the
7 termination of the prison portion of their sentence. Time served while on
8 postrelease supervision will vest.

9 (r) An inmate who is allocated regular good time credits as provided
10 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
11 good time credits in increments of not more than 90 days per meritorious
12 act. These credits may be awarded by the secretary of corrections when an
13 inmate has acted in a heroic or outstanding manner in coming to the
14 assistance of another person in a life threatening situation, preventing
15 injury or death to a person, preventing the destruction of property or taking
16 actions which result in a financial savings to the state.

17 (s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and
18 (d)(1)(E) shall be applied retroactively as provided in subsection (t).

19 (t) For offenders sentenced prior to ~~the effective date of this act~~ **May**
20 **25, 2000** who are eligible for modification of their postrelease supervision
21 obligation, the department of corrections shall modify the period of
22 postrelease supervision as provided for by this section for offenders
23 convicted of severity level 9 and 10 crimes on the sentencing guidelines
24 grid for nondrug crimes and severity level 4 crimes on the sentencing
25 guidelines grid for drug crimes on or before September 1, 2000; for
26 offenders convicted of severity level 7 and 8 crimes on the sentencing
27 guidelines grid for nondrug crimes on or before November 1, 2000; and
28 for offenders convicted of severity level 5 and 6 crimes on the sentencing
29 guidelines grid for nondrug crimes and severity level 3 crimes on the
30 sentencing guidelines grid for drug crimes on or before January 1, 2001.

31 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
32 4643, *prior to its repeal, or section 267 of chapter 136 of the 2010 Session*
33 *Laws of Kansas*, and amendments thereto, for crimes committed on or
34 after July 1, 2006, shall be placed on parole for life and shall not be
35 discharged from supervision by the Kansas parole board. When the board
36 orders the parole of an inmate pursuant to this subsection, the board shall
37 order as a condition of parole that the inmate be electronically monitored
38 for the duration of the inmate's natural life.

39 (v) Whenever the Kansas parole board or the court orders a person to
40 be electronically monitored, the board or court shall order the person to
41 reimburse the state for all or part of the cost of such monitoring. In
42 determining the amount and method of payment of such sum, the board or
43 court shall take account of the financial resources of the person and the

1 nature of the burden that the payment of such sum will impose.
 2 Sec. 137. K.S.A. 22-3725 is hereby amended to read as follows: 22-
 3 3725. (a) Except as otherwise provided for crimes committed by inmates
 4 on or after July 1, 1993, for the purpose of determining an inmate's
 5 eligibility for parole or conditional release, regardless of when the inmate
 6 was sentenced or committed the crime for which sentenced, good time
 7 credits shall be allocated as follows:

8 GOOD TIME TABLE
 9 (Assumed 360-Day Years, 30-Day Months)

	SENTENCE		GOOD TIME EARNED		MUST SERVE	
	Minimum (or)	Maximum	Years	Months	Years	Months
13	1		0	4	0	8
14	2		1	0	1	0
15	3		1	6	1	6
16	4		2	0	2	0
17	5		2	6	2	6
18	6		3	0	3	0
19	7		3	6	3	6
20	8		4	0	4	0
21	9		4	6	4	6
22	10		5	0	5	0
23	11		5	6	5	6
24	12		6	0	6	0
25	13		6	6	6	6
26	14		7	0	7	0
27	15		7	6	7	6
28	16		8	0	8	0
29	17		8	6	8	6
30	18		9	0	9	0
31	19		9	6	9	6
32	20		10	0	10	0
33	21		10	6	10	6
34	22		11	0	11	0
35	23		11	6	11	6
36	24		12	0	12	0
37	25		12	6	12	6
38	26		13	0	13	0
39	27		13	6	13	6
40	28		14	0	14	0
41	29		14	6	14	6
42	30		15	0	15	0
43	31		15	6	15	6

1	32	16	0	16	0
2	33	16	6	16	6
3	34	17	0	17	0
4	35	17	6	17	6
5	36	18	0	18	0
6	37	18	6	18	6
7	38	19	0	19	0
8	39	19	6	19	6
9	40	20	0	20	0
10	41	20	6	20	6
11	42	21	0	21	0
12	43	21	6	21	6
13	44	22	0	22	0
14	45	22	6	22	6
15	46	23	0	23	0
16	47	23	6	23	6
17	48	24	0	24	0
18	49	24	6	24	6
19	50	25	0	25	0
20	51	25	6	25	6
21	52	26	0	26	0
22	53	26	6	26	6
23	54	27	0	27	0
24	55	27	6	27	6
25	56	28	0	28	0
26	57	28	6	28	6
27	58	29	0	29	0
28	59	29	6	29	6
29	60	30	0	30	0
30	61	30	6	30	6
31	62	31	0	31	0
32	63	31	6	31	6
33	64	32	0	32	0
34	65	32	6	32	6
35	66	33	0	33	0
36	67	33	6	33	6
37	68	34	0	34	0
38	69	34	6	34	6
39	70	35	0	35	0
40	71	35	6	35	6
41	72	36	0	36	0
42	73	36	6	36	6
43	74	37	0	37	0

1	75	37	6	37	6
2	76	38	0	38	0
3	77	38	6	38	6
4	78	39	0	39	0
5	79	39	6	39	6
6	80	40	0	40	0
7	81	40	6	40	6
8	82	41	0	41	0
9	83	41	6	41	6
10	84	42	0	42	0
11	85	42	6	42	6
12	86	43	0	43	0
13	87	43	6	43	6
14	88	44	0	44	0
15	89	44	6	44	6
16	90	45	0	45	0
17	91	45	6	45	6
18	92	46	0	46	0
19	93	46	6	46	6
20	94	47	0	47	0
21	95	47	6	47	6
22	96	48	0	48	0
23	97	48	6	48	6
24	98	49	0	49	0
25	99	49	6	49	6
26	100	50	0	50	0

27

28 (b) Maximum good time credits for sentences of less than two years
 29 shall be computed as follows: One day for every two days served and one
 30 month for every year served.

31 (c) Maximum good time credits for sentences two years or greater
 32 shall be computed as follows: One-half of the sentence.

33 (d) Good time credits shall be awarded on an earned basis pursuant to
 34 rules and regulations adopted by the secretary of corrections.

35 (e) The provisions of this section shall not apply to crimes committed
 36 by inmates on or after July 1, 1993. Good time calculations for such
 37 crimes shall be as provided in K.S.A. 21-4722, *prior to its repeal, or*
 38 *section 302 of chapter 136 of the 2010 Session Laws of Kansas,* and
 39 amendments thereto.

40 (f) An inmate shall not be awarded good time credits pursuant to this
 41 section for any review period established by the secretary of corrections in
 42 which a court finds that the inmate has done any of the following while in
 43 the custody of the secretary of corrections:

- 1 (1) Filed a false or malicious action or claim with the court;
- 2 (2) brought an action or claim with the court solely or primarily for
- 3 delay or harassment;
- 4 (3) testified falsely or otherwise submitted false evidence or
- 5 information to the court;
- 6 (4) attempted to create or obtain a false affidavit, testimony or
- 7 evidence; or
- 8 (5) abused the discovery process in any judicial action or proceeding.

9 Sec. 138. K.S.A. 2010 Supp. 22-3727 is hereby amended to read as
10 follows: 22-3727. (a) Prior to the release of any inmate on parole,
11 conditional release, expiration of sentence or postrelease supervision, if an
12 inmate is released into the community under a program under the
13 supervision of the secretary of corrections, or after the escape of an inmate
14 or death of an inmate while in the secretary of corrections' custody, the
15 secretary of corrections shall give written notice of such release, escape or
16 death to any victim of the inmate's crime who is alive and whose address is
17 known to the secretary or, if the victim is deceased, to the victim's family
18 if the family's address is known to the secretary. Such notice shall be
19 required to be given to the victim or the victim's family only if the inmate
20 was convicted of any crime in article 33, 34, 35 or 36 of chapter 21 of the
21 Kansas Statutes Annotated, *prior to their repeal, or sections 33 through*
22 *86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
23 *Laws of Kansas*, and amendments thereto. Failure to notify the victim or
24 the victim's family as provided in this section shall not be a reason for
25 postponement of parole, conditional release or other forms of release.

26 (b) As used in this section, "victim's family" means a spouse,
27 surviving spouse, children, parents, legal guardian, siblings, stepparent or
28 grandparents.

29 Sec. 139. K.S.A. 2010 Supp. 22-3727a is hereby amended to read as
30 follows: 22-3727a. (a) The secretary of corrections shall, as soon as
31 practicable, provide notification as provided in K.S.A. 22-3303, 22-3305,
32 22-3428, 22-3428a, 22-3430, 22-3431 and 22-3727, and amendments
33 thereto, and upon the escape or death of a committed defendant or inmate
34 while in the custody of the secretary of social and rehabilitation services,
35 to any victim of the defendant or inmate's crime whose address is known
36 to the secretary of corrections, and the victim's family, if so requested and
37 the family's addresses are known to the secretary of corrections. Such
38 notice shall be required to be given only if the defendant was charged with,
39 or the inmate was convicted of, any crime in article 33, 34, 35 or 36 of
40 chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, or*
41 *sections 33 through 86, 174, 210, 211 or 229 through 231 of chapter 136 of*
42 *the 2010 Session Laws of Kansas*, and amendments thereto.

43 (b) As used in this section, "victim's family" means a spouse,

1 surviving spouse, children, parents, legal guardian, siblings, stepparent or
2 grandparents.

3 Sec. 140. K.S.A. 2010 Supp. 22-4614 is hereby amended to read as
4 follows: 22-4614. No law enforcement officer, government official or
5 prosecutor shall request or require any person who is alleged to be a victim
6 of an offense described in ~~article 35 of chapter 21 of the Kansas Statutes~~
7 ~~Annotated sections 65 through 77 or 229 through 231 of chapter 136 of the~~
8 ~~2010 Session Laws of Kansas~~, and amendments thereto, incest as defined
9 in ~~K.S.A. 21-3602~~ subsection (a) of section 81 of chapter 136 of the 2010
10 ~~Session Laws of Kansas~~, and amendments thereto, or aggravated incest as
11 defined in subsection (a)(2) of ~~K.S.A. 21-3603~~ subsection (b)(2) of section
12 ~~81 of chapter 136 of the 2010 Session Laws of Kansas~~, and amendments
13 thereto, to submit to a polygraph examination or similar truth telling
14 device as a condition for proceeding with an investigation, or charging or
15 prosecuting such an offense.

16 Sec. 141. K.S.A. 2010 Supp. 22-4616 is hereby amended to read as
17 follows: 22-4616. (a) On and after July 1, 2011, in all criminal cases, if
18 there is evidence that the defendant committed a domestic violence
19 offense, the trier of fact shall determine whether the defendant committed
20 a domestic violence offense.

21 (1) Except as provided further, if the trier of fact determines that the
22 defendant committed a domestic violence offense, the court shall place a
23 domestic violence designation on the criminal case and the defendant shall
24 be subject to the provisions of subsection (p) of ~~K.S.A. 21-4603~~ ~~section~~
25 ~~244 of chapter 136 of the 2010 Session Laws of Kansas~~, and amendments
26 thereto.

27 (2) The court shall not place a domestic violence designation on the
28 criminal case and the defendant shall not be subject to the provisions of
29 subsection (p) of ~~K.S.A. 21-4603~~ ~~section 244 of chapter 136 of the 2010~~
30 ~~Session Laws of Kansas~~, and amendments thereto, only if the court finds
31 on the record that:

32 (A) The defendant has not previously committed a domestic violence
33 offense or participated in a diversion upon a complaint alleging a domestic
34 violence offense; and

35 (B) the domestic violence offense was not used to coerce, control,
36 punish, intimidate or take revenge against a person with whom the
37 offender is involved or has been involved in a dating relationship or
38 against a family or household member.

39 (b) The term "domestic violence offense" shall have the meaning
40 provided in ~~K.S.A. 21-3110~~ ~~section 11 of chapter 136 of the 2010 Session~~
41 ~~Laws of Kansas~~, and amendments thereto.

42 (c) This section shall be a part of and supplemental to the Kansas
43 code for criminal procedure.

1 Sec. 142. K.S.A. 2010 Supp. 22-4617 is hereby amended to read as
2 follows: 22-4617. In all criminal cases, when a complaint is filed charging
3 a defendant with commission of any crime whereby the underlying factual
4 basis includes an act of domestic violence, as defined in ~~K.S.A. 21-~~
5 ~~3110~~*section 11 of chapter 136 of the 2010 Session Laws of Kansas*, and
6 amendments thereto, the court may place a "DV" designation in the unique
7 identifying case number assigned to such case. Nothing in this section
8 shall be construed to limit the courts of this state from adopting a system
9 of case designation deemed by the courts to be beneficial to the efficient
10 administration of justice.

11 Sec. 143. K.S.A. 22-4807a is hereby amended to read as follows: 22-
12 4807a. (a) The following property is subject to forfeiture pursuant to this
13 act:

14 (1) Contraband property used or intended to be used in the
15 commission of theft of livestock;

16 (2) the proceeds gained from the commission of theft of livestock;

17 (3) personal property acquired with proceeds gained from the
18 commission of theft of livestock;

19 (4) all conveyances, including aircraft, vehicles, vessels, horses or
20 dogs which are used or intended for the use to transport or in any manner
21 to facilitate the transportation for the purpose of the commission of theft of
22 livestock. No conveyance used by any person as a common carrier in the
23 transportation of business as a common carrier is subject to forfeiture
24 under this section unless it appears that the owner or other person in
25 charge of the conveyance is a consenting party or privy to a violation of
26 this act. No conveyance is subject to forfeiture under this section by reason
27 of any act or omission established by the owners thereof to have been
28 committed or omitted without the owners knowledge or consent. A
29 forfeiture of a conveyance encumbered by a bona fide security interest is
30 subject to the interest of the secured party or parties;

31 (5) all books, records and research products and materials including
32 microfilm, tapes and data which are used or intended for the use in the
33 theft of livestock;

34 (6) everything of value furnished, or intended to be furnished or
35 traded or used as payment or invested for anything of value but shall not
36 include real property. It may be presumed that this property was acquired
37 with proceeds gained from the commission of theft of livestock and are
38 subject to forfeiture;

39 (b) Property which is used in the commission of theft of livestock
40 which has title of ownership with two parties on the title or a cosigner is
41 subject to forfeiture, if one party on the title uses the property in the
42 commission of theft of livestock or receives titled property as the proceeds
43 of such felony even if the second party claims that such second party did

1 not have knowledge or involvement in such felony.

2 (c) As used in this act: (1) "Contraband property" means property of
3 any nature including personal, tangible or intangible but shall not include
4 real property.

5 (2) "Livestock" means cattle, swine, sheep, goats, horses, mules,
6 domesticated deer and all creatures of the ratite family that are not
7 indigenous to this state, including but not limited to ostriches, emus and
8 rheas, and any carcass, skin or part of such animal.

9 (3) "Theft of livestock" means theft which is classified as a felony
10 violation, pursuant to ~~K.S.A. 21-3704~~ *section 87 of chapter 136 of the*
11 *2010 Session Laws of Kansas*, and amendments thereto, in which the
12 property taken was livestock.

13 (4) "Domesticated deer" means any member of the family cervidae
14 which was legally obtained and is being sold or raised in a confined area
15 for breeding stock; for any carcass, skin or part of such animal; for
16 exhibition; or for companionship.

17 Sec. 144. K.S.A. 2010 Supp. 22-4902 is hereby amended to read as
18 follows: 22-4902. As used in the Kansas offender registration act, unless
19 the context otherwise requires:

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

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

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

23 (4) any person who, on and after May 29, 1997, is convicted of any of
24 the following crimes when the victim is less than 18 years of age:

25 (A) Kidnapping as defined in K.S.A. 21-3420, *prior to its repeal, or*
26 *subsection (a) of section 43 of chapter 136 of the 2010 Session Laws of*
27 *Kansas*, and amendments thereto, except by a parent;

28 (B) aggravated kidnapping as defined in K.S.A. 21-3421, *prior to its*
29 *repeal, or subsection (b) of section 43 of chapter 136 of the 2010 Session*
30 *Laws of Kansas*, and amendments thereto; or

31 (C) criminal restraint as defined in K.S.A. 21-3424, *prior to its*
32 *repeal, or section 46 of chapter 136 of the 2010 Session Laws of Kansas*,
33 and amendments thereto, except by a parent;

34 (5) any person convicted of any of the following criminal sexual
35 conduct if one of the parties involved is less than 18 years of age:

36 (A) Adultery as defined by K.S.A. 21-3507, *prior to its repeal, or*
37 *section 75 of chapter 136 of the 2010 Session Laws of Kansas*, and
38 amendments thereto;

39 (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-
40 3505, *prior to its repeal, or subsection (a)(1) or (a)(2) of section 68 of*
41 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

42 (C) promoting prostitution as defined by K.S.A. 21-3513, *prior to its*
43 *repeal, or section 230 of chapter 136 of the 2010 Session Laws of Kansas*,

1 and amendments thereto;

2 (D) patronizing a prostitute as defined by K.S.A. 21-3515, *prior to its*
3 *repeal, or section 231 of chapter 136 of the 2010 Session Laws of Kansas,*
4 and amendments thereto; or

5 (E) lewd and lascivious behavior as defined by K.S.A. 21-3508, *prior*
6 *to its repeal, or section 77 of chapter 136 of the 2010 Session Laws of*
7 *Kansas,* and amendments thereto;

8 (6) any person who has been required to register under any federal,
9 military or other state's law or is otherwise required to be registered;

10 (7) any person who, on or after July 1, 2006, is convicted of any
11 person felony and the court makes a finding on the record that a deadly
12 weapon was used in the commission of such person felony;

13 (8) any person who has been convicted of an offense in effect at any
14 time prior to May 29, 1997, that is comparable to any crime defined in
15 subsection (4), (5), (7) or (11), or any federal, military or other state
16 conviction for an offense that under the laws of this state would be an
17 offense defined in subsection (4), (5), (7) or (11);

18 (9) any person who has been convicted of an attempt, conspiracy or
19 criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303,
20 *prior to their repeal, or section 33, 34 or 35 of chapter 136 of the 2010*
21 *Session Laws of Kansas,* and amendments thereto, of an offense defined in
22 subsection (4), (5), (7) or (10);

23 (10) any person who has been convicted of aggravated human
24 trafficking as defined in K.S.A. 21-3447, *prior to its repeal, or subsection*
25 *(b) of section 61 of chapter 136 of the 2010 Session Laws of Kansas,* and
26 amendments thereto; or

27 (11) any person who has been convicted of: (A) Unlawful
28 manufacture or attempting such of any controlled substance or controlled
29 substance analog as defined by K.S.A. 65-4159, prior to its repeal, or
30 K.S.A. 2010 Supp. 21-36a03, and amendments thereto, unless the court
31 makes a finding on the record that the manufacturing or attempting to
32 manufacture such controlled substance was for such person's personal use;

33 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
34 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
35 ammonia or phenylpropanolamine, or their salts, isomers or salts of
36 isomers with intent to use the product to manufacture a controlled
37 substance as defined by subsection (a) of K.S.A. 65-7006, prior to its
38 repeal, or subsection (a) of K.S.A. 2010 Supp. 21-36a09, and amendments
39 thereto, unless the court makes a finding on the record that the possession
40 of such product was intended to be used to manufacture a controlled
41 substance for such person's personal use; or

42 (C) K.S.A. 65-4161, prior to its repeal, or subsection (a)(1) of K.S.A.
43 2010 Supp. 21-36a05, and amendments thereto. The provisions of this

1 paragraph shall not apply to violations of subsections (a)(2) through (a)(6)
2 or (b) of K.S.A. 2010 Supp. 21-36a05, and amendments thereto, which
3 occurred on and after July 1, 2009, through ~~the effective date of this~~
4 ~~act~~ *April 15, 2010.*

5 Convictions which result from or are connected with the same act, or
6 result from crimes committed at the same time, shall be counted for the
7 purpose of this section as one conviction. Any conviction set aside
8 pursuant to law is not a conviction for purposes of this section. A
9 conviction from another state shall constitute a conviction for purposes of
10 this section.

11 (b) "Sex offender" includes any person who, on or after April 14,
12 1994, is convicted of any sexually violent crime set forth in subsection (c)
13 or is adjudicated as a juvenile offender for an act which if committed by an
14 adult would constitute the commission of a sexually violent crime set forth
15 in subsection (c).

16 (c) "Sexually violent crime" means:

17 (1) Rape as defined in K.S.A. 21-3502, *prior to its repeal, or section*
18 *67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
19 thereto;

20 (2) indecent liberties with a child as defined in K.S.A. 21-3503, *prior*
21 *to its repeal, or subsection (a) of section 70 of chapter 136 of the 2010*
22 *Session Laws of Kansas*, and amendments thereto;

23 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-
24 3504, *prior to its repeal, or subsection (b) of section 70 of chapter 136 of*
25 *the 2010 Session Laws of Kansas*, and amendments thereto;

26 (4) criminal sodomy as defined in subsection (a)(2) ~~and~~ (a)(3) of
27 K.S.A. 21-3505, *prior to its repeal, or subsection (a)(3) or (a)(4) of*
28 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
29 amendments thereto;

30 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, *prior*
31 *to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010*
32 *Session Laws of Kansas*, and amendments thereto;

33 (6) indecent solicitation of a child as defined by K.S.A. 21-3510,
34 *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the*
35 *2010 Session Laws of Kansas*, and amendments thereto;

36 (7) aggravated indecent solicitation of a child as defined by K.S.A.
37 21-3511, *prior to its repeal, or subsection (b) of section 72 of chapter 136*
38 *of the 2010 Session Laws of Kansas*, and amendments thereto;

39 (8) sexual exploitation of a child as defined by K.S.A. 21-3516, *prior*
40 *to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of*
41 *Kansas*, and amendments thereto;

42 (9) sexual battery as defined by K.S.A. 21-3517, *prior to its repeal,*
43 *or subsection (a) of section 69 of chapter 136 of the 2010 Session Laws of*

1 *Kansas*, and amendments thereto;

2 (10) aggravated sexual battery as defined by K.S.A. 21-3518, *prior to*
3 *its repeal, or subsection (b) of section 69 of chapter 136 of the 2010*
4 *Session Laws of Kansas*, and amendments thereto;

5 (11) aggravated incest as defined by K.S.A. 21-3603, *prior to its*
6 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
7 *Laws of Kansas*, and amendments thereto;

8 (12) electronic solicitation as defined by K.S.A. 21-3523, *prior to its*
9 *repeal, and section 73 of chapter 136 of the 2010 Session Laws of*
10 *Kansas*, and amendments thereto, committed on or after April 17, 2008;

11 (13) unlawful sexual relations as defined by K.S.A. 21-3520, *prior to*
12 *its repeal, or section 76 of chapter 136 of the 2010 Session Laws of*
13 *Kansas*, and amendments thereto, committed on or after July 1, 2010;

14 (14) any conviction for an offense in effect at any time prior to April
15 29, 1993, that is comparable to a sexually violent crime as defined in
16 subparagraphs (1) through (11), or any federal, military or other state
17 conviction for an offense that under the laws of this state would be a
18 sexually violent crime as defined in this section;

19 (15) an attempt, conspiracy or criminal solicitation, as defined in
20 K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or section 33,*
21 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas*, and
22 amendments thereto, of a sexually violent crime, as defined in this section;
23 or

24 (16) any act which at the time of sentencing for the offense has been
25 determined beyond a reasonable doubt to have been sexually motivated.
26 As used in this subparagraph, "sexually motivated" means that one of the
27 purposes for which the defendant committed the crime was for the purpose
28 of the defendant's sexual gratification.

29 (d) "Violent offender" includes any person who, on or after May 29,
30 1997, is convicted of any of the following crimes:

31 (1) Capital murder as defined by K.S.A. 21-3439, *prior to its repeal,*
32 *or section 36 of chapter 136 of the 2010 Session Laws of Kansas*, and
33 amendments thereto;

34 (2) murder in the first degree as defined by K.S.A. 21-3401, *prior to*
35 *its repeal, or section 37 of chapter 136 of the 2010 Session Laws of*
36 *Kansas*, and amendments thereto;

37 (3) murder in the second degree as defined by K.S.A. 21-3402, *prior*
38 *to its repeal, or section 38 of chapter 136 of the 2010 Session Laws of*
39 *Kansas*, and amendments thereto;

40 (4) voluntary manslaughter as defined by K.S.A. 21-3403, *prior to its*
41 *repeal, or section 39 of chapter 136 of the 2010 Session Laws of Kansas*,
42 and amendments thereto;

43 (5) involuntary manslaughter as defined by K.S.A. 21-3404, *prior to*

1 *its repeal, or section 40 of chapter 136 of the 2010 Session Laws of*
2 *Kansas, and amendments thereto;*

3 (6) any conviction for an offense in effect at any time prior to May
4 29, 1997, that is comparable to any crime defined in this subsection, or any
5 federal, military or other state conviction for an offense that under the laws
6 of this state would be an offense defined in this subsection; or

7 (7) an attempt, conspiracy or criminal solicitation, as defined in
8 K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or section 33,*
9 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and*
10 *amendments thereto, of an offense defined in this subsection.*

11 (e) "Law enforcement agency having jurisdiction" means the sheriff
12 of the county in which the offender expects to reside upon the offender's
13 discharge, parole or release.

14 (f) "Sexually violent predator" means any person who, on or after
15 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
16 59-29a01 et seq., and amendments thereto.

17 (g) "Nonresident student or worker" includes any offender who
18 crosses into the state or county for more than 14 days, or for an aggregate
19 period exceeding 30 days in a calendar year, for the purposes of
20 employment, with or without compensation, or to attend school as a
21 student.

22 (h) "Aggravated offenses" means engaging in sexual acts involving
23 penetration with victims of any age through the use of force or the threat
24 of serious violence, or engaging in sexual acts involving penetration with
25 victims less than 14 years of age, and includes the following offenses:

26 (1) Rape as defined in subsection (a)(1)(A) ~~and subsection (a)(2)~~
27 *K.S.A. 21-3502, prior to its repeal, or subsection (a)(1)(A) or (a)(3)*
28 *section 67 of chapter 136 of the 2010 Session Laws of Kansas, and*
29 *amendments thereto;*

30 (2) aggravated criminal sodomy as defined in subsection (a)(1) ~~and~~
31 ~~subsection (a)(3)(A)~~ of K.S.A. 21-3506, *prior to its repeal, or*
32 *subsection (b)(1) or (b)(3)(A) of section 68 of chapter 136 of the 2010*
33 *Session Laws of Kansas, and amendments thereto; and*

34 (3) any attempt, conspiracy or criminal solicitation, as defined in
35 K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or section 33,*
36 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and*
37 *amendments thereto, of an offense defined in this subsection.*

38 (i) "Institution of higher education" means any postsecondary school
39 under the supervision of the Kansas board of regents.

40 Sec. 145. K.S.A. 2010 Supp. 22-4906 is hereby amended to read as
41 follows: 22-4906. (a) Except as provided in subsection (d), any person
42 required to register as provided in this act shall be required to register: (1)
43 Upon the first conviction of a sexually violent crime as defined in

1 subsection (c) of K.S.A. 22-4902, and amendments thereto, any offense as
2 defined in subsection (a) of K.S.A. 22-4902, and amendments thereto, or
3 any offense as defined in subsection (d) of K.S.A. 22-4902, and
4 amendments thereto, if not confined, for a period of 10 years after
5 conviction, or, if confined, for a period of 10 years after paroled,
6 discharged or released, whichever date is most recent. The ten-year period
7 shall not apply to any person while the person is incarcerated in any jail or
8 correctional facility. The ten-year registration requirement does not include
9 any time period when any person who is required to register under this act
10 knowingly or willfully fails to comply with the registration requirement; or
11 (2) upon a second or subsequent conviction for such person's lifetime.

12 (b) Upon the first conviction, liability for registration terminates, if
13 not confined, at the expiration of 10 years from the date of conviction, or,
14 if confined, at the expiration of 10 years from the date of parole, discharge
15 or release, whichever date is most recent. The ten-year period shall not
16 apply to any person while the person is incarcerated in any jail or
17 correctional facility. The ten-year registration requirement does not include
18 any time period when any person who is required to register under this act
19 knowingly or willfully fails to comply with the registration requirement.
20 Liability for registration does not terminate if the convicted offender again
21 becomes liable to register as provided by this act during that period.

22 (c) Any person who has been convicted of an aggravated offense
23 shall be required to register for such person's lifetime.

24 (d) Any person who has been convicted of any of the following
25 offenses shall be required to register for such person's lifetime:

26 (1) Aggravated human trafficking, as defined in K.S.A. 21-3447,
27 *prior to its repeal, or section 61 of chapter 136 of the 2010 Session Laws*
28 *of Kansas*, and amendments thereto, if the victim is less than 14 years of
29 age;

30 (2) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, *prior to*
31 *its repeal, or subsection (a)(3) of section 67 of chapter 136 of the 2010*
32 *Session Laws of Kansas*, and amendments thereto;

33 (3) aggravated indecent liberties with a child, as defined in subsection
34 (a)(3) of K.S.A. 21-3504, *prior to its repeal, or subsection (b)(3) of*
35 *section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and
36 amendments thereto;

37 (4) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)
38 (2) of K.S.A. 21-3506, *prior to its repeal, or subsection (b)(1) or (b)(2) of*
39 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
40 amendments thereto;

41 (5) promoting prostitution, as defined in K.S.A. 21-3513, *prior to its*
42 *repeal, or section 230 of chapter 136 of the 2010 Session Laws of Kansas*,
43 and amendments thereto, if the prostitute is less than 14 years of age;

1 (6) sexual exploitation of a child, as defined in subsection (a)(5) or
2 (a)(6) of K.S.A. 21-3516, *prior to its repeal, or subsection (a)(1) or (a)(4)*
3 *of section 74 of chapter 136 of the 2010 Session Laws of Kansas, and*
4 *amendments thereto, if the child is less than 14 years of age and*
5 ~~amendments thereto~~; or

6 (7) any attempt, conspiracy or criminal solicitation, as defined in
7 K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or section 33,*
8 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas,* and
9 amendments thereto, of an offense defined in this subsection.

10 (e) Any person who has been declared a sexually violent predator
11 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall
12 register for such person's lifetime.

13 (f) Any nonresident worker shall register for the duration of such
14 person's employment. The provisions of this subsection are in addition to
15 subsections (a) and (b).

16 (g) Any nonresident student shall register for the duration of such
17 person's attendance at a school or educational institution as provided in
18 this act. The provisions of this subsection are in addition to subsections (a)
19 and (b).

20 (h) (1) Notwithstanding any other provisions of this section, a person
21 who is adjudicated as a juvenile offender for an act which if committed by
22 an adult would constitute the commission of a sexually violent crime set
23 forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and
24 such crime is an off-grid felony or a felony ranked in severity level 1 of
25 the nondrug grid as provided in K.S.A. 21-4704, *prior to its repeal, or*
26 *section 285 of chapter 136 of the 2010 Session Laws of Kansas,* and
27 amendments thereto, shall be required to register until such person reaches
28 18 years of age, at the expiration of five years from the date of
29 adjudication or, if confined, from release from confinement, whichever
30 date occurs later. The five-year period shall not apply to any person while
31 that person is incarcerated in any jail, juvenile facility or correctional
32 facility. The five-year registration requirement does not include any time
33 period when any person who is required to register under this act
34 knowingly or willfully fails to comply with the registration requirement.

35 (2) (A) A person who is adjudicated as a juvenile offender for an act
36 which if committed by an adult would constitute the commission of a
37 sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and
38 amendments thereto, and such crime is not an off-grid felony or a felony
39 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
40 4704, *prior to its repeal, or section 285 of chapter 136 of the 2010 Session*
41 *Laws of Kansas,* and amendments thereto, may, by the court:

42 (i) Be required to register pursuant to the provisions of paragraph (1);

43 (ii) not be required to register if the judge, on the record, finds

1 substantial and compelling reasons therefor; or

2 (iii) be required to register with the sheriff pursuant to K.S.A. 22-
3 4904, and amendments thereto, but such registration information shall not
4 be open to inspection by the public or posted on any internet website, as
5 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
6 the juvenile to register but such registration is not open to the public, the
7 juvenile shall provide a copy of such court order to the sheriff at the time
8 of registration. The sheriff shall forward a copy of such court order to the
9 Kansas bureau of investigation.

10 (B) If such juvenile offender violates a condition of release during the
11 term of the conditional release, the judge may require the juvenile offender
12 to register pursuant to paragraph (1).

13 (3) Liability for registration does not terminate if the adjudicated
14 offender again becomes liable to register as provided by this act during the
15 required period.

16 (4) The provisions of paragraph (2)(A)(ii) shall apply to adjudications
17 on and after July 1, 2007, and retroactively to adjudications prior to July 1,
18 2007.

19 (i) Any person moving to the state of Kansas who has been convicted
20 in another state, and who was required to register under that state's laws,
21 shall register for the same length of time required by that state or Kansas,
22 whichever length of time is longer. The provisions of this subsection shall
23 apply to convictions prior to June 1, 2006, and to persons who moved to
24 Kansas prior to June 1, 2006.

25 Sec. 146. K.S.A. 2010 Supp. 28-177 is hereby amended to read as
26 follows: 28-177. (a) Except as provided further, the fees established by
27 legislative enactment shall be the only fee collected or moneys in the
28 nature of a fee collected for court procedures. Such fee shall only be
29 established by an act of the legislature and no other authority is established
30 by law or otherwise to collect a fee. Court procedures shall include docket
31 fees, filing fees or other fees related to access to court procedures. On and
32 after the effective date of this act through June 30, 2011, the supreme court
33 may impose an additional charge, not to exceed \$21 per fee or the amount
34 established by the applicable statute, whichever amount is less, to fund the
35 costs of non-judicial personnel.

36 (b) Any additional charge imposed by the court pursuant to K.S.A. 8-
37 2107, 8-2110, ~~21-4619~~, 22-2410, 23-108a, 28-170, 28-172a, 59-104, 60-
38 1621, 60-2001, 60-2203a, 61-2704 and 61-4001 ~~and~~, K.S.A. 2010 Supp.
39 28-178, 38-2215, 38-2312 and 38-2314, *and section 254 of chapter 136 of*
40 *the 2010 Session Laws of Kansas*, and amendments thereto, shall be
41 remitted to the state treasurer in accordance with the provisions of K.S.A.
42 75-4215, and amendments thereto. Upon receipt of each such remittance,
43 the state treasurer shall deposit the entire amount in the state treasury to

1 the credit of the judicial branch surcharge fund, which is hereby created in
2 the state treasury.

3 (c) All moneys credited to the judicial branch surcharge fund shall be
4 used for compensation of non-judicial personnel and shall not be expended
5 for compensation of judges or justices of the judicial branch.

6 (d) All expenditures from the judicial branch surcharge fund shall be
7 made in accordance with appropriation acts and upon warrants of the
8 director of accounts and reports issued pursuant to payrolls approved by
9 the chief justice of the Kansas supreme court or by a person or persons
10 designated by the chief justice.

11 Sec. 147. K.S.A. 2010 Supp. 32-1013 is hereby amended to read as
12 follows: 32-1013. (a) Any landowner or person in lawful possession of any
13 land may post such land with signs stating that hunting, trapping or fishing
14 on such land shall be by written permission only. It is unlawful for any
15 person to take wildlife on land which is posted as provided in this
16 subsection, without having in the person's possession the written
17 permission of the owner or person in lawful possession thereof.

18 (b) Instead of posting land as provided in subsection (a), any
19 landowner or person in lawful possession of any land may post such land
20 by placing identifying purple paint marks on trees or posts around the area
21 to be posted. Each paint mark shall be a vertical line of at least eight
22 inches in length and the bottom of the mark shall be no less than three feet
23 nor more than five feet high. Such paint marks shall be readily visible to
24 any person approaching the land. Land posted as provided in this
25 subsection shall be considered to be posted by written permission only as
26 provided in subsection (a).

27 (c) A person licensed to hunt or furharvest who is following or
28 pursuing a wounded animal on land as provided in this section posted
29 without written permission of the landowner or person in lawful
30 possession thereof shall not be in violation of this section while in such
31 pursuit, except that the provisions of this subsection shall not authorize a
32 person to remain on such land if instructed to leave by the owner or person
33 in lawful possession of the land. Any person who fails to leave such land
34 when instructed is subject to the provisions of subsection (b) of ~~K.S.A. 21-~~
35 ~~3728~~ *section 96 of chapter 136 of the 2010 Session Laws of Kansas*, and
36 amendments thereto.

37 (d) Any person convicted of violating provisions of this section shall
38 be subject to the penalties prescribed in K.S.A. 32-1031, and amendments
39 thereto, except as provided in K.S.A. 32-1032, and amendments thereto,
40 relating to big game and wild turkey.

41 Sec. 148. K.S.A. 2010 Supp. 32-1047 is hereby amended to read as
42 follows: 32-1047. The department is hereby empowered and directed to
43 seize and possess any wildlife which is taken, possessed, sold or

1 transported unlawfully, and any steel trap, snare or other device or
2 equipment used in taking or transporting wildlife unlawfully or during
3 closed season. The department is hereby authorized and directed to:

4 (a) Sell the seized item, including wildlife parts with a dollar value,
5 and remit the proceeds to the state treasurer in accordance with the
6 provisions of K.S.A. 75-4215, and amendments thereto. If the seized item
7 is a firearm that has been forfeited pursuant to ~~K.S.A. 21-4206~~*section 192*
8 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
9 thereto, then it may be sold unless: (1) The firearm is significantly altered
10 in any manner; or (2) the sale and public possession of such firearm is
11 otherwise prohibited by law. Upon receipt of each such remittance, the
12 state treasurer shall deposit the entire amount in the state treasury to the
13 credit of the wildlife fee fund; or

14 (b) retain the seized item for educational, scientific or department
15 operational purposes.

16 Sec. 149. K.S.A. 2010 Supp. 32-1063 is hereby amended to read as
17 follows: 32-1063. It shall be unlawful for any person whose license,
18 privilege, or right to hunt, fish, trap, possess, or transport wildlife, having
19 been suspended or revoked pursuant to the wildlife violator compact, to
20 exercise that right or privilege within this state or to purchase or possess
21 such a license which grants such right or privilege.

22 (a) Any person who knowingly hunts, fishes, traps, possesses, or
23 transports any wildlife, or attempts to do any of the same, within this state
24 in violation of such suspension or revocation pursuant to the wildlife
25 violator compact shall be guilty of a class A nonperson misdemeanor and
26 sentenced to the following:

27 (1) A fine of not less than \$1,500 nor more than \$5,000; and

28 (2) any privilege or right to hunt, fish, trap or otherwise take, possess
29 or transport any wildlife in this state, or purchase or possess any license,
30 permit, stamp or other issue of the Kansas department of wildlife and
31 parks shall be forfeited or suspended for a period of not less than two years
32 nor more than five years in addition to and consecutive to the original
33 revocation or suspension set forth by the provisions of the compact;

34 (3) the sentencing judge may impose other sanctions pursuant to
35 ~~K.S.A. 21-4502 and 21-4603~~*sections 242 and 244 of chapter 136 of the*
36 *2010 Session Laws of Kansas*, and amendments thereto.

37 (b) Any person who knowingly purchases or possesses, or attempts to
38 purchase or possess, a license to hunt, fish, trap, possess or transport
39 wildlife in this state in violation of such suspension or revocation pursuant
40 to the wildlife violator compact shall be guilty of a class A nonperson
41 misdemeanor and sentenced to the following:

42 (1) A fine of not less than \$750 nor more than \$2,500; and

43 (2) any privilege or right to hunt, fish, trap or otherwise take, possess

1 or transport any wildlife in this state, or purchase or possess any license,
 2 permit, stamp or other issue of the Kansas department of wildlife and
 3 parks shall be forfeited or suspended for a period of not less than two years
 4 in addition to and consecutive to the original revocation or suspension set
 5 forth by the provisions of the compact;

6 (3) the sentencing judge may impose other sanctions pursuant to
 7 ~~K.S.A. 21-4502 and 21-4603~~ *sections 242 and 244 of chapter 136 of the*
 8 *2010 Session Laws of Kansas*, and amendments thereto.

9 Sec. 150. K.S.A. 34-228 is hereby amended to read as follows: 34-
 10 228. (a) Any person desiring to engage in business as a public
 11 warehouseman in this state shall, before the transaction of any such
 12 business, make written application to the secretary for a license for each
 13 separate warehouse or, if the applicant owns more than one warehouse at
 14 one point, all of such warehouses may be incorporated in one application,
 15 at which the person desires to engage in such business. The application for
 16 a license shall be on a form designated by the secretary and shall contain
 17 the individual name and address of each person interested as principal in
 18 the business and, if the business is operated or to be operated by a
 19 corporation, setting forth the names of the president and secretary, and
 20 such further information as the secretary may require.

21 (b) (1) Every application for a public warehouse license shall be
 22 accompanied by a current financial statement. The statement shall include
 23 such information as required by the secretary to administer and enforce the
 24 public warehouse laws of this state, including, but not limited to a current
 25 balance sheet, statement of income, including profit and loss, statement of
 26 retained earnings and statement of changes in financial position. The
 27 applicant shall certify under oath that the statement as prepared accurately
 28 reflects the financial condition of the applicant as of the date specified and
 29 presents fairly the results of operations of the applicant's public warehouse
 30 business for the period specified. The financial statement shall be prepared
 31 in accordance with generally accepted accounting principles and shall be
 32 accompanied by: (A) A report of audit or review conducted by an
 33 independent certified public accountant or an independent public
 34 accountant in accordance with standards established by the American
 35 institute of certified public accountants and the accountant's certifications,
 36 assurances, opinions, comments and notes with respect to the statement; or
 37 (B) a compilation report of the financial statement, prepared by a grain
 38 commission firm or management firm which is authorized pursuant to
 39 rules and regulations of the federal commodity credit corporation to
 40 provide compilation reports of financial statements of warehousemen.

41 (2) Except as otherwise provided, the secretary, upon request of an
 42 applicant, may grant a waiver of the requirements of this subsection for a
 43 period of not more than 30 days if the applicant furnishes evidence of good

1 and substantial reasons for the waiver. The secretary may extend such
2 waiver beyond 30 days for grain stored in an alternative location other
3 than a location identified in the public warehouse license, if the secretary
4 determines that the owner of the grain would suffer substantial hardship to
5 require the grain to be stored at a location identified in the license. The
6 secretary may determine what constitutes substantial hardship and what
7 length of time the grain may be stored at such alternative location.

8 (c) (1) Every applicant for a license to operate one or more public
9 warehouses and every person licensed to operate one or more warehouses
10 shall at all times maintain total net worth liable for the payment of any
11 indebtedness arising from the conduct of the warehouse or warehouses
12 equal to at least \$.25 per bushel of the storage capacity of the warehouse or
13 warehouses except: (A) No person shall be granted a license or shall
14 continue to be licensed unless the person has a net worth of at least
15 \$25,000; and (B) any deficiency in net worth required above the \$25,000
16 minimum may be supplied by an increase in the amount of the applicant's
17 or licensee's bond or letter of credit as provided by K.S.A. 34-229 and
18 amendments thereto.

19 (2) In determining total net worth: (A) Credit may be given for
20 insurable property such as buildings, machinery, equipment and
21 merchandise inventory only to the extent that the property is protected by
22 insurance against loss or damage by fire; and (B) capital stock, as such,
23 shall not be considered a liability.

24 (d) No license shall be issued to a person or entity not previously
25 licensed in this state and making application for an original license who, in
26 this state or any other jurisdiction, within the 10 years immediately prior to
27 the date of the application of the person or entity for a license, has been
28 convicted of or has pleaded guilty or *nolo contendere* to any crime which
29 would constitute:

30 (1) Embezzlement;

31 (2) any felony defined in any statute contained in article 37 of chapter
32 21 of the Kansas Statutes Annotated, *prior to their repeal, or sections 87*
33 *through 125 and subsection (a)(6) of section 223 of chapter 136 of the*
34 *2010 Session Laws of Kansas*, and amendments thereto;

35 (3) unauthorized delivery of stored goods;

36 (4) any felony defined in any statute contained in chapter 34 of the
37 Kansas Statutes Annotated, and amendments thereto; or

38 (5) a violation of the United States warehouse act (7 U.S.C. § 241 *et*
39 *seq.*).

40 (e) The secretary may investigate any applicant making application
41 for an original license for the purpose of determining if such person would
42 be qualified to receive such license under the provisions of this section.

43 (f) (1) Every application for a public warehouse license shall be

1 accompanied by a license fee which shall be determined and fixed by the
 2 secretary by rules and regulations. The license fee shall not be more than
 3 the applicable amount shown in the following fee schedule plus not more
 4 than \$500 for each functional unit:

5 Capacity in Bushels	ANNUAL FEE
	6 Not more
	7 than
8 1 to 100,000.....	\$500.00
9 100,001 to 150,000.....	525
10 150,001 to 250,000.....	550
11 250,001 to 300,000.....	600
12 300,001 to 350,000.....	625
13 350,001 to 400,000.....	650
14 400,001 to 450,000.....	700
15 450,001 to 500,000.....	725
16 500,001 to 600,000.....	775
17 600,001 to 700,000.....	800
18 700,001 to 800,000.....	850
19 800,001 to 900,000.....	875
20 900,001 to 1,000,000.....	900
21 1,000,001 to 1,750,000.....	1225
22 1,750,001 to 2,500,000.....	1400
23 2,500,001 to 5,000,000.....	1750
24 5,000,001 to 7,500,000.....	2100
25 7,500,001 to 10,000,000.....	2375
26 10,000,001 to 12,500,000.....	2600
27 12,500,001 to 15,000,000.....	2800
28 15,000,001 to 17,500,000.....	3000
29 17,500,001 to 20,000,000.....	3225
30 For each 2,500,000 bushels or fraction over	
31 20,000,000 bushels.....	350

32
 33 (2) Whenever a licensed warehouseman purchases or acquires
 34 additional facilities, the warehouseman, if otherwise qualified, may
 35 acquire a license for the remainder of an unexpired license period by
 36 paying to the secretary a license fee computed as follows: If the unexpired
 37 license period is nine months or more, the annual fee; if the unexpired
 38 license period is more than six months and less than nine months, 75% of
 39 the annual fee; if the unexpired license period is more than three months
 40 and not more than six months, 50% of the annual fee; and if the unexpired
 41 license period is three months or less than three months, 25% of the annual
 42 fee.

43 (3) In addition to any other applicable fee, the secretary shall charge

1 and collect a fee each time a public warehouse license is amended in an
2 amount of not more than \$300 which shall be determined and fixed by the
3 secretary by rules and regulations.

4 (4) Nothing in this subsection shall be construed to authorize a refund
5 for any unused portion of an issued license.

6 (g) The secretary shall examine each warehouse operated by a
7 licensed public warehouseman at least once in each 12-month period. The
8 licensed public warehouseman may request additional examinations of any
9 warehouse operated by the warehouseman. The cost of additional
10 examinations when requested by the warehouseman shall be charged to the
11 warehouseman requesting the examination. The cost of each additional
12 examination requested by a warehouseman shall be an amount determined
13 therefor in accordance with an hourly rate fixed by the secretary of not
14 more than \$50 per hour, subject to a minimum charge of four hours for the
15 examination, plus amounts for subsistence expense at the rate fixed under
16 K.S.A. 75-3207a, and amendments thereto and for mileage expense in
17 accordance with the schedule of charges established under K.S.A. 75-
18 4607, and amendments thereto. The secretary, at the secretary's discretion,
19 may make additional examinations of a warehouse and if a discrepancy is
20 found on that examination, or if one was found on the last previous
21 examination, the cost of the examination shall be paid by the
22 warehouseman.

23 (h) When the secretary authorizes a grain handling facility to be
24 physically monitored, pursuant to subsection (a)(3) of K.S.A. 34-102, and
25 amendments thereto, the cost and expenses of the monitoring shall be paid
26 by the owner of the facility at the same rates fixed in subsection (g).

27 (i) As used in this section, "functional unit" means a public
28 warehouse which has the capacity to store, weigh in and weigh out grain.
29 Any outlying storage facility which is not a functional unit shall have its
30 storage capacity included as part of the combined capacity of the
31 warehouseman's nearest functional unit.

32 Sec. 151. K.S.A. 34-249a is hereby amended to read as follows: 34-
33 249a. (a) Every public warehouseman conducting a public warehouse,
34 upon demand of the secretary, shall furnish such secretary, in such form as
35 may be required, information regarding receipts issued or canceled,
36 amounts of grain liabilities, amounts of unencumbered grain and total
37 amounts of grain in the public warehouse.

38 (b) The secretary shall require from each public warehouseman a
39 monthly statement of stocks of grain as of the last day of the preceding
40 month for each licensed warehouse location. The statement shall contain
41 such information and be in such form as may be prescribed by the
42 secretary ~~and shall include a statement setting forth the penalty for making~~
43 ~~false public warehouse reports as provided in K.S.A. 21-3754 and~~

1 ~~amendments thereto.~~ Each such statement shall be signed by the licensed
2 public warehouseman.

3 Sec. 152. K.S.A. 36-602 is hereby amended to read as follows: 36-
4 602. An innkeeper shall have the right to refuse or deny any
5 accommodations, facilities or privileges of a hotel to:

6 (a) Any person who is unwilling or unable to pay for
7 accommodations and services of the hotel. The innkeeper shall have the
8 right to require the prospective guest to demonstrate such prospective
9 guest's ability to pay by cash, valid credit card or a validated check;

10 (b) any minor. The innkeeper may require a parent or legal guardian
11 of a minor or a representative of the entity responsible for payment of the
12 accommodation to: (1) Accept in writing liability of the guest room costs,
13 taxes, all charges by the minor and any damages to the guest room, hotel
14 and its furnishings caused by the minor while a guest at the hotel; and (2)
15 provide the innkeeper with a valid credit card number to cover the guest
16 room costs, taxes, charges by the minor and any damages to the guest
17 room or its furnishings caused by the minor; or (3) if the credit card is not
18 an option, give the innkeeper an advance cash payment to cover the guest
19 room costs and taxes for all room nights reserved for the minor, plus
20 reasonable cash deposit not to exceed \$250 towards the payment of any
21 charges by the minor for any damages to the guest room, hotel and its
22 furnishings. The innkeeper shall refund such cash deposit to the extent not
23 used to cover any such charges or any damages as determined by the
24 innkeeper following room inspection at check-out;

25 (c) any person who is engaged in disorderly conduct as defined in
26 ~~K.S.A. 21-4104~~ *section 181 of chapter 136 of the 2010 Session Laws of*
27 *Kansas*, and amendments thereto; and

28 (d) any person who is on record by the hotel as having violated the
29 provisions contained in K.S.A. 36-604, *and amendments thereto*, in the
30 past.

31 Any innkeeper who refuses or denies such accommodations, facilities
32 or privileges of a hotel for any of the reasons specified in subsections (a)
33 through (d) shall not be liable in any civil or criminal action or for any fine
34 or penalty based upon such refusal or denial, except that such
35 accommodation, facilities or privilege of a hotel shall not be refused or
36 denied based upon the person's race, religion, color, sex, disability, origin
37 or ancestry.

38 Sec. 153. K.S.A. 2010 Supp. 36-604 is hereby amended to read as
39 follows: 36-604. An innkeeper may eject a person from the hotel premises,
40 without return of such person's room rental payment, for any of the
41 following reasons:

42 (a) Nonpayment of the hotel's charges for accommodations or
43 services;

1 (b) the person is engaged in disorderly conduct as defined in ~~K.S.A.~~
2 ~~21-4101~~*section 181 of chapter 136 of the 2010 Session Laws of Kansas*,
3 and amendments thereto, or has been the subject of complaints from other
4 guests of the hotel;

5 (c) the person is using the premises for an unlawful act, including but
6 not limited to the unlawful use or possession of controlled substances by
7 such person in violation of K.S.A. 2010 Supp. 21-36a01 through 21-
8 36a17, and amendments thereto, or the use of the premises for the
9 consumption of alcoholic liquor or cereal malt beverage by any person
10 under the age of 21 years in violation of K.S.A. 41-727, and amendments
11 thereto;

12 (d) the person has brought property onto the hotel premises which
13 may be dangerous to other persons ~~as defined in K.S.A. 21-4201 et~~
14 ~~seq.~~*pursuant to sections 186 through 197 of chapter 136 of the 2010*
15 *Session Laws of Kansas*, and amendments thereto;

16 (e) the person is not a registered guest of the hotel;

17 (f) the person has exceeded the limitations for guest room occupancy
18 established by the hotel;

19 (g) the person has obtained the accommodation under false pretenses;

20 (h) the person is a minor and is not under the supervision of the adult
21 who has obtained the accommodation;

22 (i) the person has violated any federal, state or local laws or
23 regulations relating to the hotel; or

24 (j) the person has violated any rule of the hotel which is posted in a
25 conspicuous place and manner in the hotel as provided in K.S.A. 36-605,
26 *and amendments thereto*, except that no such rule may authorize the
27 innkeeper to eject or to refuse or deny service or accommodations to a
28 person because of race, religion, color, sex, disability, national origin or
29 ancestry.

30 Sec. 154. K.S.A. 38-1132 is hereby amended to read as follows: 38-
31 1132. (a) Except as provided in subsection (d), a parent granted rights
32 pursuant to subsection (d) of K.S.A. 38-1121, and amendments thereto,
33 shall give written notice to the other parent who has been granted rights
34 pursuant to subsection (d) of K.S.A. 38-1121, and amendments thereto, not
35 less than 30 days prior to: (1) Changing the residence of the child; or (2)
36 removing the child from this state for a period of time exceeding 90 days.
37 Such notice shall be sent by restricted mail, return receipt requested, to the
38 last known address of the other parent.

39 (b) Failure to give notice as required by subsection (a) is an indirect
40 civil contempt punishable as provided by law. In addition, the court may
41 assess, against the parent required to give notice, reasonable attorney fees
42 and any other expenses incurred by the other parent by reason of the
43 failure to give notice.

1 (c) A change of the residence or the removal of a child from this state
2 as described in subsection (a) may be considered a material change of
3 circumstances which justifies modification of a prior order of child
4 support, custody or parenting time. In determining any such motion, the
5 court shall consider all factors the court deems appropriate including, but
6 not limited to:

7 (1) The effect of the move on the best interests of the child;

8 (2) the effect of the move on any party having rights granted pursuant
9 to subsection (d) of K.S.A. 38-1121, and amendments thereto; and

10 (3) the increased cost the move will impose on any party seeking to
11 exercise rights granted under subsection (d) of K.S.A. 38-1121, and
12 amendments thereto.

13 (d) A parent who has ben granted rights pursuant to subsection (d) of
14 K.S.A. 38-1121, and amendments thereto, shall not be required to give the
15 notice required by this section to the other parent when the other parent
16 has been convicted of any crime specified in article 34, 35 or 36 of chapter
17 21 of the Kansas Statutes Annotated, *prior to their repeal, or sections 36*
18 *through 86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010*
19 *Session Laws of Kansas*, and amendments thereto, in which the child is the
20 victim of such crime.

21 (e) This section shall be part of and supplemental to the Kansas
22 parentage act.

23 Sec. 155. K.S.A. 2010 Supp. 38-2202 is hereby amended to read as
24 follows: 38-2202. As used in the revised Kansas code for care of children,
25 unless the context otherwise indicates:

26 (a) "Abandon" or "abandonment" means to forsake, desert or, without
27 making appropriate provision for substitute care, cease providing care for
28 the child.

29 (b) "Adult correction facility" means any public or private facility,
30 secure or nonsecure, which is used for the lawful custody of accused or
31 convicted adult criminal offenders.

32 (c) "Aggravated circumstances" means the abandonment, torture,
33 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

34 (d) "Child in need of care" means a person less than 18 years of age
35 at the time of filing of the petition or issuance of an ex parte protective
36 custody order pursuant to K.S.A. 2010 Supp. 38-2242, and amendments
37 thereto, who:

38 (1) Is without adequate parental care, control or subsistence and the
39 condition is not due solely to the lack of financial means of the child's
40 parents or other custodian;

41 (2) is without the care or control necessary for the child's physical,
42 mental or emotional health;

43 (3) has been physically, mentally or emotionally abused or neglected

1 or sexually abused;

2 (4) has been placed for care or adoption in violation of law;

3 (5) has been abandoned or does not have a known living parent;

4 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,
5 and amendments thereto;

6 (7) except in the case of a violation of K.S.A. ~~21-4204a~~, 41-727,
7 subsection (j) of K.S.A. 74-8810, ~~or~~ subsection (m) or (n) of K.S.A. 79-
8 3321, *or subsection (a)(14) of section 186 of chapter 136 of the 2010*
9 *Session Laws of Kansas*, and amendments thereto, or, except as provided
10 in paragraph (12), does an act which, when committed by a person under
11 18 years of age, is prohibited by state law, city ordinance or county
12 resolution but which is not prohibited when done by an adult;

13 (8) while less than 10 years of age, commits any act which if done by
14 an adult would constitute the commission of a felony or misdemeanor as
15 defined by ~~K.S.A. 21-3105~~*section 2 of chapter 136 of the 2010 Session*
16 *Laws of Kansas*, and amendments thereto;

17 (9) is willfully and voluntarily absent from the child's home without
18 the consent of the child's parent or other custodian;

19 (10) is willfully and voluntarily absent at least a second time from a
20 court ordered or designated placement, or a placement pursuant to court
21 order, if the absence is without the consent of the person with whom the
22 child is placed or, if the child is placed in a facility, without the consent of
23 the person in charge of such facility or such person's designee;

24 (11) has been residing in the same residence with a sibling or another
25 person under 18 years of age, who has been physically, mentally or
26 emotionally abused or neglected, or sexually abused;

27 (12) while less than 10 years of age commits the offense defined in
28 ~~K.S.A. 21-4204a~~*or subsection (a)(14) of section 186 of chapter 136 of the*
29 *2010 Session Laws of Kansas*, and amendments thereto; or

30 (13) has had a permanent custodian appointed and the permanent
31 custodian is no longer able or willing to serve.

32 (e) "Citizen review board" is a group of community volunteers
33 appointed by the court and whose duties are prescribed by K.S.A. 2010
34 Supp. 38-2207 and 38-2208, and amendments thereto.

35 (f) "Civil custody case" includes any case filed under article 11, of
36 chapter 38 of the Kansas Statutes Annotated, and amendments thereto
37 (determination of parentage), article 21 of chapter 59 of the Kansas
38 Statutes Annotated, and amendments thereto (adoption and relinquishment
39 act), article 30 of chapter 59 of the Kansas Statutes Annotated, and
40 amendments thereto (guardians and conservators), or article 16 of chapter
41 60 of the Kansas Statutes Annotated, and amendments thereto (divorce).

42 (g) "Court-appointed special advocate" means a responsible adult
43 other than an attorney guardian ad litem who is appointed by the court to

1 represent the best interests of a child, as provided in K.S.A. 2010 Supp.
2 38-2206, and amendments thereto, in a proceeding pursuant to this code.

3 (h) "Custody" whether temporary, protective or legal, means the
4 status created by court order or statute which vests in a custodian, whether
5 an individual or an agency, the right to physical possession of the child and
6 the right to determine placement of the child, subject to restrictions placed
7 by the court.

8 (i) "Extended out of home placement" means a child has been in the
9 custody of the secretary and placed with neither parent for 15 of the most
10 recent 22 months beginning 60 days after the date at which a child in the
11 custody of the secretary was removed from the home.

12 (j) "Educational institution" means all schools at the elementary and
13 secondary levels.

14 (k) "Educator" means any administrator, teacher or other professional
15 or paraprofessional employee of an educational institution who has
16 exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and
17 amendments thereto.

18 (l) "Harm" means physical or psychological injury or damage.

19 (m) "Interested party" means the grandparent of the child, a person
20 with whom the child has been living for a significant period of time when
21 the child in need of care petition is filed, and any person made an
22 interested party by the court pursuant to K.S.A. 2010 Supp. 38-2241, and
23 amendments thereto or Indian tribe seeking to intervene that is not a party.

24 (n) "Jail" means:

25 (1) An adult jail or lockup; or

26 (2) a facility in the same building or on the same grounds as an adult
27 jail or lockup, unless the facility meets all applicable standards and
28 licensure requirements under law and there is: (A) Total separation of the
29 juvenile and adult facility spatial areas such that there could be no
30 haphazard or accidental contact between juvenile and adult residents in the
31 respective facilities; (B) total separation in all juvenile and adult program
32 activities within the facilities, including recreation, education, counseling,
33 health care, dining, sleeping and general living activities; and (C) separate
34 juvenile and adult staff, including management, security staff and direct
35 care staff such as recreational, educational and counseling.

36 (o) "Juvenile detention facility" means any secure public or private
37 facility used for the lawful custody of accused or adjudicated juvenile
38 offenders which must not be a jail.

39 (p) "Juvenile intake and assessment worker" means a responsible
40 adult authorized to perform intake and assessment services as part of the
41 intake and assessment system established pursuant to K.S.A. 75-7023, and
42 amendments thereto.

43 (q) "Kinship care" means the placement of a child in the home of the

1 child's relative or in the home of another adult with whom the child or the
2 child's parent already has a close emotional attachment.

3 (r) "Law enforcement officer" means any person who by virtue of
4 office or public employment is vested by law with a duty to maintain
5 public order or to make arrests for crimes, whether that duty extends to all
6 crimes or is limited to specific crimes.

7 (s) "Multidisciplinary team" means a group of persons, appointed by
8 the court under K.S.A. 2010 Supp. 38-2228, and amendments thereto,
9 which has knowledge of the circumstances of a child in need of care.

10 (t) "Neglect" means acts or omissions by a parent, guardian or person
11 responsible for the care of a child resulting in harm to a child, or
12 presenting a likelihood of harm, and the acts or omissions are not due
13 solely to the lack of financial means of the child's parents or other
14 custodian. Neglect may include, but shall not be limited to:

15 (1) Failure to provide the child with food, clothing or shelter
16 necessary to sustain the life or health of the child;

17 (2) failure to provide adequate supervision of a child or to remove a
18 child from a situation which requires judgment or actions beyond the
19 child's level of maturity, physical condition or mental abilities and that
20 results in bodily injury or a likelihood of harm to the child; or

21 (3) failure to use resources available to treat a diagnosed medical
22 condition if such treatment will make a child substantially more
23 comfortable, reduce pain and suffering, or correct or substantially diminish
24 a crippling condition from worsening. A parent legitimately practicing
25 religious beliefs who does not provide specified medical treatment for a
26 child because of religious beliefs shall not for that reason be considered a
27 negligent parent; however, this exception shall not preclude a court from
28 entering an order pursuant to subsection (a)(2) of K.S.A. 2010 Supp. 38-
29 2217, and amendments thereto.

30 (u) "Parent" when used in relation to a child or children, includes a
31 guardian and every person who is by law liable to maintain, care for or
32 support the child.

33 (v) "Party" means the state, the petitioner, the child, any parent of the
34 child and an Indian child's tribe intervening pursuant to the Indian child
35 welfare act.

36 (w) "Permanency goal" means the outcome of the permanency
37 planning process which may be reintegration, adoption, appointment of a
38 permanent custodian or another planned permanent living arrangement.

39 (x) "Permanent custodian" means a judicially approved permanent
40 guardian of a child pursuant to K.S.A. 2010 Supp. 38-2272, and
41 amendments thereto.

42 (y) "Physical, mental or emotional abuse" means the infliction of
43 physical, mental or emotional harm or the causing of a deterioration of a

1 child and may include, but shall not be limited to, maltreatment or
2 exploiting a child to the extent that the child's health or emotional well-
3 being is endangered.

4 (z) "Placement" means the designation by the individual or agency
5 having custody of where and with whom the child will live.

6 (aa) "Relative" means a person related by blood, marriage or adoption
7 but, when referring to a relative of a child's parent, does not include the
8 child's other parent.

9 (bb) "Secretary" means the secretary of social and rehabilitation
10 services or the secretary's designee.

11 (cc) "Secure facility" means a facility which is operated or structured
12 so as to ensure that all entrances and exits from the facility are under the
13 exclusive control of the staff of the facility, whether or not the person
14 being detained has freedom of movement within the perimeters of the
15 facility, or which relies on locked rooms and buildings, fences or physical
16 restraint in order to control behavior of its residents. No secure facility
17 shall be in a city or county jail.

18 (dd) "Sexual abuse" means any contact or interaction with a child in
19 which the child is being used for the sexual stimulation of the perpetrator,
20 the child or another person. Sexual abuse shall include allowing,
21 permitting or encouraging a child to engage in prostitution or to be
22 photographed, filmed or depicted in pornographic material.

23 (ee) "Shelter facility" means any public or private facility or home
24 other than a juvenile detention facility that may be used in accordance with
25 this code for the purpose of providing either temporary placement for
26 children in need of care prior to the issuance of a dispositional order or
27 longer term care under a dispositional order.

28 (ff) "Transition plan" means, when used in relation to a youth in the
29 custody of the secretary, an individualized strategy for the provision of
30 medical, mental health, education, employment and housing supports as
31 needed for the adult and, if applicable, for any minor child of the adult, to
32 live independently and specifically provides for the supports and any
33 services for which an adult with a disability is eligible including, but not
34 limited to, funding for home and community based services waivers.

35 (gg) "Youth residential facility" means any home, foster home or
36 structure which provides 24-hour-a-day care for children and which is
37 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
38 Annotated, and amendments thereto.

39 Sec. 156. K.S.A. 2010 Supp. 38-2255 is hereby amended to read as
40 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
41 disposition, the court shall give consideration to:

- 42 (1) The child's physical, mental and emotional condition;
43 (2) the child's need for assistance;

1 (3) the manner in which the parent participated in the abuse, neglect
2 or abandonment of the child;

3 (4) any relevant information from the intake and assessment process;
4 and

5 (5) the evidence received at the dispositional hearing.

6 (b) *Custody with a parent.* The court may place the child in the
7 custody of either of the child's parents subject to terms and conditions
8 which the court prescribes to assure the proper care and protection of the
9 child, including, but not limited to:

10 (1) Supervision of the child and the parent by a court services officer;

11 (2) participation by the child and the parent in available programs
12 operated by an appropriate individual or agency; and

13 (3) any special treatment or care which the child needs for the child's
14 physical, mental or emotional health and safety.

15 (c) *Removal of a child from custody of a parent.* The court shall not
16 enter the initial order removing a child from the custody of a parent
17 pursuant to this section unless the court first finds probable cause that: (1)

18 (A) The child is likely to sustain harm if not immediately removed from
19 the home;

20 (B) allowing the child to remain in home is contrary to the welfare of
21 the child; or

22 (C) immediate placement of the child is in the best interest of the
23 child; and

24 (2) reasonable efforts have been made to maintain the family unit and
25 prevent the unnecessary removal of the child from the child's home or that
26 an emergency exists which threatens the safety to the child.

27 (d) *Custody of a child removed from the custody of a parent.* If the
28 court has made the findings required by subsection (c), the court shall
29 enter an order awarding custody to a relative of the child or to a person
30 with whom the child has close emotional ties who shall not be required to
31 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
32 and amendments thereto, to any other suitable person, to a shelter facility,
33 to a youth residential facility or, if the child is 15 years of age or younger,
34 or 16 or 17 years of age if the child has no identifiable parental or family
35 resources or shows signs of physical, mental, emotional or sexual abuse, to
36 the secretary. Custody awarded under this subsection shall continue until
37 further order of the court.

38 (1) When custody is awarded to the secretary, the secretary shall
39 consider any placement recommendation by the court and notify the court
40 of the placement or proposed placement of the child within ~~10~~14 days of
41 the order awarding custody. After providing the parties or interested parties
42 notice and opportunity to be heard, the court may determine whether the
43 secretary's placement or proposed placement is contrary to the welfare or

1 in the best interests of the child. In making that determination the court
2 shall consider the health and safety needs of the child and the resources
3 available to meet the needs of children in the custody of the secretary. If
4 the court determines that the placement or proposed placement is contrary
5 to the welfare or not in the best interests of the child, the court shall notify
6 the secretary, who shall then make an alternative placement.

7 (2) The custodian designated under this subsection shall notify the
8 court in writing at least ~~10~~14 days prior to any planned placement with a
9 parent. The written notice shall state the basis for the custodian's belief that
10 placement with a parent is no longer contrary to the welfare or best interest
11 of the child. Upon reviewing the notice, the court may allow the custodian
12 to proceed with the planned placement or may set the date for a hearing to
13 determine if the child shall be allowed to return home. If the court sets a
14 hearing on the matter, the custodian shall not return the child home without
15 written consent of the court.

16 (3) The court may grant any person reasonable rights to visit the child
17 upon motion of the person and a finding that the visitation rights would be
18 in the best interests of the child.

19 (4) The court may enter an order restraining any alleged perpetrator
20 of physical, mental or emotional abuse or sexual abuse of the child from
21 residing in the child's home; visiting, contacting, harassing or intimidating
22 the child, other family member or witness; or attempting to visit, contact,
23 harass or intimidate the child, other family member or witness. Such
24 restraining order shall be served by personal service pursuant to subsection
25 (a) of K.S.A. 2010 Supp. 38-2237, and amendments thereto, on any
26 alleged perpetrator to whom the order is directed.

27 (5) The court shall provide a copy of any orders entered within ~~10~~14
28 days of entering the order to the custodian designated under this
29 subsection.

30 (e) *Further determinations regarding a child removed from the home.*
31 If custody has been awarded under subsection (d) to a person other than a
32 parent, a permanency plan shall be provided or prepared pursuant to
33 K.S.A. 2010 Supp. 38-2264, and amendments thereto. If a permanency
34 plan is provided at the dispositional hearing, the court may determine
35 whether reintegration is a viable alternative or, if reintegration is not a
36 viable alternative, whether the child should be placed for adoption or a
37 permanent custodian appointed. In determining whether reintegration is a
38 viable alternative, the court shall consider:

39 (1) Whether a parent has been found by a court to have committed
40 one of the following crimes or to have violated the law of another state
41 prohibiting such crimes or to have aided and abetted, attempted, conspired
42 or solicited the commission of one of these crimes: Murder in the first
43 degree, K.S.A. 21-3401, *prior to its repeal, or section 37 of chapter 136 of*

1 *the 2010 Session Laws of Kansas*, and amendments thereto, murder in the
2 second degree, K.S.A. 21-3402, *prior to its repeal, or section 38 of*
3 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
4 capital murder, K.S.A. 21-3439, *prior to its repeal, or section 36 of*
5 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
6 voluntary manslaughter, K.S.A. 21-3403, *prior to its repeal, or section 39*
7 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
8 thereto, or a felony battery that resulted in bodily injury;

9 (2) whether a parent has subjected the child or another child to
10 aggravated circumstances;

11 (3) whether a parent has previously been found to be an unfit parent
12 in proceedings under this code or in comparable proceedings under the
13 laws of another state or the federal government;

14 (4) whether the child has been in extended out of home placement;

15 (5) whether the parents have failed to work diligently toward
16 reintegration;

17 (6) whether the secretary has provided the family with services
18 necessary for the safe return of the child to the home; and

19 (7) whether it is reasonable to expect reintegration to occur within a
20 time frame consistent with the child's developmental needs.

21 (f) *Proceedings if reintegration is not a viable alternative.* If the court
22 determines that reintegration is not a viable alternative, proceedings to
23 terminate parental rights and permit placement of the child for adoption or
24 appointment of a permanent custodian shall be initiated unless the court
25 finds that compelling reasons have been documented in the case plan why
26 adoption or appointment of a permanent custodian would not be in the best
27 interests of the child. If compelling reasons have not been documented, the
28 county or district attorney shall file a motion within 30 days to terminate
29 parental rights or a motion to appoint a permanent custodian within 30
30 days and the court shall hold a hearing on the motion within 90 days of its
31 filing. No hearing is required when the parents voluntarily relinquish
32 parental rights or consent to the appointment of a permanent custodian.

33 (g) *Additional Orders.* In addition to or in lieu of any other order
34 authorized by this section:

35 (1) The court may order the child and the parents of any child who
36 has been adjudicated a child in need of care to attend counseling sessions
37 as the court directs. The expense of the counseling may be assessed as an
38 expense in the case. No mental health provider shall charge a greater fee
39 for court-ordered counseling than the provider would have charged to the
40 person receiving counseling if the person had requested counseling on the
41 person's own initiative.

42 (2) If the court has reason to believe that a child is before the court
43 due, in whole or in part, to the use or misuse of alcohol or a violation of

1 K.S.A. 2010 Supp. 21-36a01 through 21-36a17, and amendments thereto,
2 by the child, a parent of the child, or another person responsible for the
3 care of the child, the court may order the child, parent of the child or other
4 person responsible for the care of the child to submit to and complete an
5 alcohol and drug evaluation by a qualified person or agency and comply
6 with any recommendations. If the evaluation is performed by a
7 community-based alcohol and drug safety program certified pursuant to
8 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
9 other person responsible for the care of the child shall pay a fee not to
10 exceed the fee established by that statute. If the court finds that the child
11 and those legally liable for the child's support are indigent, the fee may be
12 waived. In no event shall the fee be assessed against the secretary.

13 (3) If child support has been requested and the parent or parents have
14 a duty to support the child, the court may order one or both parents to pay
15 child support and, when custody is awarded to the secretary, the court shall
16 order one or both parents to pay child support. The court shall determine,
17 for each parent separately, whether the parent is already subject to an order
18 to pay support for the child. If the parent is not presently ordered to pay
19 support for any child who is subject to the jurisdiction of the court and the
20 court has personal jurisdiction over the parent, the court shall order the
21 parent to pay child support in an amount determined under K.S.A. 2010
22 Supp. 38-2277, and amendments thereto. Except for good cause shown,
23 the court shall issue an immediate income withholding order pursuant to
24 K.S.A. 23-4,105 et seq., and amendments thereto, for each parent ordered
25 to pay support under this subsection, regardless of whether a payor has
26 been identified for the parent. A parent ordered to pay child support under
27 this subsection shall be notified, at the hearing or otherwise, that the child
28 support order may be registered pursuant to K.S.A. 2010 Supp. 38-2279,
29 and amendments thereto. The parent shall also be informed that, after
30 registration, the income withholding order may be served on the parent's
31 employer without further notice to the parent and the child support order
32 may be enforced by any method allowed by law. Failure to provide this
33 notice shall not affect the validity of the child support order.

34 Sec. 157. K.S.A. 2010 Supp. 38-2271 is hereby amended to read as
35 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-
36 414, and amendments thereto, that a parent is unfit by reason of conduct or
37 condition which renders the parent unable to fully care for a child, if the
38 state establishes, by clear and convincing evidence, that:

39 (1) A parent has previously been found to be an unfit parent in
40 proceedings under K.S.A. 2010 Supp. 38-2266 et seq., and amendments
41 thereto, or comparable proceedings under the laws of another jurisdiction;

42 (2) a parent has twice before been convicted of a crime specified in
43 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, *prior*

1 *to their repeal, or sections 36 through 86, 174, 210, 211 or 229 through*
2 *231 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
3 *thereto, or comparable offenses under the laws of another jurisdiction, or*
4 *an attempt or attempts to commit such crimes and the victim was under the*
5 *age of 18 years;*

6 (3) on two or more prior occasions a child in the physical custody of
7 the parent has been adjudicated a child in need of care as defined by
8 subsection (d)(1),(d)(3), (d)(5) or (d)(11) of K.S.A. 2010 Supp. 38-2202,
9 and amendments thereto, or comparable proceedings under the laws of
10 another jurisdiction.

11 (4) the parent has been convicted of causing the death of another
12 child or stepchild of the parent;

13 (5) the child has been in an out-of-home placement, under court order
14 for a cumulative total period of one year or longer and the parent has
15 substantially neglected or willfully refused to carry out a reasonable plan,
16 approved by the court, directed toward reintegration of the child into the
17 parental home;

18 (6) (A) the child has been in an out-of-home placement, under court
19 order for a cumulative total period of two years or longer; (B) the parent
20 has failed to carry out a reasonable plan, approved by the court, directed
21 toward reintegration of the child into the parental home; and (C) there is a
22 substantial probability that the parent will not carry out such plan in the
23 near future;

24 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
25 *prior to its repeal, or section 36 of chapter 136 of the 2010 Session Laws*
26 *of Kansas, and amendments thereto, murder in the first degree, K.S.A. 21-*
27 *3401, prior to its repeal, or section 37 of chapter 136 of the 2010 Session*
28 *Laws of Kansas, and amendments thereto, murder in the second degree,*
29 *K.S.A. 21-3402, prior to its repeal, or section 38 of chapter 136 of the*
30 *2010 Session Laws of Kansas, and amendments thereto, or voluntary*
31 *manslaughter, K.S.A. 21-3403, prior to its repeal, or section 39 of chapter*
32 *136 of the 2010 Session Laws of Kansas, and amendments thereto, or*
33 *comparable proceedings under the laws of another jurisdiction or, has been*
34 *adjudicated a juvenile offender because of an act which if committed by an*
35 *adult would be an offense as provided in this subsection, and the victim of*
36 *such murder was the other parent of the child;*

37 (8) a parent abandoned or neglected the child after having knowledge
38 of the child's birth or either parent has been granted immunity from
39 prosecution for abandonment of the child under subsection (b) of K.S.A.
40 21-3604, *prior to its repeal, or subsection (d) of section 82 of chapter 136*
41 *of the 2010 Session Laws of Kansas, and amendments thereto; or*

42 (9) a parent has made no reasonable efforts to support or
43 communicate with the child after having knowledge of the child's birth;

1 (10) a father, after having knowledge of the pregnancy, failed without
2 reasonable cause to provide support for the mother during the six months
3 prior to the child's birth;

4 (11) a father abandoned the mother after having knowledge of the
5 pregnancy;

6 (12) a parent has been convicted of rape, K.S.A. 21-3502, *prior to its*
7 *repeal, or section 67 of chapter 136 of the 2010 Session Laws of Kansas,*
8 and amendments thereto, or comparable proceedings under the laws of
9 another jurisdiction resulting in the conception of the child; or

10 (13) a parent has failed or refused to assume the duties of a parent for
11 two consecutive years next preceding the filing of the petition. In making
12 this determination the court may disregard incidental visitations, contacts,
13 communications or contributions.

14 (b) The burden of proof is on the parent to rebut the presumption of
15 unfitness by a preponderance of the evidence. In the absence of proof that
16 the parent is presently fit and able to care for the child or that the parent
17 will be fit and able to care for the child in the foreseeable future, the court
18 shall terminate parental rights in proceedings pursuant to K.S.A. 2010
19 Supp. 38-2266 et seq., and amendments thereto.

20 Sec. 158. K.S.A. 2010 Supp. 38-2302 is hereby amended to read as
21 follows: 38-2302. As used in this code, unless the context otherwise
22 requires:

23 (a) "Commissioner" means the commissioner of juvenile justice or
24 the commissioner's designee.

25 (b) "Conditional release" means release from a term of commitment
26 in a juvenile correctional facility for an aftercare term pursuant to K.S.A.
27 2010 Supp. 38-2369, and amendments thereto, under conditions
28 established by the commissioner.

29 (c) "Court-appointed special advocate" means a responsible adult,
30 other than an attorney appointed pursuant to K.S.A. 2010 Supp. 38-2306,
31 and amendments thereto, who is appointed by the court to represent the
32 best interests of a child, as provided in K.S.A. 2010 Supp. 38-2307, and
33 amendments thereto, in a proceeding pursuant to this code.

34 (d) "Educational institution" means all schools at the elementary and
35 secondary levels.

36 (e) "Educator" means any administrator, teacher or other professional
37 or paraprofessional employee of an educational institution who has
38 exposure to a pupil specified in subsections (a)(1) through (5) of K.S.A.
39 72-89b03, and amendments thereto.

40 (f) "Institution" means the following institutions: The Atchison
41 juvenile correctional facility, the Larned juvenile correctional facility and
42 the Kansas juvenile correctional complex.

43 (g) "Investigator" means an employee of the juvenile justice authority

1 assigned by the commissioner with the responsibility for investigations
2 concerning employees at the juvenile correctional facilities and juveniles
3 in the custody of the commissioner at a juvenile correctional facility.

4 (h) "Jail" means: (1) An adult jail or lockup; or

5 (2) a facility in the same building as an adult jail or lockup, unless the
6 facility meets all applicable licensure requirements under law and there is:
7 (A) Total separation of the juvenile and adult facility spatial areas such that
8 there could be no haphazard or accidental contact between juvenile and
9 adult residents in the respective facilities; (B) total separation in all
10 juvenile and adult program activities within the facilities, including
11 recreation, education, counseling, health care, dining, sleeping and general
12 living activities; and (C) separate juvenile and adult staff, including
13 management, security staff and direct care staff such as recreational,
14 educational and counseling.

15 (i) "Juvenile" means a person to whom one or more of the following
16 applies, the person: (1) Is 10 or more years of age but less than 18 years of
17 age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as
18 a juvenile offender and continues to be subject to the jurisdiction of the
19 court.

20 (j) "Juvenile correctional facility" means a facility operated by the
21 commissioner for the commitment of juvenile offenders.

22 (k) "Juvenile corrections officer" means a certified employee of the
23 juvenile justice authority working at a juvenile correctional facility
24 assigned by the commissioner with responsibility for maintaining custody,
25 security and control of juveniles in the custody of the commissioner at a
26 juvenile correctional facility.

27 (l) "Juvenile detention facility" means a public or private facility
28 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
29 Annotated, and amendments thereto, which is used for the lawful custody
30 of alleged or adjudicated juvenile offenders.

31 (m) "Juvenile intake and assessment worker" means a responsible
32 adult authorized to perform intake and assessment services as part of the
33 intake and assessment system established pursuant to K.S.A. 75-7023, and
34 amendments thereto.

35 (n) "Juvenile offender" means a person who commits an offense
36 while 10 or more years of age but less than 18 years of age which if
37 committed by an adult would constitute the commission of a felony or
38 misdemeanor as defined by ~~K.S.A. 21-3105~~ *section 2 of chapter 136 of the*
39 *2010 Session Laws of Kansas*, and amendments thereto, or who violates
40 the provisions of ~~K.S.A. 21-4204a or 41-727 or~~ subsection (j) of K.S.A.
41 *74-8810 or subsection (a)(14) of section 186 of chapter 136 of the 2010*
42 *Session Laws of Kansas*, and amendments thereto, but does not include:
43 (1) A person 14 or more years of age who commits a traffic offense, as

1 defined in subsection (d) of K.S.A. 8-2117, and amendments thereto;

2 (2) a person 16 years of age or over who commits an offense defined
3 in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

4 (3) a person under 18 years of age who previously has been:

5 (A) Convicted as an adult under the Kansas criminal code;

6 (B) sentenced as an adult under the Kansas criminal code following
7 termination of status as an extended jurisdiction juvenile pursuant to
8 K.S.A. 2010 Supp. 38-2364, and amendments thereto; or

9 (C) convicted or sentenced as an adult in another state or foreign
10 jurisdiction under substantially similar procedures described in K.S.A.
11 2010 Supp. 38-2347, and amendments thereto, or because of attaining the
12 age of majority designated in that state or jurisdiction.

13 (o) "Law enforcement officer" means any person who by virtue of
14 that person's office or public employment is vested by law with a duty to
15 maintain public order or to make arrests for crimes, whether that duty
16 extends to all crimes or is limited to specific crimes.

17 (p) "Parent" when used in relation to a juvenile, includes a guardian
18 and every person who is, by law, liable to maintain, care for or support the
19 juvenile.

20 (q) "Risk assessment tool" means an instrument administered to
21 juveniles which delivers a score, or group of scores, describing, but not
22 limited to describing, the juvenile's potential risk to the community.

23 (r) "Sanctions house" means a facility which is operated or structured
24 so as to ensure that all entrances and exits from the facility are under the
25 exclusive control of the staff of the facility, whether or not the person
26 being detained has freedom of movement within the perimeters of the
27 facility, or which relies on locked rooms and buildings, fences or physical
28 restraint in order to control the behavior of its residents. Upon an order
29 from the court, a licensed juvenile detention facility may serve as a
30 sanctions house.

31 (s) "Warrant" means a written order by a judge of the court directed to
32 any law enforcement officer commanding the officer to take into custody
33 the juvenile named or described therein.

34 (t) "Youth residential facility" means any home, foster home or
35 structure which provides 24-hour-a-day care for juveniles and which is
36 licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of
37 the Kansas Statutes Annotated, and amendments thereto.

38 Sec. 159. K.S.A. 2010 Supp. 38-2303 is hereby amended to read as
39 follows: 38-2303. (a) Proceedings under this code involving acts
40 committed by a juvenile which, if committed by an adult, would constitute
41 a violation of K.S.A. 21-3401 or 21-3402, *prior to their repeal, or section*
42 *37 or 38 of chapter 136 of the 2010 Session Laws of Kansas*, and
43 amendments thereto, may be commenced at any time.

1 (b) Except as provided by subsections (d) and (f), a proceeding under
2 this code for any act committed by a juvenile which, if committed by an
3 adult, would constitute a violation of any of the following statutes shall be
4 commenced within five years after its commission if the victim is less than
5 16 years of age: (1) Indecent liberties with a child as defined in K.S.A. 21-
6 3503, *prior to its repeal, or subsection (a) of section 70 of chapter 136 of*
7 *the 2010 Session Laws of Kansas*, and amendments thereto; (2) aggravated
8 indecent liberties with a child as defined in K.S.A. 21-3504, *prior to its*
9 *repeal, or subsection (b) of section 70 of chapter 136 of the 2010 Session*
10 *Laws of Kansas*, and amendments thereto; (3) lewd and lascivious
11 behavior as defined in K.S.A. 21-3508, *prior to its repeal, or section 77 of*
12 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;
13 (4) indecent solicitation of a child as defined in K.S.A. 21-3510, *prior to*
14 *its repeal, or subsection (a) of section 72 of chapter 136 of the 2010*
15 *Session Laws of Kansas*, and amendments thereto; (5) aggravated indecent
16 solicitation of a child as defined in K.S.A. 21-3511, *prior to its repeal, or*
17 *subsection (b) of section 72 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto; (6) sexual exploitation of a child as
19 defined in K.S.A. 21-3516, *prior to its repeal, or section 74 of chapter 136*
20 *of the 2010 Session Laws of Kansas*, and amendments thereto; (7)
21 unlawful voluntary sexual relations as defined in K.S.A. 21-3522, *prior to*
22 *its repeal, or section 71 of chapter 136 of the 2010 Session Laws of*
23 *Kansas*, and amendments thereto; or (8) aggravated incest as defined in
24 K.S.A. 21-3603, *prior to its repeal, or subsection (b) of section 81 of*
25 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

26 (c) Except as provided by subsections (d) and (f), a prosecution for
27 rape, as defined in K.S.A. 21-3502, *prior to its repeal, or section 67 of*
28 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
29 or aggravated criminal sodomy, as defined in K.S.A. 21-3506, *prior to its*
30 *repeal, or subsection (b) of section 68 of chapter 136 of the 2010 Session*
31 *Laws of Kansas*, and amendments thereto, shall be commenced within five
32 years after its commission.

33 (d) (1) Except as provided in subsection (f), a prosecution for any
34 offense provided in subsection (b) or a sexually violent offense as defined
35 in K.S.A. 22-3717, and amendments thereto, shall be commenced within
36 the limitation of time provided by the law pertaining to such offense or one
37 year from the date on which the identity of the suspect is conclusively
38 established by DNA testing, whichever is later.

39 (2) For the purposes of this subsection, "DNA" means
40 deoxyribonucleic acid.

41 (e) Except as provided by subsection (f), proceedings under this code
42 not governed by subsections (a), (b), (c) or (d) shall be commenced within
43 two years after the act giving rise to the proceedings is committed.

1 (f) The period within which the proceedings must be commenced
2 shall not include any period in which:

3 (1) The accused is absent from the state;

4 (2) the accused is so concealed within the state that process cannot be
5 served upon the accused;

6 (3) the fact of the offense is concealed; or

7 (4) whether or not the fact of the offense is concealed by the active
8 act or conduct of the accused, there is substantial competent evidence to
9 believe two or more of the following factors are present: (A) The victim
10 was a child under 15 years of age at the time of the offense; (B) the victim
11 was of such age or intelligence that the victim was unable to determine
12 that the acts constituted an offense; (C) the victim was prevented by a
13 parent or other legal authority from making known to law enforcement
14 authorities the fact of the offense whether or not the parent or other legal
15 authority is the accused; and (D) there is substantial competent expert
16 testimony indicating the victim psychologically repressed such victim's
17 memory of the fact of the offense, and in the expert's professional opinion
18 the recall of such memory is accurate, free of undue manipulation, and
19 substantial corroborating evidence can be produced in support of the
20 allegations contained in the complaint or information; but in no event may
21 a proceeding be commenced as provided in subsection (f)(4) later than the
22 date the victim turns 28 years of age. Corroborating evidence may include,
23 but is not limited to, evidence the alleged juvenile offender committed
24 similar acts against other persons or evidence of contemporaneous
25 physical manifestations of the offense. Parent or other legal authority shall
26 include, but not be limited to, natural and stepparents, grandparents, aunts,
27 uncles or siblings.

28 Sec. 160. K.S.A. 2010 Supp. 38-2309 is hereby amended to read as
29 follows: 38-2309. (a) *Official file*. The official file of proceedings pursuant
30 to this code shall consist of the complaint, process, service of process,
31 orders, writs and journal entries reflecting hearings held, judgments and
32 decrees entered by the court. The official file shall be kept separate from
33 other records of the court.

34 (b) The official file shall be open for public inspection, unless the
35 judge determines that opening the official file for public inspection is not
36 in the best interests of a juvenile who is less than 14 years of age.
37 Information identifying victims and alleged victims of sex offenses, as
38 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, *prior*
39 *to their repeal, or sections 65 through 77 or 229 through 231 of chapter*
40 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, shall
41 not be disclosed or open to public inspection under any circumstances.
42 Nothing in this section shall prohibit the victim or alleged victim of any
43 sex offense from voluntarily disclosing such victim's identity. An official

1 file closed pursuant to this section and information identifying the victim
2 or alleged victim of any sex offense shall be disclosed only to the
3 following:

4 (1) A judge of the district court and members of the staff of the court
5 designated by the judge;

6 (2) parties to the proceedings and their attorneys;

7 (3) any individual or any public or private agency or institution: (A)
8 Having custody of the juvenile under court order; or (B) providing
9 educational, medical or mental health services to the juvenile;

10 (4) the juvenile's court appointed special advocate;

11 (5) any placement provider or potential placement provider as
12 determined by the commissioner or court services officer;

13 (6) law enforcement officers or county or district attorneys, or their
14 staff, when necessary for the discharge of their official duties;

15 (7) the Kansas racing commission, upon written request of the
16 commission chairperson, for the purpose provided by K.S.A. 74-8804, and
17 amendments thereto, except that information identifying the victim or
18 alleged victim of any sex offense shall not be disclosed pursuant to this
19 subsection;

20 (8) juvenile intake and assessment workers;

21 (9) the commissioner;

22 (10) any other person when authorized by a court order, subject to
23 any conditions imposed by the order; and

24 (11) the commission on judicial performance in the discharge of the
25 commission's duties pursuant to article 32 of chapter 20 of the Kansas
26 Statutes Annotated, and amendments thereto.

27 (c) *Social file*. Reports and information received by the court, other
28 than the official file, shall be privileged and open to inspection only by
29 attorneys for the parties, juvenile intake and assessment workers, court
30 appointed special advocates, juvenile community corrections officers, the
31 juvenile's guardian ad litem, if any, or upon order of a judge of the district
32 court or appellate court. The reports shall not be further disclosed without
33 approval of the court or by being presented as admissible evidence.

34 (d) *Preservation of records*. The Kansas state historical society shall
35 be allowed to take possession for preservation in the state archives of any
36 court records related to proceedings under the Kansas juvenile justice code
37 or the revised Kansas juvenile justice code whenever such records
38 otherwise would be destroyed. The Kansas state historical society shall
39 make available for public inspection any unexpunged docket entry or
40 official file in its custody concerning any juvenile 14 or more years of age
41 at the time an offense is alleged to have been committed by the juvenile.
42 No other such records in the custody of the Kansas state historical society
43 shall be disclosed directly or indirectly to anyone for 70 years after

1 creation of the records, except as provided in subsections (b) and (c). A
2 judge of the district court may allow inspection for research purposes of
3 any court records in the custody of the Kansas state historical society
4 related to proceedings under the Kansas juvenile justice code or the
5 revised Kansas juvenile justice code.

6 (e) Relevant information, reports and records, shall be made available
7 to the department of corrections upon request, and a showing that the
8 former juvenile has been convicted of a crime and placed in the custody of
9 the secretary of corrections.

10 Sec. 161. K.S.A. 2010 Supp. 38-2310 is hereby amended to read as
11 follows: 38-2310. (a) All records of law enforcement officers and agencies
12 and municipal courts concerning an offense committed or alleged to have
13 been committed by a juvenile under 14 years of age shall be kept readily
14 distinguishable from criminal and other records and shall not be disclosed
15 to anyone except:

16 (1) The judge of the district court and members of the staff of the
17 court designated by the judge;

18 (2) parties to the proceedings and their attorneys;

19 (3) the department of social and rehabilitation services;

20 (4) the juvenile's court appointed special advocate, any officer of a
21 public or private agency or institution or any individual having custody of a
22 juvenile under court order or providing educational, medical or mental
23 health services to a juvenile;

24 (5) any educational institution, to the extent necessary to enable the
25 educational institution to provide the safest possible environment for its
26 pupils and employees;

27 (6) any educator, to the extent necessary to enable the educator to
28 protect the personal safety of the educator and the educator's pupils;

29 (7) law enforcement officers or county or district attorneys, or their
30 staff, when necessary for the discharge of their official duties;

31 (8) the central repository, as defined by K.S.A. 22-4701, and
32 amendments thereto, for use only as a part of the juvenile offender
33 information system established under K.S.A. 2010 Supp. 38-2326, and
34 amendments thereto;

35 (9) juvenile intake and assessment workers;

36 (10) the juvenile justice authority;

37 (11) juvenile community corrections officers;

38 (12) any other person when authorized by a court order, subject to
39 any conditions imposed by the order; and

40 (13) as provided in subsection (c).

41 (b) The provisions of this section shall not apply to records
42 concerning:

43 (1) A violation, by a person 14 or more years of age, of any provision

1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
2 of any city ordinance or county resolution which relates to the regulation
3 of traffic on the roads, highways or streets or the operation of self-
4 propelled or nonself-propelled vehicles of any kind;

5 (2) a violation, by a person 16 or more years of age, of any provision
6 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
7 or

8 (3) an offense for which the juvenile is prosecuted as an adult.

9 (c) All records of law enforcement officers and agencies and
10 municipal courts concerning an offense committed or alleged to have been
11 committed by a juvenile 14 or more years of age shall be subject to the
12 same disclosure restrictions as the records of adults. Information
13 identifying victims and alleged victims of sex offenses, as defined in
14 article 35 of chapter 21 of the Kansas Statutes Annotated, *prior to their*
15 *repeal, or sections 65 through 77 or 229 through 231 of chapter 136 of the*
16 *2010 Session Laws of Kansas*, and amendments thereto, shall not be
17 disclosed or open to public inspection under any circumstances. Nothing in
18 this section shall prohibit the victim or any alleged victim of any sex
19 offense from voluntarily disclosing such victim's identity.

20 (d) Relevant information, reports and records, shall be made available
21 to the department of corrections upon request and a showing that the
22 former juvenile has been convicted of a crime and placed in the custody of
23 the secretary of corrections.

24 (e) All records, reports and information obtained as a part of the
25 juvenile intake and assessment process for juveniles shall be confidential,
26 and shall not be disclosed except as provided by statutory law and rules
27 and regulations promulgated by the commissioner thereunder.

28 (1) Any court of record may order the disclosure of such records,
29 reports and other information to any person or entity.

30 (2) The head of any juvenile intake and assessment program, certified
31 by the commissioner of juvenile justice, may authorize disclosure of such
32 records, reports and other information to:

33 (A) A person licensed to practice the healing arts who has before that
34 person a juvenile whom the person reasonably suspects may be abused or
35 neglected;

36 (B) a court-appointed special advocate for a juvenile or an agency
37 having the legal responsibility or authorization to care for, treat or
38 supervise a juvenile;

39 (C) a parent or other person responsible for the welfare of a juvenile,
40 or such person's legal representative, with protection for the identity of
41 persons reporting and other appropriate persons;

42 (D) the juvenile, the attorney and a guardian *ad litem*, if any, for such
43 juvenile;

- 1 (E) the police or other law enforcement agency;
- 2 (F) an agency charged with the responsibility of preventing or
3 treating physical, mental or emotional abuse or neglect or sexual abuse of
4 children, if the agency requesting the information has standards of
5 confidentiality as strict or stricter than the requirements of the Kansas code
6 for care of children or the revised Kansas juvenile justice code, whichever
7 is applicable;
- 8 (G) members of a multidisciplinary team under this code;
- 9 (H) an agency authorized by a properly constituted authority to
10 diagnose, care for, treat or supervise a child who is the subject of a report
11 or record of child abuse or neglect;
- 12 (I) any individual, or public or private agency authorized by a
13 properly constituted authority to diagnose, care for, treat or supervise a
14 juvenile who is the subject of a report or record of child abuse or neglect,
15 specifically including the following: Physicians, psychiatrists, nurses,
16 nurse practitioners, psychologists, licensed social workers, child
17 development specialists, physicians' assistants, community mental health
18 workers, alcohol and drug abuse counselors and licensed or registered
19 child care providers;
- 20 (J) a citizen review board pursuant to K.S.A. 2010 Supp. 38-2207,
21 and amendments thereto;
- 22 (K) an educational institution to the extent necessary to enable such
23 institution to provide the safest possible environment for pupils and
24 employees of the institution;
- 25 (L) any educator to the extent necessary for the protection of the
26 educator and pupils; and
- 27 (M) any juvenile intake and assessment worker of another certified
28 juvenile intake and assessment program.

29 Sec. 162. K.S.A. 2010 Supp. 38-2312 is hereby amended to read as
30 follows: 38-2312. (a) Except as provided in subsection (b), any records or
31 files specified in this code concerning a juvenile may be expunged upon
32 application to a judge of the court of the county in which the records or
33 files are maintained. The application for expungement may be made by the
34 juvenile, if 18 years of age or older or, if the juvenile is less than 18 years
35 of age, by the juvenile's parent or next friend.

36 (b) There shall be no expungement of records or files concerning acts
37 committed by a juvenile which, if committed by an adult, would constitute
38 a violation of K.S.A. 21-3401, *prior to its repeal, or section 37 of chapter*
39 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, murder
40 in the first degree, K.S.A. 21-3402, *prior to its repeal, or section 38 of*
41 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
42 murder in the second degree, K.S.A. 21-3403, *prior to its repeal, or*
43 *section 39 of chapter 136 of the 2010 Session Laws of Kansas*, and

1 amendments thereto, voluntary manslaughter, K.S.A. 21-3404, *prior to its*
2 *repeal, or section 40 of chapter 136 of the 2010 Session Laws of Kansas,*
3 and amendments thereto, involuntary manslaughter, K.S.A. 21-3439, *prior*
4 *to its repeal, or section 36 of chapter 136 of the 2010 Session Laws of*
5 *Kansas, and amendments thereto, capital murder, K.S.A. 21-3442, prior to*
6 *its repeal, and amendments thereto, involuntary manslaughter while*
7 *driving under the influence of alcohol or drugs, K.S.A. 21-3502, .prior to*
8 *its repeal, or section 67 of chapter 136 of the 2010 Session Laws of*
9 *Kansas, and amendments thereto, rape, K.S.A. 21-3503, prior to its*
10 *repeal, or subsection (a) of section 70 of chapter 136 of the 2010 Session*
11 *Laws of Kansas, and amendments thereto, indecent liberties with a child,*
12 *K.S.A. 21-3504, prior to its repeal, or subsection (b) of section 70 of*
13 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*
14 *aggravated indecent liberties with a child, K.S.A. 21-3506, prior to its*
15 *repeal, or subsection (b) of section 68 of chapter 136 of the 2010 Session*
16 *Laws of Kansas, and amendments thereto, aggravated criminal sodomy,*
17 *K.S.A. 21-3510, prior to its repeal, or subsection (a) of section 72 of*
18 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*
19 *indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or*
20 *subsection (b) of section 72 of chapter 136 of the 2010 Session Laws of*
21 *Kansas, and amendments thereto, aggravated indecent solicitation of a*
22 *child, K.S.A. 21-3516, prior to its repeal, or section 74 of chapter 136 of*
23 *the 2010 Session Laws of Kansas, and amendments thereto, sexual*
24 *exploitation, K.S.A. 21-3603, prior to its repeal, or subsection (b) of*
25 *section 81 of chapter 136 of the 2010 Session Laws of Kansas, and*
26 *amendments thereto, aggravated incest, K.S.A. 21-3608, prior to its*
27 *repeal, or subsection (a) of section 78 of chapter 136 of the 2010 Session*
28 *Laws of Kansas, and amendments thereto, endangering a child, K.S.A. 21-*
29 *3608a, prior to its repeal, or subsection (b) of section 78 of chapter 136 of*
30 *the 2010 Session Laws of Kansas, and amendments thereto, aggravated*
31 *endangering a child, K.S.A. 21-3609, prior to its repeal, or section 79 of*
32 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*
33 *abuse of a child, or which would constitute an attempt to commit a*
34 *violation of any of the offenses specified in this subsection.*

35 (c) When a petition for expungement is filed, the court shall set a date
36 for a hearing on the petition and shall give notice thereof to the county or
37 district attorney. The petition shall state: (1) The juvenile's full name; (2)
38 the full name of the juvenile as reflected in the court record, if different
39 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
40 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
41 of the trial court. Except as otherwise provided by law, a petition for
42 expungement shall be accompanied by a docket fee in the amount of \$100.
43 On and after the effective date of this act through June 30, 2011, the

1 supreme court may impose a charge, not to exceed \$15 per case, to fund
2 the costs of non-judicial personnel. All petitions for expungement shall be
3 docketed in the original action. Any person who may have relevant
4 information about the petitioner may testify at the hearing. The court may
5 inquire into the background of the petitioner.

6 (d) (1) After hearing, the court shall order the expungement of the
7 records and files if the court finds that:

8 (A) The juvenile has reached 23 years of age or that two years have
9 elapsed since the final discharge;

10 (B) since the final discharge of the juvenile, the juvenile has not been
11 convicted of a felony or of a misdemeanor other than a traffic offense or
12 adjudicated as a juvenile offender under the revised Kansas juvenile justice
13 code and no proceedings are pending seeking such a conviction or
14 adjudication; and

15 (C) the circumstances and behavior of the petitioner warrant
16 expungement.

17 (2) The court may require that all court costs, fees and restitution
18 shall be paid.

19 (e) Upon entry of an order expunging records or files, the offense
20 which the records or files concern shall be treated as if it never occurred,
21 except that upon conviction of a crime or adjudication in a subsequent
22 action under this code the offense may be considered in determining the
23 sentence to be imposed. The petitioner, the court and all law enforcement
24 officers and other public offices and agencies shall properly reply on
25 inquiry that no record or file exists with respect to the juvenile. Inspection
26 of the expunged files or records thereafter may be permitted by order of
27 the court upon petition by the person who is the subject thereof. The
28 inspection shall be limited to inspection by the person who is the subject of
29 the files or records and the person's designees.

30 (f) Copies of any order made pursuant to subsection (a) or (c) shall be
31 sent to each public officer and agency in the county having possession of
32 any records or files ordered to be expunged. If the officer or agency fails to
33 comply with the order within a reasonable time after its receipt, the officer
34 or agency may be adjudged in contempt of court and punished accordingly.

35 (g) The court shall inform any juvenile who has been adjudicated a
36 juvenile offender of the provisions of this section.

37 (h) Nothing in this section shall be construed to prohibit the
38 maintenance of information relating to an offense after records or files
39 concerning the offense have been expunged if the information is kept in a
40 manner that does not enable identification of the juvenile.

41 (i) Nothing in this section shall be construed to permit or require
42 expungement of files or records related to a child support order registered
43 pursuant to the revised Kansas juvenile justice code.

1 (j) Whenever the records or files of any adjudication have been
2 expunged under the provisions of this section, the custodian of the records
3 or files of adjudication relating to that offense shall not disclose the
4 existence of such records or files, except when requested by:

5 (1) The person whose record was expunged;

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

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

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

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

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

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

31 (8) the Kansas sentencing commission.

32 Sec. 163. K.S.A. 2010 Supp. 38-2313 is hereby amended to read as
33 follows: 38-2313. (a) Fingerprints or photographs shall not be taken of any
34 juvenile who is taken into custody for any purpose, except that:

35 (1) Fingerprints or photographs of a juvenile may be taken if
36 authorized by a judge of the district court having jurisdiction;

37 (2) a juvenile's fingerprints shall be taken, and photographs of a
38 juvenile may be taken, immediately upon taking the juvenile into custody
39 or upon first appearance or in any event before final sentencing, before the
40 court for an offense which, if committed by an adult, would constitute the
41 commission of a felony, a class A or B misdemeanor or assault, as defined
42 by ~~K.S.A. 21-3408~~ *in subsection (a) of section 47 of chapter 136 of the*
43 *2010 Session Laws of Kansas*, and amendments thereto;

1 (3) fingerprints or photographs of a juvenile may be taken under
2 K.S.A. 21-2501, and amendments thereto, if the juvenile has been: (A)
3 Prosecuted as an adult pursuant to K.S.A. 2010 Supp. 38-2347, and
4 amendments thereto; or (B) taken into custody for an offense described in
5 subsection (n)(1) or (n)(2) of K.S.A. 2010 Supp. 38-2302, and
6 amendments thereto;

7 (4) fingerprints or photographs shall be taken of any juvenile
8 admitted to a juvenile correctional facility; and

9 (5) photographs may be taken of any juvenile placed in a juvenile
10 detention facility. Photographs taken under this paragraph shall be used
11 solely by the juvenile detention facility for the purposes of identification,
12 security and protection and shall not be disseminated to any other person
13 or agency except after an escape and necessary to assist in apprehension.

14 (b) Fingerprints and photographs taken under subsection (a)(1) or (a)
15 (2) shall be kept readily distinguishable from those of persons of the age of
16 majority. Fingerprints and photographs taken under subsections (a)(3) and
17 (a)(4) may be kept in the same manner as those of persons of the age of
18 majority.

19 (c) Fingerprints and photographs of a juvenile shall not be sent to a
20 state or federal repository, except that:

21 (1) Fingerprints and photographs may be sent to the state and federal
22 repository if authorized by a judge of the district court having jurisdiction;

23 (2) a juvenile's fingerprints shall, and photographs of a juvenile may,
24 be sent to the state and federal repository if taken under subsection (a)(2)
25 or (a)(4); and

26 (3) fingerprints or photographs taken under subsection (a)(3) shall be
27 processed and disseminated in the same manner as those of persons of the
28 age of majority.

29 (d) Fingerprints or photographs of a juvenile may be furnished to
30 another juvenile justice agency, as defined by K.S.A. 2010 Supp. 38-2325,
31 and amendments thereto, if the other agency has a legitimate need for the
32 fingerprints or photographs.

33 (e) Any fingerprints or photographs of an alleged juvenile offender
34 taken under the provisions of subsection (a)(2) of K.S.A. 38-1611, prior to
35 its repeal, may be sent to a state or federal repository on or before
36 December 31, 2006.

37 (f) Any law enforcement agency that willfully fails to submit any
38 fingerprints or photographs required by this section shall be liable to the
39 state for the payment of a civil penalty, recoverable in an action brought by
40 the attorney general, in an amount not exceeding \$500 for each report not
41 made. Any civil penalty recovered under this subsection shall be paid into
42 the state general fund.

43 (g) The director of the Kansas bureau of investigation shall adopt any

1 rules and regulations necessary to implement, administer and enforce the
2 provisions of this section, including time limits within which fingerprints
3 shall be sent to a state or federal repository when required by this section.

4 (h) Nothing in this section shall preclude the custodian of a juvenile
5 from authorizing photographs or fingerprints of the juvenile to be used in
6 any action under the Kansas parentage act.

7 Sec. 164. K.S.A. 2010 Supp. 38-2326 is hereby amended to read as
8 follows: 38-2326. (a) In order to properly advise the three branches of
9 government on the operation of the juvenile justice system, there is hereby
10 established within and as a part of the central repository, a juvenile
11 offender information system. The system shall serve as a repository of
12 juvenile offender information which is collected by juvenile justice
13 agencies and reported to the system.

14 (b) Except as otherwise provided by this subsection, every juvenile
15 justice agency shall report juvenile offender information, whether
16 collected manually or by means of an automated system, to the central
17 repository, in accordance with rules and regulations adopted pursuant to
18 this section. A juvenile justice agency shall report to the central repository
19 those reportable events involving a violation of a county resolution or city
20 ordinance only when required by rules and regulations adopted by the
21 director.

22 (c) Reporting methods may include:

23 (1) Submission of juvenile offender information by a juvenile justice
24 agency directly to the central repository;

25 (2) if the information can readily be collected and reported through
26 the court system, submission to the central repository by the office of
27 judicial administrator; or

28 (3) if the information can readily be collected and reported through
29 juvenile justice agencies that are part of a geographically based
30 information system, submission to the central repository by the agencies.

31 (d) The director may determine, by rules and regulations, the
32 statutorily required reportable events to be reported by each juvenile
33 justice agency, in order to avoid duplication in reporting.

34 (e) Juvenile offender information maintained in the juvenile offender
35 information system is confidential and shall not be disseminated or
36 publicly disclosed in a manner which enables identification of any
37 individual who is a subject of the information, except that the information
38 shall be open to inspection by law enforcement agencies of this state, by
39 the department of social and rehabilitation services if related to an
40 individual in the secretary's custody or control, by the juvenile justice
41 authority if related to an individual in the commissioner's custody or
42 control, by the department of corrections if related to an individual in the
43 custody and control of the secretary of corrections, by educational

1 institutions to the extent necessary to provide the safest possible
2 environment for pupils and employees, by any educator to the extent
3 necessary for the protection of the educator and pupils, by the officers of
4 any public institution to which the individual is committed, by county and
5 district attorneys, by attorneys for the parties to a proceeding under this
6 code, by an intake and assessment worker or upon order of a judge of the
7 district court or an appellate court. Such information shall reflect the
8 offense level and whether such offense is a person or nonperson offense.

9 (f) Any journal entry of a trial of adjudication shall state the number
10 of the statute under which the juvenile is adjudicated to be a juvenile
11 offender and specify whether each offense, if done by an adult, would
12 constitute a felony or misdemeanor, as defined by ~~K.S.A. 21-3105~~*in*
13 *section 2 of chapter 136 of the 2010 Session Laws of Kansas*, and
14 amendments thereto.

15 (g) Any law enforcement agency that willfully fails to make any
16 report required by this section shall be liable to the state for the payment of
17 a civil penalty, recoverable in an action brought by the attorney general, in
18 an amount not exceeding \$500 for each report not made. Any civil penalty
19 recovered under this subsection shall be paid into the state general fund.

20 (h) The director shall adopt any rules and regulations necessary to
21 implement, administer and enforce the provisions of this section.

22 (i) The director shall develop incentives to encourage the timely entry
23 of juvenile offender information into the central repository.

24 Sec. 165. K.S.A. 2010 Supp. 38-2331 is hereby amended to read as
25 follows: 38-2331. (a) If no prior order removing a juvenile from the
26 juvenile's home pursuant to K.S.A. 2010 Supp. 38-2334 or 38-2335, and
27 amendments thereto, has been made, the court shall not enter an order
28 removing a juvenile from the custody of a parent pursuant to this section
29 unless the court first finds probable cause that: (1)(A) The juvenile is
30 likely to sustain harm if not immediately removed from the home;

31 (B) allowing the juvenile to remain in home is contrary to the welfare
32 of the juvenile; or

33 (C) immediate placement of the juvenile is in the juvenile's best
34 interest; and

35 (2) reasonable efforts have been made to maintain the family unit and
36 prevent the unnecessary removal of the juvenile from the juvenile's home
37 or that an emergency exists which threatens the safety of the juvenile. The
38 court shall state the basis for each finding in writing.

39 (b) Except as provided in subsection (c), a juvenile may be placed in
40 a juvenile detention facility pursuant to subsection (c) or (d) of K.S.A.
41 2010 Supp. 38-2330 or subsection (e) of K.S.A. 2010 Supp. 38-2343, and
42 amendments thereto, if one or more of the following conditions are met:

43 (1) There is oral or written verification that the juvenile is a fugitive

1 sought for an offense in another jurisdiction, that the juvenile is currently
2 an escapee from a juvenile detention facility or that the juvenile has
3 absconded from a placement that is court ordered or designated by the
4 juvenile justice authority.

5 (2) The juvenile is alleged to have committed an offense which if
6 committed by an adult would constitute a felony or any crime described in
7 ~~article 35 of chapter 21 of the Kansas Statutes Annotated~~ *sections 65*
8 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws of*
9 *Kansas*, and amendments thereto.

10 (3) The juvenile has been adjudicated for a nonstatus offense and is
11 awaiting final court action on that offense.

12 (4) The juvenile has a record of failure to appear in court or there is
13 probable cause to believe that the juvenile will flee the jurisdiction of the
14 court.

15 (5) The juvenile has a history of violent behavior toward others.

16 (6) The juvenile exhibited seriously assaultive or destructive behavior
17 or self-destructive behavior at the time of being taken into custody.

18 (7) The juvenile has a record of adjudication or conviction of one or
19 more offenses which if committed by an adult would constitute a felony.

20 (8) The juvenile is a juvenile offender who has been expelled from
21 placement in a nonsecure facility as a result of the current alleged offense.

22 (9) The juvenile has been taken into custody by any court services
23 officer, juvenile community corrections officer or other person authorized
24 to supervise juveniles subject to this code pursuant to subsection (b) of
25 K.S.A. 2010 Supp. 38-2330, and amendments thereto.

26 (10) The juvenile has violated probation or conditions of release.

27 (c) No person 18 years of age or more shall be placed in a juvenile
28 detention center.

29 Sec. 166. K.S.A. 2010 Supp. 38-2355 is hereby amended to read as
30 follows: 38-2355. In all proceedings on complaints pursuant to the code
31 the state must prove beyond a reasonable doubt that the juvenile
32 committed the act or acts charged in the complaint or a lesser included
33 offense as defined in subsection ~~(2) of K.S.A. 21-3107(b)~~ *of section 9 of*
34 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

35 Sec. 167. K.S.A. 2010 Supp. 38-2356 is hereby amended to read as
36 follows: 38-2356. (a) If the court finds that the evidence fails to prove an
37 offense charged or a lesser included offense as defined in subsection ~~(2) of~~
38 ~~K.S.A. 21-3107(b)~~ *of section 9 of chapter 136 of the 2010 Session Laws of*
39 *Kansas*, and amendments thereto, the court shall enter an order dismissing
40 the charge.

41 (b) If the court finds that the juvenile committed the offense charged
42 or a lesser included offense as defined in subsection ~~(2) of K.S.A. 21-~~
43 ~~3107(b)~~ *of section 9 of chapter 136 of the 2010 Session Laws of Kansas*,

1 and amendments thereto, the court shall adjudicate the juvenile to be a
2 juvenile offender and may issue a sentence as authorized by this code.

3 (c) If the court finds that the juvenile committed the acts constituting
4 the offense charged or a lesser included offense as defined in subsection
5 ~~(2) of K.S.A. 21-3107(b) of section 9 of chapter 136 of the 2010 Session~~
6 *Laws of Kansas*, and amendments thereto, but is not responsible because
7 of mental disease or defect, the juvenile shall not be adjudicated as a
8 juvenile offender and shall be committed to the custody of the secretary of
9 social and rehabilitation services and placed in a state hospital. The
10 juvenile's continued commitment shall be subject to annual review in the
11 manner provided by K.S.A. 22-3428a, and amendments thereto, for review
12 of commitment of a defendant suffering from mental disease or defect, and
13 the juvenile may be discharged or conditionally released pursuant to that
14 section. The juvenile also may be discharged or conditionally released in
15 the same manner and subject to the same procedures as provided by
16 K.S.A. 22-3428, and amendments thereto, for discharge of or granting
17 conditional release to a defendant found suffering from mental disease or
18 defect. If the juvenile violates any conditions of an order of conditional
19 release, the juvenile shall be subject to contempt proceedings and returned
20 to custody as provided by K.S.A. 22-3428b, and amendments thereto.

21 (d) A copy of the court's order shall be sent to the school district in
22 which the juvenile offender is enrolled or will be enrolled.

23 Sec. 168. K.S.A. 2010 Supp. 38-2361 is hereby amended to read as
24 follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to
25 K.S.A. 2010 Supp. 38-2356, and amendments thereto, modification of
26 sentence pursuant to K.S.A. 2010 Supp. 38-2367, and amendments thereto,
27 or violation of a condition of sentence pursuant to K.S.A. 2010 Supp. 38-
28 2368, and amendments thereto, and subject to subsection (a) of K.S.A.
29 2010 Supp. 38-2365, and amendments thereto, the court may impose one
30 or more of the following sentencing alternatives. In the event that any
31 sentencing alternative chosen constitutes an order authorizing or requiring
32 removal of the juvenile from the juvenile's home and such findings either
33 have not previously been made or the findings are not or may no longer be
34 current, the court shall make determinations as required by K.S.A. 2010
35 Supp. 38-2334 and 38-2335, and amendments thereto.

36 (1) Place the juvenile on probation through court services or
37 community corrections for a fixed period, subject to terms and conditions
38 the court deems appropriate consistent with juvenile justice programs in
39 the community.

40 (2) Order the juvenile to participate in a community based program
41 available in such judicial district subject to the terms and conditions the
42 court deems appropriate. This alternative shall not be ordered with the
43 alternative in paragraph (12) and when ordered with the alternative in

1 paragraph (10) shall constitute a recommendation. Requirements
2 pertaining to child support may apply if custody is vested with other than a
3 parent.

4 (3) Place the juvenile in the custody of a parent or other suitable
5 person, subject to terms and conditions consistent with juvenile justice
6 programs in the community. This alternative shall not be ordered with the
7 alternative in paragraph (10) or (12). Requirements pertaining to child
8 support may apply if custody is vested with other than a parent.

9 (4) Order the juvenile to attend counseling, educational, mediation or
10 other sessions, or to undergo a drug evaluation pursuant to subsection (b).

11 (5) Suspend or restrict the juvenile's driver's license or privilege to
12 operate a motor vehicle on the streets and highways of this state pursuant
13 to subsection (c).

14 (6) Order the juvenile to perform charitable or community service
15 work.

16 (7) Order the juvenile to make appropriate reparation or restitution
17 pursuant to subsection (d).

18 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to
19 subsection (e).

20 (9) Place the juvenile under a house arrest program administered by
21 the court pursuant to ~~K.S.A. 21-4603~~ *subsection 249 of chapter 136 of the*
22 *2010 Session Laws of Kansas*, and amendments thereto.

23 (10) Place the juvenile in the custody of the commissioner as
24 provided in K.S.A. 2010 Supp. 38-2365, and amendments thereto. This
25 alternative shall not be ordered with the alternative in paragraph (3) or
26 (12). Except for a mandatory drug and alcohol evaluation, when this
27 alternative is ordered with alternatives in paragraphs (2), (4) and (9), such
28 orders shall constitute a recommendation by the court. Requirements
29 pertaining to child support shall apply under this alternative.

30 (11) Commit the juvenile to a sanctions house for a period no longer
31 than 28 days subject to the provisions of subsection (f).

32 (12) Commit the juvenile directly to the custody of the commissioner
33 for a period of confinement in a juvenile correctional facility and a period
34 of aftercare pursuant to K.S.A. 2010 Supp. 38-2369, and amendments
35 thereto. The provisions of K.S.A. 2010 Supp. 38-2365, and amendments
36 thereto, shall not apply to juveniles committed pursuant to this provision,
37 provided however, that 21 days prior to the juvenile's release from a
38 juvenile correctional facility, the commissioner or designee shall notify the
39 court of the juvenile's anticipated release date. The court shall set and hold
40 a permanency hearing pursuant to K.S.A. 2010 Supp. 38-2365, and
41 amendments thereto, within seven days after the juvenile's release. This
42 alternative may be ordered with the alternative in paragraph (7).
43 Requirements pertaining to child support shall apply under this alternative.

1 (b) If the court orders the juvenile to attend counseling, educational,
2 mediation or other sessions, or to undergo a drug and alcohol evaluation
3 pursuant to subsection (a)(4), the following provisions apply:

4 (1) The court may order the juvenile offender to participate in
5 counseling or mediation sessions or a program of education, including
6 placement in an alternative educational program approved by a local
7 school board. The costs of any counseling or mediation may be assessed as
8 expenses in the case. No mental health center shall charge a fee for court-
9 ordered counseling greater than what the center would have charged the
10 person receiving the counseling if the person had requested counseling on
11 the person's own initiative. No mediator shall charge a fee for court-
12 ordered mediation greater than what the mediator would have charged the
13 person participating in the mediation if the person had requested mediation
14 on the person's own initiative. Mediation may include the victim but shall
15 not be mandatory for the victim; and

16 (2) if the juvenile has been adjudicated to be a juvenile by reason of a
17 violation of a statute that makes such a requirement, the court shall order
18 and, if adjudicated for any other offense, the court may order the juvenile
19 to submit to and complete a drug and alcohol evaluation by a community-
20 based drug and alcohol safety action program certified pursuant to K.S.A.
21 8-1008, and amendments thereto, and to pay a fee not to exceed the fee
22 established by that statute for such evaluation. The court may waive the
23 mandatory evaluation if the court finds that the juvenile completed a drug
24 and alcohol evaluation, approved by the community-based alcohol and
25 drug safety action program, within 12 months before sentencing. If the
26 evaluation occurred more than 12 months before sentencing, the court
27 shall order the juvenile to resubmit to and complete the evaluation and
28 program as provided herein. If the court finds that the juvenile and those
29 legally liable for the juvenile's support are indigent, the court may waive
30 the fee. In no event shall the fee be assessed against the commissioner or
31 the juvenile justice authority nor shall the fee be assessed against the
32 secretary of social and rehabilitation services or the department of social
33 and rehabilitation services if the juvenile is in the secretary's care, custody
34 and control.

35 (c) If the court orders suspension or restriction of a juvenile offender's
36 driver's license or privilege to operate a motor vehicle on the streets and
37 highways of this state pursuant to subsection (a)(5), the following
38 provisions apply:

39 (1) The duration of the suspension ordered by the court shall be for a
40 definite time period to be determined by the court. Upon suspension of a
41 license pursuant to this subsection, the court shall require the juvenile
42 offender to surrender the license to the court. The court shall transmit the
43 license to the division of motor vehicles of the department of revenue, to

1 be retained until the period of suspension expires. At that time, the licensee
2 may apply to the division for return of the license. If the license has
3 expired, the juvenile offender may apply for a new license, which shall be
4 issued promptly upon payment of the proper fee and satisfaction of other
5 conditions established by law for obtaining a license unless another
6 suspension or revocation of the juvenile offender's privilege to operate a
7 motor vehicle is in effect. As used in this subsection, "highway" and
8 "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and
9 amendments thereto. Any juvenile offender who does not have a driver's
10 license may have driving privileges revoked. No Kansas driver's license
11 shall be issued to a juvenile offender whose driving privileges have been
12 revoked pursuant to this section for a definite time period to be determined
13 by the court; and

14 (2) in lieu of suspending a juvenile offender's driver's license or
15 privilege to operate a motor vehicle on the highways of this state, the court
16 may enter an order which places conditions on the juvenile offender's
17 privilege of operating a motor vehicle on the streets and highways of this
18 state, a certified copy of which the juvenile offender shall be required to
19 carry any time the juvenile offender is operating a motor vehicle on the
20 streets and highways of this state. The order shall prescribe a definite time
21 period for the conditions imposed. Upon entering an order restricting a
22 juvenile offender's license, the court shall require the juvenile offender to
23 surrender such juvenile offender's license to the court. The court shall
24 transmit the license to the division of vehicles, together with a copy of the
25 order. Upon receipt thereof, the division of vehicles shall issue without
26 charge a driver's license which shall indicate on its face that conditions
27 have been imposed on the juvenile offender's privilege of operating a
28 motor vehicle and that a certified copy of the order imposing the
29 conditions is required to be carried by the juvenile offender when
30 operating a motor vehicle on the streets and highways of this state. If the
31 juvenile offender is a nonresident, the court shall cause a copy of the order
32 to be transmitted to the division and the division shall forward a copy of it
33 to the motor vehicle administrator of the juvenile offender's state of
34 issuance. The court shall furnish to any juvenile offender whose driver's
35 license has had conditions imposed on it under this section a copy of the
36 order, which shall be recognized as a valid Kansas driver's license until the
37 division issues the restricted license provided for in this subsection. Upon
38 expiration of the period of time for which conditions are imposed pursuant
39 to this subsection, the juvenile offender may apply to the division for the
40 return of the license previously surrendered by the juvenile offender. In the
41 event the license has expired, the juvenile offender may apply to the
42 division for a new license, which shall be issued immediately by the
43 division upon payment of the proper fee and satisfaction of the other

1 conditions established by law unless such juvenile offender's privilege to
2 operate a motor vehicle on the streets and highways of this state has been
3 suspended or revoked prior thereto. If any juvenile offender violates any of
4 the conditions imposed under this subsection, the juvenile offender's
5 driver's license or privilege to operate a motor vehicle on the streets and
6 highways of this state shall be revoked for a period as determined by the
7 court in which the juvenile offender is convicted of violating such
8 conditions.

9 (d) The following provisions apply to the court's determination of
10 whether to order reparation or restitution pursuant to subsection (a)(7):

11 (1) The court shall order the juvenile to make reparation or restitution
12 to the aggrieved party for the damage or loss caused by the juvenile
13 offender's offense unless it finds compelling circumstances that would
14 render a plan of reparation or restitution unworkable. If the court finds
15 compelling circumstances that would render a plan of reparation or
16 restitution unworkable, the court shall enter such findings with
17 particularity on the record. In lieu of reparation or restitution, the court
18 may order the juvenile to perform charitable or social service for
19 organizations performing services for the community; and

20 (2) restitution may include, but shall not be limited to, the amount of
21 damage or loss caused by the juvenile's offense. Restitution may be made
22 by payment of an amount fixed by the court or by working for the parties
23 sustaining loss in the manner ordered by the court. An order of monetary
24 restitution shall be a judgment against the juvenile that may be collected
25 by the court by garnishment or other execution as on judgments in civil
26 cases. Such judgment shall not be affected by the termination of the court's
27 jurisdiction over the juvenile offender.

28 (e) If the court imposes a fine pursuant to subsection (a)(8), the
29 following provisions apply:

30 (1) The amount of the fine may not exceed \$1,000 for each offense.
31 The amount of the fine should be related to the seriousness of the offense
32 and the juvenile's ability to pay. Payment of a fine may be required in a
33 lump sum or installments;

34 (2) in determining whether to impose a fine and the amount to be
35 imposed, the court shall consider that imposition of a fine is most
36 appropriate in cases where the juvenile has derived pecuniary gain from
37 the offense and that imposition of a restitution order is preferable to
38 imposition of a fine; and

39 (3) any fine imposed by court shall be a judgment against the juvenile
40 that may be collected by the court by garnishment or other execution as on
41 judgments in civil cases. Such judgment shall not be affected by the
42 termination of the court's jurisdiction over the juvenile.

43 (f) If the court commits the juvenile to a sanctions house pursuant to

1 subsection (a)(11), the following provisions shall apply:

2 (1) The court may order commitment for up to 28 days for the same
3 offense or violation of sentencing condition. The court shall review the
4 commitment every seven days and, may shorten the initial commitment or,
5 if the initial term is less than 28 days, may extend the commitment;

6 (2) if, in the sentencing order, the court orders a sanctions house
7 placement for a verifiable probation violation and such probation violation
8 occurs, the juvenile may immediately be taken to a sanctions house and
9 detained for no more than 48 hours, excluding Saturdays, Sundays,
10 holidays, and days on which the office of the clerk of the court is not
11 accessible, prior to court review of the placement. The court and all parties
12 shall be notified of the sanctions house placement; and

13 (3) a juvenile over 18 years of age and less than 23 years of age at
14 sentencing shall be committed to a county jail, in lieu of a sanctions house,
15 under the same time restrictions imposed by paragraph (1), but shall not be
16 committed to or confined in a juvenile detention facility.

17 (g) Any order issued by the judge pursuant to this section shall be in
18 effect immediately upon entry into the court's minutes.

19 (h) In addition to the requirements of K.S.A. 2010 Supp. 38-2373,
20 and amendments thereto, if a person is under 18 years of age and
21 convicted of a felony or adjudicated as a juvenile offender for an offense if
22 committed by an adult would constitute the commission of a felony, the
23 court shall forward a signed copy of the journal entry to the commissioner
24 within 30 days of final disposition.

25 (i) Except as further provided, if a juvenile has been adjudged to be a
26 juvenile offender for an offense that if committed by an adult would
27 constitute the commission of: (1) Aggravated human trafficking, as defined
28 in ~~K.S.A. 2010 Supp. 21-3447~~ *section 61 of chapter 136 of the 2010*
29 *Session Laws of Kansas*, and amendments thereto, if the victim is less than
30 14 years of age; (2) rape, as defined in subsection ~~(a)(2) of K.S.A. 21-~~
31 ~~3502(a)(3) of section 67 of chapter 136 of the 2010 Session Laws of~~
32 *Kansas*, and amendments thereto; (3) aggravated indecent liberties with a
33 child, as defined in subsection ~~(a)(3) of K.S.A. 21-3504(b)(3) of section 70~~
34 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
35 thereto; (4) aggravated criminal sodomy, as defined in subsection ~~(a)(1) or~~
36 ~~(a)(2) of K.S.A. 21-3506(b)(1) or (b)(2) of section 68 of chapter 136 of the~~
37 *2010 Session Laws of Kansas*, and amendments thereto; (5) promoting
38 prostitution, as defined in ~~K.S.A. 21-3513~~ *section 230 of chapter 136 of the*
39 *2010 Session Laws of Kansas*, and amendments thereto, if the prostitute is
40 less than 14 years of age; (6) sexual exploitation of a child, as defined in
41 subsection ~~(a)(5) or (a)(6) of K.S.A. 21-3516(a)(1) or (a)(4) of section 74~~
42 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
43 thereto, *if the victim is less than 14 years of age*; or (7) an attempt,

1 conspiracy or criminal solicitation, as defined in ~~K.S.A. 21-3301, 21-3302~~
 2 ~~or 21-3303~~ *section 33, section 34 or section 35 of chapter 136 of the 2010*
 3 *Session Laws of Kansas*, and amendments thereto, of an offense defined in
 4 parts (1) through (6); the court shall issue an order prohibiting the juvenile
 5 from attending the attendance center that the victim of the offense attends.
 6 If only one attendance center exists, for which the victim and juvenile are
 7 eligible to attend, in the school district where the victim and the juvenile
 8 reside, the court shall hear testimony and take evidence from the victim,
 9 the juvenile, their families and a representative of the school district as to
 10 why the juvenile should or should not be allowed to remain at the
 11 attendance center attended by the victim. After such hearing, the court may
 12 issue an order prohibiting the juvenile from attending the attendance center
 13 that the victim of the offense attends.

14 (j) The sentencing hearing shall be open to the public as provided in
 15 K.S.A. 2010 Supp. 38-2353, and amendments thereto.

16 Sec. 169. K.S.A. 2010 Supp. 38-2364 is hereby amended to read as
 17 follows: 38-2364. (a) If an extended jurisdiction juvenile prosecution
 18 results in a guilty plea or finding of guilt, the court shall:

19 (1) Impose one or more juvenile sentences under K.S.A. 2010 Supp.
 20 38-2361, and amendments thereto; and

21 (2) impose an adult criminal sentence, the execution of which shall be
 22 stayed on the condition that the juvenile offender not violate the provisions
 23 of the juvenile sentence and not commit a new offense.

24 (b) When it appears that a person sentenced as an extended
 25 jurisdiction juvenile has violated one or more conditions of the juvenile
 26 sentence or is alleged to have committed a new offense, the court, without
 27 notice, may revoke the stay and juvenile sentence and direct that the
 28 juvenile offender be immediately taken into custody and delivered to the
 29 secretary of corrections pursuant to ~~K.S.A. 21-4621~~ *section 281 of chapter*
 30 *136 of the 2010 Session Laws of Kansas*, and amendments thereto. The
 31 court shall notify the juvenile offender and such juvenile offender's
 32 attorney of record, in writing by personal service, as provided in K.S.A.
 33 60-303, and amendments thereto, or certified mail, return receipt
 34 requested, of the reasons alleged to exist for revocation of the stay of
 35 execution of the adult sentence. If the juvenile offender challenges the
 36 reasons, the court shall hold a hearing on the issue at which the juvenile
 37 offender is entitled to be heard and represented by counsel. After the
 38 hearing, if the court finds by a preponderance of the evidence that the
 39 juvenile committed a new offense or violated one or more conditions of
 40 the juvenile's sentence, the court shall revoke the juvenile sentence and
 41 order the imposition of the adult sentence previously ordered pursuant to
 42 subsection (a)(2) or, upon agreement of the county or district attorney and
 43 the juvenile offender's attorney of record, the court may modify the adult

1 sentence previously ordered pursuant to subsection (a)(2). Upon such
2 finding, the juvenile's extended jurisdiction status is terminated, and
3 juvenile court jurisdiction is terminated. The ongoing jurisdiction for any
4 adult sanction, other than the commitment to the department of
5 corrections, is with the adult court. The juvenile offender shall be credited
6 for time served in a juvenile correctional or detention facility on the
7 juvenile sentence as service on any authorized adult sanction.

8 (c) Upon becoming 18 years of age, any juvenile who has been
9 sentenced pursuant to subsection (a) and is serving the juvenile sentence,
10 may move for a court hearing to review the sentence. If the sentence is
11 continued, the court shall set a date of further review in no later than 36
12 months.

13 Sec. 170. K.S.A. 2010 Supp. 38-2365 is hereby amended to read as
14 follows: 38-2365. (a) When a juvenile offender has been placed in the
15 custody of the commissioner, the commissioner shall have a reasonable
16 time to make a placement. If the juvenile offender has not been placed, any
17 party who believes that the amount of time elapsed without placement has
18 exceeded a reasonable time may file a motion for review with the court. In
19 determining what is a reasonable amount of time, matters considered by
20 the court shall include, but not be limited to, the nature of the underlying
21 offense, efforts made for placement of the juvenile offender and the
22 availability of a suitable placement. The commissioner shall notify the
23 court, the juvenile's attorney of record and the juvenile's parent, in writing,
24 of the initial placement and any subsequent change of placement as soon
25 as the placement has been accomplished. The notice to the juvenile
26 offender's parent shall be sent to such parent's last known address or
27 addresses. The court shall have no power to direct a specific placement by
28 the commissioner, but may make recommendations to the commissioner.
29 The commissioner may place the juvenile offender in an institution
30 operated by the commissioner, a youth residential facility or any other
31 appropriate placement. If the court has recommended an out-of-home
32 placement, the commissioner may not return the juvenile offender to the
33 home from which removed without first notifying the court of the plan.

34 (b) If a juvenile is in the custody of the commissioner, the
35 commissioner shall prepare and present a permanency plan at sentencing
36 or within 30 days thereafter. If a permanency plan is already in place under
37 a child in need of care proceeding, the court may adopt the plan under the
38 present proceeding. The written permanency plan shall provide for
39 reintegration of the juvenile into such juvenile's family or, if reintegration
40 is not a viable alternative, for other permanent placement of the juvenile.
41 Reintegration may not be a viable alternative when: (1) The parent has
42 been found by a court to have committed murder in the first degree, K.S.A.
43 21-3401, *prior to its repeal, or section 37 of chapter 136 of the 2010*

1 *Session Laws of Kansas*, and amendments thereto, murder in the second
2 degree, K.S.A. 21-3402, *prior to its repeal, or section 38 of chapter 136 of*
3 *the 2010 Session Laws of Kansas*, and amendments thereto, capital murder,
4 K.S.A. 21-3439, *prior to its repeal, or section 36 of chapter 136 of the*
5 *2010 Session Laws of Kansas*, and amendments thereto, voluntary
6 manslaughter, K.S.A. 21-3403, *prior to its repeal, or section 39 of chapter*
7 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, of a
8 child or violated a law of another state which prohibits such murder or
9 manslaughter of a child;

10 (2) the parent aided or abetted, attempted, conspired or solicited to
11 commit such murder or voluntary manslaughter of a child;

12 (3) the parent committed a felony battery that resulted in bodily
13 injury to the juvenile who is the subject of this proceeding or another
14 child;

15 (4) the parent has subjected the juvenile who is the subject of this
16 proceeding or another child to aggravated circumstances as defined in
17 K.S.A. 38-1502, and amendments thereto;

18 (5) the parental rights of the parent to another child have been
19 terminated involuntarily; or

20 (6) the juvenile has been in extended out-of-home placement as
21 defined in K.S.A. 2010 Supp. 38-2202, and amendments thereto.

22 (c) If the juvenile is placed in the custody of the commissioner, the
23 plan shall be prepared and submitted by the commissioner. If the juvenile
24 is placed in the custody of a facility or person other than the commissioner,
25 the plan shall be prepared and submitted by a court services officer. If the
26 permanency goal is reintegration into the family, the permanency plan
27 shall include measurable objectives and time schedules for reintegration.

28 (d) During the time a juvenile remains in the custody of the
29 commissioner, the commissioner shall submit to the court, at least every
30 six months, a written report of the progress being made toward the goals of
31 the permanency plan submitted pursuant to subsections (b) and (c) and the
32 specific actions taken to achieve the goals of the permanency plan. If the
33 juvenile is placed in foster care, the court may request the foster parent to
34 submit to the court, at least every six months, a report in regard to the
35 juvenile's adjustment, progress and condition. Such report shall be made a
36 part of the juvenile's court social file. The court shall review the plan
37 submitted by the commissioner and the report, if any, submitted by the
38 foster parent and determine whether reasonable efforts and progress have
39 been made to achieve the goals of the permanency plan. If the court
40 determines that progress is inadequate or that the permanency plan is no
41 longer viable, the court shall hold a hearing pursuant to subsection (e).

42 (e) When the commissioner has custody of the juvenile, a
43 permanency hearing shall be held no more than 12 months after the

1 juvenile is first placed outside such juvenile's home and at least every 12
2 months thereafter. Juvenile offenders who have been in extended out-of-
3 home placement shall be provided a permanency hearing within 30 days of
4 a request from the commissioner. The court may appoint a *guardian ad*
5 *litem* to represent the juvenile offender at the permanency hearing. At each
6 hearing, the court shall make a written finding whether reasonable efforts
7 have been made to accomplish the permanency goal and whether
8 continued out-of-home placement is necessary for the juvenile's safety.

9 (f) Whenever a hearing is required under subsection (e), the court
10 shall notify all interested parties of the hearing date, the commissioner,
11 foster parent and preadoptive parent or relatives providing care for the
12 juvenile and hold a hearing. Individuals receiving notice pursuant to this
13 subsection shall not be made a party to the action solely on the basis of this
14 notice and opportunity to be heard. After providing the persons receiving
15 notice an opportunity to be heard, the court shall determine whether the
16 juvenile's needs are being adequately met; whether services set out in the
17 permanency plan necessary for the safe return of the juvenile have been
18 made available to the parent with whom reintegration is planned; and
19 whether reasonable efforts and progress have been made to achieve the
20 goals of the permanency plan.

21 (g) If the court finds reintegration continues to be a viable alternative,
22 the court shall determine whether and, if applicable, when the juvenile will
23 be returned to the parent. The court may rescind any of its prior
24 dispositional orders and enter any dispositional order authorized by this
25 code or may order that a new plan for the reintegration be prepared and
26 submitted to the court. If reintegration cannot be accomplished as
27 approved by the court, the court shall be informed and shall schedule a
28 hearing pursuant to subsection (h). No such hearing is required when the
29 parent voluntarily relinquishes parental rights or agrees to appointment of
30 a permanent guardian.

31 (h) When the court finds any of the following conditions exist, the
32 county or district attorney or the county or district attorney's designee shall
33 file a petition alleging the juvenile to be a child in need of care and
34 requesting termination of parental rights pursuant to the Kansas code for
35 care of children: (1) The court determines that reintegration is not a viable
36 alternative and either adoption or permanent guardianship might be in the
37 best interests of the juvenile;

38 (2) the goal of the permanency plan is reintegration into the family
39 and the court determines after 12 months from the time such plan is first
40 submitted that progress is inadequate; or

41 (3) the juvenile has been in out-of-home placement for a cumulative
42 total of 15 of the last 22 months, excluding trial home visits and juvenile in
43 runaway status.

1 Nothing in this subsection shall be interpreted to prohibit termination of
2 parental rights prior to the expiration of 12 months.

3 (i) A petition to terminate parental rights is not required to be filed if
4 one of the following exceptions is documented to exist: (1) The juvenile is
5 in a stable placement with relatives;

6 (2) services set out in the case plan necessary for the safe return of
7 the juvenile have not been made available to the parent with whom
8 reintegration is planned; or

9 (3) there are one or more documented reasons why such filing would
10 not be in the best interests of the juvenile. Documented reasons may
11 include, but are not limited to: The juvenile has close emotional bonds
12 with a parent which should not be broken; the juvenile is 14 years of age
13 or older and, after advice and counsel, refuses to be adopted; insufficient
14 grounds exist for termination of parental rights; the juvenile is an
15 unaccompanied refugee minor; or there are international legal or
16 compelling foreign policy reasons precluding termination of parental
17 rights.

18 Sec. 171. K.S.A. 2010 Supp. 38-2371 is hereby amended to read as
19 follows: 38-2371. (a) (1) Whenever a person is adjudicated as a juvenile
20 offender, the court upon motion of the state, shall hold a hearing to
21 consider imposition of a departure sentence. The motion shall state that a
22 departure is sought and the reasons and factors relied upon. The hearing
23 shall be scheduled so that the parties have adequate time to prepare and
24 present arguments regarding the issues of departure sentencing. The victim
25 of a crime or the victim's family shall be notified of the right to be present
26 at the hearing for the convicted person by the county or district attorney.
27 The parties may submit written arguments to the court prior to the date of
28 the hearing and may make oral arguments before the court at the hearing.
29 The court shall review the victim impact statement, if available. Prior to
30 the hearing, the court shall transmit to the juvenile offender or the juvenile
31 offender's attorney and the prosecuting attorney copies of the
32 predispositional investigation report.

33 (2) At the conclusion of the hearing or within 21 days thereafter, the
34 court shall issue findings of fact and conclusions of law regarding the
35 issues submitted by the parties, and shall enter an appropriate order.

36 (3) If a factual aspect of a crime is a statutory element of the crime, or
37 is used to determine crime severity, that aspect of the current crime of
38 conviction may be used as an aggravating factor only if the criminal
39 conduct constituting that aspect of the current crime of conviction is
40 significantly different from the usual criminal conduct captured by the
41 aspect of the crime. Subject to this provision, the nonexclusive lists of
42 aggravating factors provided in ~~subsection (c)(2) of K.S.A. 21-4716, and~~
43 ~~amendments thereto, and in subsection (a) of K.S.A. 21-4717~~sections 296

1 *and 297 of chapter 136 of the 2010 Session Laws of Kansas*, and
2 amendments thereto, may be considered in determining whether
3 substantial and compelling reasons exist.

4 (b) If the court decides to depart on its own volition, without a motion
5 from the state, the court must notify all parties of its intent and allow
6 reasonable time for either party to respond if they request. The notice shall
7 state that a departure is intended by the court and the reasons and factors
8 relied upon.

9 (c) In each case in which the court imposes a sentence that deviates
10 from the presumptive sentence, the court shall make findings of fact as to
11 the reasons for departure regardless of whether a hearing is requested.

12 (d) If the sentencing judge departs from the presumptive sentence, the
13 judge shall state on the record at the time of sentencing the substantial and
14 compelling reasons for the departure. When a departure sentence is
15 appropriate, the sentencing judge may depart from the matrix as provided
16 in this section. When a sentencing judge departs in setting the duration of a
17 presumptive term of imprisonment:

18 (1) The presumptive term of imprisonment set in such departure shall
19 not total more than double the maximum duration of the presumptive
20 imprisonment term;

21 (2) the court shall have no authority to reduce the minimum term of
22 confinement as defined within the placement matrix; and

23 (3) the maximum term for commitment of any juvenile offender to a
24 juvenile correctional facility is age 22 years, 6 months.

25 (e) A departure sentence may be appealed as provided in K.S.A. 2010
26 Supp. 38-2380, and amendments thereto.

27 Sec. 172. K.S.A. 2010 Supp. 38-2377 is hereby amended to read as
28 follows: 38-2377. (a) The commissioner shall notify the county or district
29 attorney, the court, the local law enforcement agency and the school
30 district in which the juvenile offender will be residing of such pending
31 release at least 45 days before release if the juvenile is still required to
32 attend school, if the juvenile offender has committed an act prior to July 1,
33 1999, which, if committed by a person 18 years of age or over, would have
34 constituted: (1) A class A or B felony, before July 1, 1993, or (2) an off-
35 grid crime, a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a
36 drug crime ranked at severity level 1, 2 or 3, if the offense was committed
37 on or after July 1, 1993, and, if such juvenile is to be released. The county
38 or district attorney shall give written notice at least 30 days prior to
39 discharge of the juvenile offender pursuant to K.S.A. 2010 Supp. 38-2379,
40 and amendments thereto. The county attorney, district attorney or the court
41 on its own motion may file a motion with the court for a hearing to
42 determine if the juvenile offender should be retained in the custody of the
43 commissioner, pursuant to K.S.A. 2010 Supp. 38-2376, and amendments

1 thereto. The court shall fix a time and place for hearing and shall notify
 2 each party of the time and place.

3 (b) Following the hearing if the court orders the commissioner to
 4 retain custody, the juvenile offender shall not be held in a juvenile
 5 correctional facility for longer than the maximum term of imprisonment
 6 which could be imposed upon an adult convicted of the offense or offenses
 7 which the juvenile offender has been adjudicated to have committed.

8 (c) As used in this section, "maximum term of imprisonment" means
 9 the greatest maximum sentence authorized by ~~K.S.A. 21-4501, and~~
 10 ~~amendments thereto, applying any enhanced penalty which would be~~
 11 ~~applicable under K.S.A. 21-4504, and amendments thereto, and computing~~
 12 terms as consecutive when required by ~~K.S.A. 21-4608~~*section 246 of*
 13 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

14 Sec. 173. K.S.A. 39-720 is hereby amended to read as follows: 39-
 15 720. Any person who obtains or attempts to obtain, or aids or abets any
 16 other person to obtain, by means of a willfully false statement or
 17 representation, or by impersonation, collusion, or other fraudulent device,
 18 assistance to which the applicant or client is not entitled, shall be guilty of
 19 the crime of theft, as defined by ~~K.S.A. 21-3701; and~~ *in section 87 of*
 20 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.*
 21 *Such person* shall be required to remit to the secretary the amount of any
 22 assistance given ~~him~~*such person* under such fraudulent act. In any civil
 23 action for the recovery of assistance on the grounds the assistance was
 24 fraudulently obtained, proof that the recipient of the assistance possesses
 25 or did possess resources which does or would have rendered ~~him~~*such*
 26 *person* ineligible to receive such assistance shall be deemed prima facie
 27 evidence that such assistance was fraudulently obtained.

28 Sec. 174. K.S.A. 39-785 is hereby amended to read as follows: 39-
 29 785. As used in *section 83 of chapter 136 of the 2010 Session Laws of*
 30 *Kansas*, ~~K.S.A. 21-3605~~, 39-709 and K.S.A. 39-785 to 39-790, inclusive
 31 and amendments thereto:

32 (a) "Adult care home" means a nursing facility licensed under the
 33 adult care home licensure act.

34 (b) "Excess shelter allowance" means, for the applicant or recipient's
 35 spouse, the amount by which the sum of (1) the spouse's expense for rent
 36 or mortgage payment, including principal and interest, taxes and insurance
 37 and, in the case of a condominium or cooperative, required maintenance
 38 charges excluding utilities, for the spouse's principal residence, and (2) the
 39 standard utility allowance under section 5(e) of the food stamp act of 1977,
 40 exceeds 30% of the maximum amount of income allowed under K.S.A.
 41 39-787, and amendments thereto.

42 (c) "Home and community based services" means those services
 43 provided under the state medical assistance program under waivers as

1 defined in title XIX of the federal social security act in accordance with
2 the plan adopted under subsection (s) of K.S.A. 39-708c, and amendments
3 thereto, to recipients who would require admission to an adult care home if
4 such services were not otherwise provided.

5 (d) "Income" means earned income and unearned income as defined
6 under the state medical assistance program in accordance with the plan
7 adopted under subsection (s) of K.S.A. 39-708c, and amendments thereto,
8 to determine eligibility of applicants for medical assistance.

9 (e) "Institution" means an adult care home or a long-term care unit of
10 a medical care facility.

11 (f) "Medical assistance" has the meaning provided under K.S.A. 39-
12 702, and amendments thereto.

13 (g) "Qualified applicant" means a person who (1) applies for medical
14 assistance and (2) is receiving long-term care in an institution or would be
15 eligible for home and community based services if receiving medical
16 assistance.

17 (h) "Qualified recipient" means a person who (1) receives medical
18 assistance and (2) is receiving long-term care in an institution or is
19 receiving home and community based services.

20 (i) "Resources" means cash or other liquid assets or any real or
21 personal property that an individual or spouse owns and could convert to
22 cash to be used for such individual's support and maintenance. If the
23 individual has the right, authority or power to liquidate the property, or
24 such individual's share of the property, it is a resource. If a property right
25 cannot be liquidated, the property will not be considered a resource of the
26 individual or spouse.

27 (j) "Secretary" means the secretary of social and rehabilitation
28 services.

29 (k) "Exempt income" means income which is not considered in
30 determining eligibility for medical assistance under the plan adopted under
31 subsection (s) of K.S.A. 39-708c, and amendments thereto.

32 (l) "Nonexempt income" means income which is considered in
33 determining eligibility for medical assistance under the plan adopted under
34 subsection (s) of K.S.A. 39-708c, and amendments thereto.

35 (m) "Exempt resources" means resources which are not considered in
36 determining eligibility for medical assistance under the plan adopted under
37 subsection (s) of K.S.A. 39-708c, and amendments thereto.

38 (n) "Nonexempt resources" means resources which are considered in
39 determining eligibility for medical assistance under the plan adopted under
40 subsection (s) of K.S.A. 39-708c, and amendments thereto.

41 (o) "Long-term care" means care which exceeds or is projected to
42 exceed three months, including the month care begins.

43 Sec. 175. K.S.A. 2010 Supp. 39-970 is hereby amended to read as

1 follows: 39-970. (a) (1) No person shall knowingly operate an adult care
2 home if, in the adult care home, there works any person who has been
3 convicted of or has been adjudicated a juvenile offender because of having
4 committed an act which if done by an adult would constitute the
5 commission of capital murder, pursuant to K.S.A. 21-3439, *prior to its*
6 *repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas,*
7 and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401,
8 *prior to its repeal, or section 37 of chapter 136 of the 2010 Session Laws*
9 *of Kansas,* and amendments thereto, second degree murder, pursuant to
10 subsection (a) of K.S.A. 21-3402, *prior to its repeal, or subsection (a)*
11 *section 38 of chapter 136 of the 2010 Session Laws of Kansas,* and
12 amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403,
13 *prior to its repeal, or section 39 of chapter 136 of the 2010 Session Laws*
14 *of Kansas,* and amendments thereto, assisting suicide pursuant to K.S.A.
15 21-3406, *prior to its repeal, or section 42 of chapter 136 of the 2010*
16 *Session Laws of Kansas,* and amendments thereto, mistreatment of a
17 dependent adult, pursuant to K.S.A. 21-3437, *prior to its repeal, or section*
18 *52 of chapter 136 of the 2010 Session Laws of Kansas,* and amendments
19 thereto, rape, pursuant to K.S.A. 21-3502, *prior to its repeal, or section 67*
20 *of chapter 136 of the 2010 Session Laws of Kansas,* and amendments
21 thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, *prior*
22 *to its repeal, or subsection (a) of section 70 of chapter 136 of the 2010*
23 *Session Laws of Kansas,* and amendments thereto, aggravated indecent
24 liberties with a child, pursuant to K.S.A. 21-3504, *prior to its repeal, or*
25 *subsection (b) of section 70 of chapter 136 of the 2010 Session Laws of*
26 *Kansas,* and amendments thereto, aggravated criminal sodomy, pursuant to
27 K.S.A. 21-3506, *prior to its repeal, or subsection (b) of section 68 of*
28 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments thereto,
29 indecent solicitation of a child, pursuant to K.S.A. 21-3510, *prior to its*
30 *repeal, or subsection (a) of section 72 of chapter 136 of the 2010 Session*
31 *Laws of Kansas,* and amendments thereto, aggravated indecent solicitation
32 of a child, pursuant to K.S.A. 21-3511, *prior to its repeal, or subsection*
33 *(b) of section 72 of chapter 136 of the 2010 Session Laws of Kansas,* and
34 amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-
35 3516, *prior to its repeal, or section 74 of chapter 136 of the 2010 Session*
36 *Laws of Kansas,* and amendments thereto, sexual battery, pursuant to
37 K.S.A. 21-3517, *prior to its repeal, or subsection (a) of section 69 of*
38 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments thereto,
39 or aggravated sexual battery, pursuant to K.S.A. 21-3518, *prior to its*
40 *repeal, or subsection (b) of section 69 of chapter 136 of the 2010 Session*
41 *Laws of Kansas,* and amendments thereto, an attempt to commit any of the
42 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, *prior to*
43 *its repeal, or section 33 of chapter 136 of the 2010 Session Laws of*

1 *Kansas*, and amendments thereto, a conspiracy to commit any of the
 2 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3302, *prior to*
 3 *its repeal, or section 34 of chapter 136 of the 2010 Session Laws of*
 4 *Kansas*, and amendments thereto, or criminal solicitation of any of the
 5 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, *prior to*
 6 *its repeal, or section 35 of chapter 136 of the 2010 Session Laws of*
 7 *Kansas*, and amendments thereto, or similar statutes of other states or the
 8 federal government. The provisions of subsection (a)(2)(C) shall not apply
 9 to any person who is employed by an adult care home ~~on the effective date~~
 10 ~~of this act~~ *July 1, 2010* and while continuously employed by the same adult
 11 care home.

12 (2) A person operating an adult care home may employ an applicant
 13 who has been convicted of any of the following if five or more years have
 14 elapsed since the applicant satisfied the sentence imposed or was
 15 discharged from probation, a community correctional services program,
 16 parole, postrelease supervision, conditional release or a suspended
 17 sentence; or if five or more years have elapsed since the applicant has been
 18 finally discharged from the custody of the commissioner of juvenile justice
 19 or from probation or has been adjudicated a juvenile offender, whichever
 20 time is longer: A felony conviction for a crime which is described in: (A)
 21 Article 34 of chapter 21 of the Kansas Statutes Annotated, *prior to their*
 22 *repeal, or sections 36 through 64, 174, 210 or 211 of chapter 136 of the*
 23 *2010 Session Laws of Kansas*, and amendments thereto, except those
 24 crimes listed in subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the
 25 Kansas Statutes Annotated, *prior to their repeal, or sections 65 through 86*
 26 *or 229 through 231 of chapter 136 of the 2010 Session Laws of Kansas*,
 27 and amendments thereto, except those crimes listed in subsection (a)(1)
 28 and K.S.A. 21-3605, *prior to its repeal, or section 83 of chapter 136 of the*
 29 *2010 Session Laws of Kansas*, and amendments thereto; (C) K.S.A. 21-
 30 3701, *prior to its repeal, or section 87 of chapter 136 of the 2010 Session*
 31 *Laws of Kansas*, and amendments thereto; (D) an attempt to commit any of
 32 the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-3301,
 33 *prior to its repeal, or section 33 of chapter 136 of the 2010 Session Laws*
 34 *of Kansas*, and amendments thereto; (E) a conspiracy to commit any of the
 35 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3302, *prior to its*
 36 *repeal, or section 34 of chapter 136 of the 2010 Session Laws of Kansas*,
 37 and amendments thereto; (F) criminal solicitation of any of the crimes
 38 listed in subsection (a)(2) pursuant to K.S.A. 21-3303, *prior to its repeal,*
 39 *or section 35 of chapter 136 of the 2010 Session Laws of Kansas*, and
 40 amendments thereto; or (G) similar statutes of other states or the federal
 41 government.

42 (b) No person shall operate an adult care home if such person has
 43 been found to be in need of a guardian or conservator, or both as provided

1 in K.S.A. 59-3050 through 59-3095, and amendments thereto. The
2 provisions of this subsection shall not apply to a minor found to be in need
3 of a guardian or conservator for reasons other than impairment.

4 (c) The secretary of health and environment shall have access to any
5 criminal history record information in the possession of the Kansas bureau
6 of investigation regarding any criminal history information, convictions
7 under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their repeal, or*
8 *section 52, subsection (a) of section 69 and section 87 of chapter 136 of*
9 *the 2010 Session Laws of Kansas*, and amendments thereto, adjudications
10 of a juvenile offender which if committed by an adult would have been a
11 felony conviction, and adjudications of a juvenile offender for an offense
12 described in K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their repeal,*
13 *or section 52, subsection (a) of section 69 and section 87 of chapter 136 of*
14 *the 2010 Session Laws of Kansas*, and amendments thereto, concerning
15 persons working in an adult care home. The secretary shall have access to
16 these records for the purpose of determining whether or not the adult care
17 home meets the requirements of this section. The Kansas bureau of
18 investigation may charge to the department of health and environment a
19 reasonable fee for providing criminal history record information under this
20 subsection.

21 (d) For the purpose of complying with this section, the operator of an
22 adult care home shall request from the department of health and
23 environment information regarding any criminal history information,
24 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their*
25 *repeal, or section 52, subsection (a) of section 69 and section 87 of*
26 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
27 adjudications of a juvenile offender which if committed by an adult would
28 have been a felony conviction, and adjudications of a juvenile offender for
29 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, *prior to*
30 *their repeal, or section 52, subsection (a) of section 69 and section 87 of*
31 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
32 and which relates to a person who works in the adult care home, or is
33 being considered for employment by the adult care home, for the purpose
34 of determining whether such person is subject to the provision of this
35 section. For the purpose of complying with this section, the operator of an
36 adult care home shall receive from any employment agency which
37 provides employees to work in the adult care home written certification
38 that such employees are not prohibited from working in the adult care
39 home under this section. For the purpose of complying with this section,
40 information relating to convictions and adjudications by the federal
41 government or to convictions and adjudications in states other than Kansas
42 shall not be required until such time as the secretary of health and
43 environment determines the search for such information could reasonably

1 be performed and the information obtained within a two-week period. For
2 the purpose of complying with this section, a person who operates an adult
3 care home may hire an applicant for employment on a conditional basis
4 pending the results from the department of health and environment of a
5 request for information under this subsection. No adult care home, the
6 operator or employees of an adult care home or an employment agency, or
7 the operator or employees of an employment agency, shall be liable for
8 civil damages resulting from any decision to employ, to refuse to employ
9 or to discharge from employment any person based on such adult care
10 home's compliance with the provisions of this section if such adult care
11 home or employment agency acts in good faith to comply with this
12 section.

13 (e) The secretary of health and environment shall charge each person
14 requesting information under this section a fee equal to cost, not to exceed
15 \$10, for each name about which an information request has been submitted
16 to the department under this section.

17 (f) (1) The secretary of health and environment shall provide each
18 operator requesting information under this section with the criminal
19 history record information concerning any criminal history information
20 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to*
21 *their repeal, or section 52, subsection (a) of section 69 and section 87 of*
22 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
23 in writing and within three working days of receipt of such information
24 from the Kansas bureau of investigation. The criminal history record
25 information shall be provided regardless of whether the information
26 discloses that the subject of the request has been convicted of an offense
27 enumerated in subsection (a).

28 (2) When an offense enumerated in subsection (a) exists in the
29 criminal history record information, and when further confirmation
30 regarding criminal history record information is required from the
31 appropriate court of jurisdiction or Kansas department of corrections, the
32 secretary shall notify each operator that requests information under this
33 section in writing and within three working days of receipt from the
34 Kansas bureau of investigation that further confirmation is required. The
35 secretary shall provide to the operator requesting information under this
36 section information in writing and within three working days of receipt of
37 such information from the appropriate court of jurisdiction or Kansas
38 department of corrections regarding confirmation regarding the criminal
39 history record information.

40 (3) Whenever the criminal history record information reveals that the
41 subject of the request has no criminal history on record, the secretary shall
42 provide notice to each operator requesting information under this section,
43 in writing and within three working days after receipt of such information

1 from the Kansas bureau of investigation.

2 (4) The secretary of health and environment shall not provide each
3 operator requesting information under this section with the juvenile
4 criminal history record information which relates to a person subject to a
5 background check as is provided by K.S.A. 2010 Supp. 38-2326, and
6 amendments thereto, except for adjudications of a juvenile offender for an
7 offense described in K.S.A. 21-3701, *prior to its repeal, or section 87 of*
8 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.
9 The secretary shall notify the operator that requested the information, in
10 writing and within three working days of receipt of such information from
11 the Kansas bureau of investigation, whether juvenile criminal history
12 record information received pursuant to this section reveals that the
13 operator would or would not be prohibited by this section from employing
14 the subject of the request for information and whether such information
15 contains adjudications of a juvenile offender for an offense described in
16 K.S.A. 21-3701, *prior to its repeal, or section 87 of chapter 136 of the*
17 *2010 Session Laws of Kansas*, and amendments thereto.

18 (5) An operator who receives criminal history record information
19 under this subsection (f) shall keep such information confidential, except
20 that the operator may disclose such information to the person who is the
21 subject of the request for information. A violation of this paragraph (5)
22 shall be an unclassified misdemeanor punishable by a fine of \$100.

23 (g) No person who works for an adult care home and who is currently
24 licensed or registered by an agency of this state to provide professional
25 services in the state and who provides such services as part of the work
26 which such person performs for the adult care home shall be subject to the
27 provisions of this section.

28 (h) A person who volunteers in an adult care home shall not be
29 subject to the provisions of this section because of such volunteer activity.

30 (i) An operator may request from the department of health and
31 environment criminal history information on persons employed under
32 subsections (g) and (h).

33 (j) No person who has been employed by the same adult care home
34 since July 1, 1992, shall be subject to the provisions of this section while
35 employed by such adult care home.

36 (k) The operator of an adult care home shall not be required under
37 this section to conduct a background check on an applicant for
38 employment with the adult care home if the applicant has been the subject
39 of a background check under this act within one year prior to the
40 application for employment with the adult care home. The operator of an
41 adult care home where the applicant was the subject of such background
42 check may release a copy of such background check to the operator of an
43 adult care home where the applicant is currently applying.

1 (l) No person who is in the custody of the secretary of corrections and
2 who provides services, under direct supervision in nonpatient areas, on the
3 grounds or other areas designated by the superintendent of the Kansas
4 soldiers' home or the Kansas veterans' home shall be subject to the
5 provisions of this section while providing such services.

6 (m) For purposes of this section, the Kansas bureau of investigation
7 shall report any criminal history information, convictions under K.S.A. 21-
8 3437, 21-3517 and 21-3701, *prior to their repeal, or section 52,*
9 *subsection (a) of section 69 and section 87 of chapter 136 of the 2010*
10 *Session Laws of Kansas*, and amendments thereto, adjudications of a
11 juvenile offender which if committed by an adult would have been a
12 felony conviction, and adjudications of a juvenile offender for an offense
13 described in K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their repeal,*
14 *or section 52, subsection (a) of section 69 and section 87 of chapter 136 of*
15 *the 2010 Session Laws of Kansas*, and amendments thereto, to the
16 secretary of health and environment when a background check is
17 requested.

18 Sec. 176. K.S.A. 2010 Supp. 40-252 is hereby amended to read as
19 follows: 40-252. Every insurance company or fraternal benefit society
20 organized under the laws of this state or doing business in this state shall
21 pay to the commissioner of insurance fees and taxes specified in the
22 following schedule:

23 A

24 *Insurance companies organized under*
25 *the laws of this state:*

26
27 1. Capital stock insurance companies and mutual legal reserve life
28 insurance companies:

29
30 Filing application for sale of stock or certificates of indebtedness\$25

31
32 Admission fees

33 Examination of charter and other documents 500
34 Filing annual statement 100
35 Certificate of authority 10

36 Annual fees:

37 Filing annual statement 100
38 Continuation of certificate of authority 10

39
40 2. Mutual life, accident and health associations:

41
42 Admission fees:

43 Examination of charter and other documents \$500

1 Filing annual statement 100
2 Certificate of authority 10
3 Annual fees:
4 Filing annual statement 100
5 Continuation of certificate of authority 10
6
7 3. Mutual fire, hail, casualty and multiple line insurers and reciprocal or
8 interinsurance exchanges:
9
10 Admission fees:
11 Examination of charter and other documents \$500
12 Filing annual statement 100
13 Certificate of authority 10
14 Annual fees:
15 Filing annual statement 100
16 Continuation of certificate of authority 10
17

18 In addition to the above fees and as a condition precedent to the
19 continuation of the certificate of authority provided in this code, all such
20 companies shall pay a fee of \$2 for each agent certified by the company
21 and shall also pay a tax annually upon all premiums received on risk
22 located in this state at the rate of 1% for tax year 1997, and 2% for all tax
23 years thereafter per annum less (1) for tax years prior to 1984, any taxes
24 paid on business in this state pursuant to the provisions of K.S.A. 40-1701
25 to 40-1707, inclusive, and 75-1508, and amendments thereto and (2) for
26 tax years 1984 and thereafter, any taxes paid on business in this state
27 pursuant to the provisions of K.S.A. 75-1508, and amendments thereto and
28 the amount of the firefighters relief tax credit determined by the
29 commissioner of insurance. The amount of the firefighters relief tax credit
30 for a company for the current tax year shall be determined by the
31 commissioner of insurance by dividing (A) the total amount of credits
32 against the tax imposed by this section for taxes paid by all such
33 companies on business in this state under K.S.A. 40-1701 to 40-1707,
34 inclusive, and amendments thereto for tax year 1983, by (B) the total
35 amount of taxes paid by all such companies on business in this state under
36 K.S.A. 40-1703 and amendments thereto for the tax year immediately
37 preceding the current tax year, and by multiplying the result so obtained by
38 (C) the amount of taxes paid by the company on business in this state
39 under K.S.A. 40-1703 and amendments thereto for the current tax year.

40 In the computation of the gross premiums all such companies shall be
41 entitled to deduct any premiums returned on account of cancellations,
42 including funds accepted before January 1, 1997, and declared and taxed
43 as annuity premiums which, on or after January 1, 1997, are withdrawn

1 before application to the purchase of annuities, all premiums received for
2 reinsurance from any other company authorized to do business in this
3 state, dividends returned to policyholders and premiums received in
4 connection with the funding of a pension, deferred compensation, annuity
5 or profit-sharing plan qualified or exempt under sections 401, 403, 404,
6 408, 457 or 501 of the United States internal revenue code of 1986. Funds
7 received by life insurers for the purchase of annuity contracts and funds
8 applied by life insurers to the purchase of annuities shall not be deemed
9 taxable premiums or be subject to tax under this section for tax years
10 commencing on or after January 1, 1997.

11
12 B

13 *Fraternal benefit societies organized under the laws of this state:*

14 Admission fees:

15 Examination of charter and other documents \$500
16 Filing annual statement 100
17 Certificate of authority 10

18 Annual fees:

19 Filing annual statement 100
20 Continuation of certificate of authority 10

21
22 C

23 Mutual nonprofit hospital service corporations, nonprofit medical service
24 corporations, nonprofit dental service corporations, nonprofit
25 optometric service corporations and nonprofit pharmacy service
26 corporations organized under the laws of this state:

27 1. Mutual nonprofit hospital service corporations:

28
29 Admission fees:

30 Examination of charter and other documents \$500
31 Filing annual statement 100
32 Certificate of authority 10

33 Annual fees:

34 Filing annual statement 100
35 Continuation of certificate of authority 10

36 2. Nonprofit medical service corporations:

37
38 Admission fees:

39 Examination of charter and other documents \$500
40 Filing annual statement 100
41 Certificate of authority 10

42 Annual fees:

43 Filing annual statement 100

1 Continuation of certificate of authority 10
2
3 3. Nonprofit dental service corporations:
4
5 Admission fees:
6 Examination of charter and other documents \$500
7 Filing annual statement 100
8 Certificate of authority 10
9 Annual fees:
10 Filing annual statement 100
11 Continuation of certificate of authority 10
12
13 4. Nonprofit optometric service corporations:
14
15 Admission fees:
16 Examination of charter and other documents \$500
17 Filing annual statement 100
18 Certificate of authority 10
19 Annual fees:
20 Filing annual statement 100
21 Continuation of certificate of authority 10
22

23 5. Nonprofit pharmacy service corporations:
24
25 Admission fees:
26 Examination of charter and other documents.....\$500
27 Filing annual statement.....100
28 Certificate of authority.....10
29 Annual fees:
30 Filing annual statement.....100
31 Continuation of certificate of authority.....10
32

33 In addition to the above fees and as a condition precedent to the
34 continuation of the certificate of authority, provided in this code, every
35 corporation or association shall pay annually to the commissioner of
36 insurance a tax in an amount equal to 1% for tax year 1997, and 2% for all
37 tax years thereafter per annum of the total of all premiums, subscription
38 charges, or any other term which may be used to describe the charges
39 made by such corporation or association to subscribers for hospital,
40 medical or other health services or indemnity received during the
41 preceding year. In such computations all such corporations or associations
42 shall be entitled to deduct any premiums or subscription charges returned
43 on account of cancellations and dividends returned to members or
subscribers.

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D

Insurance companies organized under the laws of any other state, territory or country:

1. Capital stock insurance companies and mutual legal reserve life insurance companies:

Filing application for sale of stock or certificates of indebtedness .	\$25
Admission fees:	
Examination of charter and other documents	500
Filing annual statement	100
Certificate of authority	10
Annual fees:	
Filing annual statement	100
Continuation of certificate of authority	10

In addition to the above fees all such companies shall pay \$5 for each agent certified by the company, except as otherwise provided by law.

As a condition precedent to the continuation of the certificate of authority, provided in this code, every company organized under the laws of any other state of the United States or of any foreign country shall pay a tax upon all premiums received during the preceding year at the rate of 2% per annum.

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn before application to the purchase of annuities, dividends returned to policyholders and all premiums received for reinsurance from any other company authorized to do business in this state and premiums received in connection with the funding of a pension, deferred compensation, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the United States internal revenue code of 1986. Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

2. Mutual life, accident and health associations:

Admission fees:	
Examination of charter and other documents	\$500
Filing annual statement	100

1 Certificate of authority 10
2 Annual fees:
3 Filing annual statement 100
4 Continuation of certificate of authority 10
5

6 In addition to the above fees, every such company organized under the
7 laws of any other state of the United States shall pay \$5 for each agent
8 certified by the company, and shall pay a tax annually upon all premiums
9 received at the rate of 2% per annum.

10 In the computation of the gross premiums all such companies shall be
11 entitled to deduct any premiums returned on account of cancellations,
12 including funds accepted before January 1, 1997, and declared and taxed
13 as annuity premiums which, on or after January 1, 1997, are withdrawn
14 before application to the purchase of annuities, dividends returned to
15 policyholders and all premiums received for reinsurance from any other
16 company authorized to do business in this state and premiums received in
17 connection with the funding of a pension, deferred compensation, annuity
18 or profit-sharing plan qualified or exempt under sections 401, 403, 404,
19 408, 457 or 501 of the United States internal revenue code of 1986. Funds
20 received by life insurers for the purchase of annuity contracts and funds
21 applied by life insurers to the purchase of annuities shall not be deemed
22 taxable premiums or be subject to tax under this section for tax years
23 commencing on or after January 1, 1997.

24 3. Mutual fire, casualty and multiple line insurers and reciprocal or
25 interinsurance exchanges:
26

27 Admission fees:
28 Examination of charter and other documents and issuance of certificate
29 of authority \$500
30 Filing annual statement 100
31 Certificate of authority 10
32 Annual fees:
33 Filing annual statement 100
34 Continuation of certificate of authority 10
35

36 In addition to the above fees, every such company or association
37 organized under the laws of any other state of the United States shall pay a
38 fee of \$5 for each agent certified by the company and shall also pay a tax
39 annually upon all premiums received at the rate of 2% per annum.

40 For tax years 1998 and thereafter, the annual tax shall be reduced by the
41 "applicable percentage" of (1) any taxes paid on business in this state
42 pursuant to the provisions of K.S.A. 75-1508, and amendments thereto,
43 and (2) the amount of the firefighters relief tax credit determined by the

1 commissioner of insurance. The amount of the firefighters relief tax credit
 2 for a company taxable under this subsection for the current tax year shall
 3 be determined by the commissioner of insurance by dividing (A) the total
 4 amount of taxes paid by all such companies on business in this state under
 5 K.S.A. 40-1701 to 40-1707, and amendments thereto, for tax year 1983 as
 6 then in effect, by (B) the total amount of taxes paid by all such companies
 7 on business in this state under K.S.A. 40-1703, and amendments thereto,
 8 for the tax year immediately preceding the current tax year, and by
 9 multiplying the result so obtained by (C) the amount of taxes paid by the
 10 company on business in this state under K.S.A. 40-1703, and amendments
 11 thereto, for the current tax year. The "applicable percentage" shall be as
 12 follows:

13	Tax Year	Applicable Percentage
14	1998	10%
15	1999	20%
16	2000	40%
17	2002	50%
18	2003	60%
19	2004	70%
20	2005	80%
21	2006	90%
22	2007 and thereafter	100%

23

24 In the computation of the gross premiums all such companies shall be
 25 entitled to deduct any premiums returned on account of cancellations, all
 26 premiums received for reinsurance from any other company authorized to
 27 do business in this state, and dividends returned to policyholders.

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E

*Fraternal benefit societies organized under the laws
 of any other state, territory or country:*

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Admission fees:

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Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10
Annual fees:	
Filing annual statement	100
Continuation of certificate of authority	10

F

Mutual nonprofit hospital service corporations, nonprofit medical
 service corporations, nonprofit dental service corporations, nonprofit

1 optometric service corporations and nonprofit pharmacy service
2 corporations organized under the laws of any other state, territory or
3 country:

4

5 1. Mutual nonprofit hospital service corporations:

6

7 Admission fees:

8 Examination of charter and other documents \$500

9 Filing annual statement 100

10 Certificate of authority 10

11 Annual fees:

12 Filing annual statement 100

13 Continuation of certificate of authority 10

14

15 2. Nonprofit medical service corporations, nonprofit dental service
16 corporations, nonprofit optometric service corporations and nonprofit
17 pharmacy service corporations:

18

19 Admission fees:

20 Examination of charter and other documents \$500

21 Filing annual statement 100

22 Certificate of authority 10

23 Annual fees:

24 Filing annual statement 100

25 Continuation of certificate of authority 10

26

27 In addition to the above fees and as a condition precedent to the
28 continuation of the certificate of authority, provided in this code, every
29 corporation or association shall pay annually to the commissioner of
30 insurance a tax in an amount equal to 2% per annum of the total of all
31 premiums, subscription charges, or any other term which may be used to
32 describe the charges made by such corporation or association to
33 subscribers in this state for hospital, medical or other health services or
34 indemnity received during the preceding year. In such computations all
35 such corporations or associations shall be entitled to deduct any premiums
36 or subscription charges returned on account of cancellations and dividends
37 returned to members or subscribers.

38

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G

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Payment of Taxes.

41

42 For the purpose of insuring the collection of the tax upon premiums,
43 assessments and charges as set out in subsection A, C, D or F, every
insurance company, corporation or association shall at the time it files its

1 annual statement, as required by the provisions of K.S.A. 40-225, and
2 amendments thereto, make a return, generated by or at the direction of its
3 president and secretary or other chief officers, under penalty of ~~K.S.A. 21-~~
4 ~~374~~, *section 110 of chapter 136 of the 2010 Session Laws of Kansas*, and
5 amendments thereto, to the commissioner of insurance, stating the amount
6 of all premiums, assessments and charges received by the companies or
7 corporations in this state, whether in cash or notes, during the year ending
8 on the December 31 next preceding.

9 Commencing in 1985 and annually thereafter the estimated taxes shall
10 be paid as follows: On or before June 15 and December 15 of such year an
11 amount equal to 50% of the full amount of the prior year's taxes as
12 reported by the company shall be remitted to the commissioner of
13 insurance. As used in this paragraph, "prior year's taxes" includes (1) taxes
14 assessed pursuant to this section for the prior calendar year, (2) fees and
15 taxes assessed pursuant to K.S.A. 40-253, and amendments thereto, for the
16 prior calendar year, and (3) taxes paid for maintenance of the department
17 of the state fire marshal pursuant to K.S.A. 75-1508, and amendments
18 thereto, for the prior calendar year.

19 Upon the receipt of such returns the commissioner of insurance shall
20 verify the same and assess the taxes upon such companies, corporations or
21 associations on the basis and at the rate provided herein and the balance of
22 such taxes shall thereupon become due and payable giving credit for
23 amounts paid pursuant to the preceding paragraph, or the commissioner
24 shall make a refund if the taxes paid in the prior June and December are in
25 excess of the taxes assessed.

26 H

27 The fee prescribed for the examination of charters and other documents
28 shall apply to each company's initial application for admission and shall
29 not be refundable for any reason.

30 (n) This section shall be part of and supplemental to the adult care
31 home licensure act.

32 Sec. 177. K.S.A. 2010 Supp. 40-2,118 is hereby amended to read as
33 follows: 40-2,118. (a) For purposes of this act a "fraudulent insurance act"
34 means an act committed by any person who, knowingly and with intent to
35 defraud, presents, causes to be presented or prepares with knowledge or
36 belief that it will be presented to or by an insurer, purported insurer, broker
37 or any agent thereof, any written statement as part of, or in support of, an
38 application for the issuance of, or the rating of an insurance policy for
39 personal or commercial insurance, or a claim for payment or other benefit
40 pursuant to an insurance policy for commercial or personal insurance
41 which such person knows to contain materially false information
42 concerning any fact material thereto; or conceals, for the purpose of
43 misleading, information concerning any fact material thereto.

1 (b) An insurer that has knowledge or a good faith belief that a
2 fraudulent insurance act is being or has been committed shall provide to
3 the commissioner, on a form prescribed by the commissioner, any and all
4 information and such additional information relating to such fraudulent
5 insurance act as the commissioner may require.

6 (c) Any other person that has knowledge or a good faith belief that a
7 fraudulent insurance act is being or has been committed may provide to
8 the commissioner, on a form prescribed by the commissioner, any and all
9 information and such additional information relating to such fraudulent
10 insurance act as the commissioner may request.

11 (d) (1) Each insurer shall have antifraud initiatives reasonably
12 calculated to detect fraudulent insurance acts. Antifraud initiatives may
13 include: fraud investigators, who may be insurer employees or
14 independent contractors; or an antifraud plan submitted to the
15 commissioner no later than July 1, 2007. Each insurer that submits an
16 antifraud plan shall notify the commissioner of any material change in the
17 information contained in the antifraud plan within 30 days after such
18 change occurs. Such insurer shall submit to the commissioner in writing
19 the amended antifraud plan.

20 The requirement for submitting any antifraud plan, or any amendment
21 thereof, to the commissioner shall expire on the date specified in
22 paragraph (2) of this subsection unless the legislature reviews and reenacts
23 the provisions of paragraph (2) pursuant to K.S.A. 45-229, and
24 amendments thereto.

25 (2) Any antifraud plan, or any amendment thereof, submitted to the
26 commissioner for informational purposes only shall be confidential and
27 not be a public record and shall not be subject to discovery or subpoena in
28 a civil action unless following an in camera review, the court determines
29 that the antifraud plan is relevant and otherwise admissible under the rules
30 of evidence set forth in article 4, chapter 60 of the Kansas Statutes
31 Annotated, and amendments thereto. The provisions of this paragraph shall
32 expire on July 1, 2011, unless the legislature reviews and reenacts this
33 provision pursuant to K.S.A. 45-229, and amendments thereto, prior to
34 July 1, 2011.

35 (e) Except as otherwise specifically provided in ~~K.S.A. 21-~~
36 ~~3718~~ *subsection (a) of section 98 of chapter 136 of the 2010 Session Laws*
37 *of Kansas*, and amendments thereto and K.S.A. 44-5,125, and amendments
38 thereto, a fraudulent insurance act shall constitute a severity level 6,
39 nonperson felony if the amount involved is \$25,000 or more; a severity
40 level 7, nonperson felony if the amount is at least \$5,000 but less than
41 \$25,000; a severity level 8, nonperson felony if the amount is at least
42 \$1,000 but less than \$5,000; and a class C nonperson misdemeanor if the
43 amount is less than \$1,000. Any combination of fraudulent acts as defined

1 in subsection (a) which occur in a period of six consecutive months which
2 involves \$25,000 or more shall have a presumptive sentence of
3 imprisonment regardless of its location on the sentencing grid block.

4 (f) In addition to any other penalty, a person who violates this statute
5 shall be ordered to make restitution to the insurer or any other person or
6 entity for any financial loss sustained as a result of such violation. An
7 insurer shall not be required to provide coverage or pay any claim
8 involving a fraudulent insurance act.

9 (g) This act shall apply to all insurance applications, ratings, claims
10 and other benefits made pursuant to any insurance policy.

11 Sec. 178. K.S.A. 2010 Supp. 40-1702 is hereby amended to read as
12 follows: 40-1702. (a) On or before April 1 of each year, every insurance
13 company doing business in this state shall return to the commissioner of
14 insurance a just and true account, generated by or at the direction of its
15 president and secretary or other chief officers, under penalty of ~~K.S.A. 21-~~
16 ~~374~~ *section 110 of chapter 136 of the 2010 Session Laws of Kansas*, and
17 amendments thereto, of all premiums received for fire and lightning
18 insurance covering risks located within this state during the year ending
19 December 31, or the fire and lightning portion of any other insurance
20 transacted by the insurance company covering risks within this state.
21 Every insurance company shall include in its return an account of all
22 premiums received for fire and lightning insurance covering risks located
23 within this state.

24 (b) Each firefighters relief association shall prepare and file with the
25 commissioner a plat drawn to scale showing the area provided fire
26 protection service by the fire department of the firefighters relief
27 association and the location of each fire department house. No such plat
28 shall include any part of any area served by another fire department.

29 Sec. 179. K.S.A. 2010 Supp. 40-3213 is hereby amended to read as
30 follows: 40-3213. (a) Every health maintenance organization and medicare
31 provider organization subject to this act shall pay to the commissioner the
32 following fees:

- 33 (1) For filing an application for a certificate of authority, \$150;
- 34 (2) for filing each annual report, \$50;
- 35 (3) for filing an amendment to the certificate of authority, \$10.

36 (b) Every health maintenance organization subject to this act shall
37 pay annually to the commissioner at the time such organization files its
38 annual report, a privilege fee in an amount equal to 1% per annum of the
39 total of all premiums, subscription charges or any other term which may be
40 used to describe the charges made by such organization to enrollees. In
41 such computations all such organizations shall be entitled to deduct
42 therefrom any premiums or subscription charges returned on account of
43 cancellations and dividends returned to enrollees. If the commissioner

1 shall determine at any time that the application of the privilege fee would
2 cause a denial of, reduction in or elimination of federal financial assistance
3 to the state or to any health maintenance organization subject to this act,
4 the commissioner is hereby authorized to terminate the operation of such
5 privilege fee.

6 (c) For the purpose of insuring the collection of the privilege fee
7 provided for by subsection (b), every health maintenance organization
8 subject to this act and required by subsection (b) to pay such privilege fee
9 shall at the time it files its annual report, as required by K.S.A. 40-3220,
10 and amendments thereto, make a return, generated by or at the direction of
11 its chief officer or principal managing director, under penalty of ~~K.S.A.~~
12 ~~21-371~~*section 110 of chapter 136 of the 2010 Session Laws of Kansas*,
13 and amendments thereto, to the commissioner, stating the amount of all
14 premiums, assessments and charges received by the health maintenance
15 organization, whether in cash or notes, during the year ending on the last
16 day of the preceding calendar year. Upon the receipt of such returns the
17 commissioner of insurance shall verify the same and assess the fees upon
18 such organization on the basis and at the rate provided herein and such
19 fees shall thereupon become due and payable.

20 (d) Premiums or other charges received by an insurance company
21 from the operation of a health maintenance organization subject to this act
22 shall not be subject to any fee or tax imposed under the provisions of
23 K.S.A. 40-252, and amendments thereto.

24 (e) Fees charged under this section shall be remitted to the state
25 treasurer in accordance with the provisions of K.S.A. 75-4215, and
26 amendments thereto. Upon receipt of each such remittance, the state
27 treasurer shall deposit the entire amount in the state treasury to the credit
28 of the state general fund.

29 Sec. 180. K.S.A. 41-206 is hereby amended to read as follows: 41-
30 206. (a) Except as permitted pursuant to subsection (b), neither the director
31 nor any employee in the office of the director shall solicit or accept,
32 directly or indirectly, any gift, gratuity, emolument or employment from
33 any manufacturer, distributor, wholesaler or retailer of alcoholic liquor or
34 from any person who is an applicant for any license or is a licensee under
35 the provisions of this act, or from any officer, agent or employee thereof;
36 or solicit requests from or recommend, directly or indirectly, to any such
37 person, or to any officer, agent or employee thereof, the appointment of
38 any person to any place or position. Any such person, officer, agent or
39 employee thereof, is hereby forbidden to offer to the director, or any
40 employee in the office of the director, any gift, gratuity, emolument or
41 employment, except as permitted pursuant to subsection (b).

42 (b) The secretary may adopt rules and regulations allowing the
43 acceptance of official hospitality by the director and employees in the

1 office of the director, subject to such limits as prescribed by the secretary.

2 (c) If any person who is the director or an employee in the office of
3 the director violates any provision of this section, such person shall be
4 removed from such person's office or employment.

5 (d) Violation of any provision of this section is a misdemeanor
6 punishable by a fine of not more than \$500 or imprisonment of not less
7 than 60 days nor more than six months, or both such fine and
8 imprisonment.

9 (e) Nothing contained in this section shall be construed as preventing
10 the prosecution and punishment of any person for bribery as defined in the
11 *Kansas* criminal code of this state.

12 Sec. 181. K.S.A. 2010 Supp. 41-346 is hereby amended to read as
13 follows: 41-346. In any administrative proceeding pursuant to the Kansas
14 liquor control act to suspend or revoke a license, or to impose a civil fine,
15 for a violation of *subsection (a) of section 84 of chapter 136 of the 2010*
16 *Session Laws of Kansas, and amendments thereto, and K.S.A. 21-3610,*
17 ~~21-3610a~~ or 41-2615, and amendments thereto, it shall be a defense if
18 evidence is presented which indicates that: (a) The defendant permitted the
19 minor to possess or consume the alcoholic liquor or cereal malt beverage
20 with reasonable cause to believe that the minor was 21 or more years of
21 age; and (b) to possess or consume the alcoholic liquor or cereal malt
22 beverage, the minor exhibited to the defendant a driver's license, Kansas
23 nondriver's identification card or other official or apparently official
24 document that reasonably appears to contain a photograph of the minor
25 and purporting to establish that such minor was 21 or more years of age.

26 Sec. 182. K.S.A. 2010 Supp. 41-2611 is hereby amended to read as
27 follows: 41-2611. The director may revoke or suspend any license issued
28 pursuant to the club and drinking establishment act for any one or more of
29 the following reasons:

30 (a) The licensee has fraudulently obtained the license by giving false
31 information in the application therefor or any hearing thereon.

32 (b) The licensee has violated any of the provisions of this act or any
33 rules or regulations adopted hereunder.

34 (c) The licensee has become ineligible to obtain a license or permit
35 under this act.

36 (d) The licensee's manager or employee has been intoxicated while
37 on duty.

38 (e) The licensee, or its manager or employee, has permitted any
39 disorderly person to remain on premises where alcoholic liquor is sold by
40 such licensee.

41 (f) There has been a violation of a provision of the laws of this state,
42 or of the United States, pertaining to the sale of intoxicating or alcoholic
43 liquors or cereal malt beverages, or any crime involving a morals charge,

1 on premises where alcoholic liquor is sold by such licensee.

2 (g) The licensee, or its managing officers or any employee, has
3 purchased and displayed, on premises where alcoholic liquor is sold by
4 such licensee, a federal wagering occupational stamp issued by the United
5 States treasury department.

6 (h) The licensee, or its managing officers or any employee, has
7 purchased and displayed, on premises where alcoholic liquor is sold by
8 such licensee, a federal coin operated gambling device stamp for the
9 premises issued by the United States treasury department.

10 (i) The licensee holds a license as a class B club, drinking
11 establishment or caterer and has been found guilty of a violation of article
12 10 of chapter 44 of the Kansas Statutes Annotated, *and amendments*
13 *thereto*, under a decision or order of the Kansas human rights commission
14 which has become final or such licensee has been found guilty of a
15 violation of K.S.A. 21-4003, *prior to its repeal, or section 172 of chapter*
16 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

17 (j) There has been a violation of K.S.A. 21-4106 or 21-4107, *prior to*
18 *their repeal, or section 182 of chapter 136 of the 2010 Session Laws of*
19 *Kansas*, and amendments thereto, on premises where alcoholic liquor is
20 sold by such licensee.

21 Sec. 183. K.S.A. 2010 Supp. 41-2708 is hereby amended to read as
22 follows: 41-2708. (a) The board of county commissioners or the governing
23 body of any city, upon five days' notice to the persons holding a license,
24 may revoke or suspend the license for any one of the following reasons:

25 (1) The licensee has violated any of the provisions of K.S.A. 41-2701
26 et seq., and amendments thereto, or any rules or regulations made by the
27 board or the city, as the case may be;

28 (2) drunkenness of the licensee or permitting any intoxicated person
29 to remain in or upon the licensee's place of business;

30 (3) the sale of cereal malt beverages to any person under the legal age
31 for consumption of cereal malt beverage;

32 (4) permitting any person to mix drinks with materials purchased in
33 or upon the place of business or brought in for that purpose;

34 (5) the sale or possession of, or permitting any person to use or
35 consume on the licensed premises, any alcoholic liquor as defined by
36 K.S.A. 41-102, and amendments thereto; or

37 (6) the licensee has been convicted of a violation of the beer and
38 cereal malt beverage keg registration act.

39 (b) The provisions of subsections (a)(4) and (5) shall not apply if the
40 place of business or premises also are currently licensed as a club or
41 drinking establishment pursuant to the club and drinking establishment act.

42 (c) The board of county commissioners or the governing body of any
43 city, upon five days' notice to the persons holding a license, shall revoke or

1 suspend the license for any one of the following reasons:

2 (1) The licensee has fraudulently obtained the license by giving false
3 information in the application therefor;

4 (2) the licensee has become ineligible to obtain a license under this
5 act;

6 (3) the nonpayment of any license fees;

7 (4) permitting any gambling in or upon the licensee's place of
8 business;

9 (5) the employment of persons under 18 years of age in dispensing or
10 selling cereal malt beverages;

11 (6) the employment or continuation in employment of a person in
12 connection with the sale, serving or dispensing of cereal malt beverages if
13 the licensee knows such person has been, within the preceding two years,
14 adjudged guilty of a felony or of any violation of the intoxicating liquor
15 laws of this state, another state or the United States; or

16 (7) there has been a violation of K.S.A. 21-4106 or 21-4107, *prior to*
17 *their repeal, or section 182 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto, in or upon the licensee's place of
19 business.

20 (d) Within 20 days after the order of the board revoking or
21 suspending any license, the licensee may appeal to the district court and
22 the district court shall proceed to hear such appeal as though such court
23 had original jurisdiction of the matter. Any appeal taken from an order
24 revoking or suspending the license shall not suspend the order of
25 revocation or suspension during the pendency of any such appeal.

26 Sec. 184. K.S.A. 2010 Supp. 41-2905 is hereby amended to read as
27 follows: 41-2905. (a) Prior to the sale at retail of any beer in a container
28 having a liquid capacity of four or more gallons, the retailer or the
29 retailer's employee or agent shall affix to the beer container a keg
30 identification number or otherwise uniquely identify the container in
31 accordance with this act and rules and regulations adopted by the secretary.
32 At the time of sale at retail of any such container of beer, the retailer or the
33 retailer's employee or agent shall record the keg number; the date of the
34 sale; the purchaser's name and address; and the number on the purchaser's
35 driver's license, Kansas nondriver's identification card or other official or
36 apparently official document that reasonably appears to contain both the
37 purchaser's picture and the purchaser's signature, which shall be exhibited
38 at the time of sale. Such record shall be kept by the retailer at the premises
39 where the sale was made. Such record shall be kept by the retailer until the
40 container is returned or until the expiration of six months following the
41 date of the sale.

42 (b) For the purpose of investigating a violation of laws prohibiting the
43 furnishing to or possession or consumption of beer by persons under the

1 age of 21 and if such violation involves a container required to be
2 registered under the beer and cereal malt beverage keg registration act and
3 if there is reason to believe that a retailer sold such container, such
4 retailer's records relating to the sale of such container which are required
5 to be kept by this section shall be available for inspection by any law
6 enforcement officer during normal business hours of the retailer. Records
7 required to be kept by this section shall not be available for inspection or
8 use or subject to subpoena in any civil or administrative action or criminal
9 prosecution other than a civil or administrative action or criminal
10 prosecution relating to a specific violation of this section or K.S.A. 21-
11 3610 ~~or, prior to its repeal, or subsection (a) of section 84 of chapter 136~~
12 *of the 2010 Session Laws of Kansas, and amendments thereto, or K.S.A.*
13 *41-727, and amendments thereto. Except as specifically provided by this*
14 *subsection, records required to be kept by this section shall not be sold,*
15 *distributed or otherwise released to any person other than an agent of the*
16 *retailer or to a law enforcement agency.*

17 (c) Upon a determination that a retailer or a retailer's employee or
18 agent has violated this section or any rules and regulations adopted
19 pursuant to this section, the director may suspend or revoke the retailer's
20 license in the manner provided by K.S.A. 41-320, and amendments
21 thereto, and may impose a fine as provided by K.S.A. 41-328, and
22 amendments thereto.

23 (d) It is a class B nonperson misdemeanor for a person who is not a
24 retailer acting in the ordinary course of business to: (1) Remove from a
25 beer container all or part of a keg identification number required pursuant
26 to this section; (2) make unreadable all or any part of a keg identification
27 number required by this section to be affixed to a beer container; or (3)
28 possess a beer container required to be registered under this act that does
29 not have the keg identification number required by this section.

30 (e) The secretary of revenue shall adopt any rules and regulations
31 necessary to implement the provisions of this section. Such rules and
32 regulations shall include, but shall not be limited to, provisions relating to
33 records and establishing standards for marking and handling containers
34 which are required to be registered by this act.

35 (f) The secretary of revenue shall provide any keg identification tags
36 or labels required by this section. Such tags or labels shall be designed so
37 that when affixed to a keg, such tags or labels do not mar or otherwise
38 damage the keg. There shall be no charge for such tags or labels.

39 (g) If a person sold beer in compliance with the provisions of this
40 section and any rules and regulations adopted pursuant thereto, it shall be a
41 defense to any criminal prosecution or proceeding or civil or
42 administrative action under this section.

43 (h) The provisions of this section shall not apply to sales of kegs by

1 distributors or retailers to clubs, drinking establishments, hotel drinking
 2 establishments and caterers licensed under the club and drinking
 3 establishment act.

4 (i) Words or phrases used in this section shall have the meaning
 5 ascribed thereto by K.S.A. 41-102, and amendments thereto.

6 Sec. 185. K.S.A. 2010 Supp. 41-2906 is hereby amended to read as
 7 follows: 41-2906. (a) Prior to the sale by a retailer or a retailer's employee
 8 or agent of any cereal malt beverage in a container having a liquid capacity
 9 of four or more gallons, the retailer or the retailer's employee or agent shall
 10 affix to the cereal malt beverage container a keg identification number or
 11 otherwise uniquely identify the container in accordance with rules and
 12 regulations adopted by the secretary. At the time of sale of any such
 13 container of cereal malt beverage, the retailer, or the retailer's employee or
 14 agent, shall record the keg number; the date of the sale; the purchaser's
 15 name and address; and the number on the purchaser's driver's license,
 16 Kansas nondriver's identification card or other official or apparently
 17 official document that reasonably appears to contain both the purchaser's
 18 picture and the purchaser's signature, which shall be exhibited at the time
 19 of sale. Such record shall be kept by the retailer at the premises where the
 20 sale was made. Such record shall be kept by the retailer until the container
 21 is returned or until the expiration of six months following the date of the
 22 sale.

23 (b) For the purpose of investigating a violation of laws prohibiting the
 24 furnishing to or possession or consumption of cereal malt beverage by
 25 persons under the legal age for consumption of cereal malt beverage and if
 26 such violation involves a container required to be registered under the beer
 27 and cereal malt beverage keg registration act and if there is reason to
 28 believe that such retailer sold such container, such retailer's records
 29 relating to the sale of such container which are required to be kept by this
 30 section shall be available for inspection by any law enforcement officer
 31 during normal business hours. Records required to be kept by this section
 32 shall not be available for inspection or use or subject to subpoena in any
 33 civil or administrative action or criminal prosecution other than a civil or
 34 administrative action or criminal prosecution relating to a specific
 35 violation of this section or K.S.A. 21-3610 ~~or~~, *prior to its repeal, or*
 36 *subsection (a) of section 84 of chapter 136 of the 2010 Session Laws of*
 37 *Kansas, and amendments thereto, or K.S.A. 41-727, and amendments*
 38 *thereto. Except as specifically provided by this subsection, records*
 39 *required to be kept by this section shall not be sold, distributed or*
 40 *otherwise released to any person other than an agent of the retailer or to a*
 41 *law enforcement agency.*

42 (c) Upon a determination that a retailer or a retailer's employee or
 43 agent has violated this section or any rules and regulations adopted

1 pursuant to this section, the board of county commissioners or the
 2 governing body of the city may suspend or revoke the retailer's license in
 3 the manner provided by K.S.A. 41-2708, and amendments thereto, and
 4 may impose a fine pursuant to K.S.A. 41-2711, and amendments thereto.

5 (d) It is a class B nonperson misdemeanor for a person who is not a
 6 retailer acting in the ordinary course of business to: (1) Remove from a
 7 cereal malt beverage container all or part of a keg identification number
 8 required pursuant to this section; (2) make unreadable all or any part of a
 9 keg identification number required by this section to be affixed to a cereal
 10 malt beverage container; or (3) possess a cereal malt beverage container
 11 required to be registered under this act that does not have the keg
 12 identification number required by this section.

13 (e) The secretary of revenue shall adopt any rules and regulations
 14 necessary to implement the provisions of this section. Such rules and
 15 regulations shall include, but shall not be limited to, provisions relating to
 16 records and establishing standards for marking and handling containers
 17 which are required to be registered by this act.

18 (f) The secretary of revenue shall provide any keg identification tags
 19 or labels required by this act. There shall be no charge for such tags or
 20 labels. Such tags or labels shall be designed so that when affixed to a keg,
 21 such tags or labels do not mar or otherwise damage the keg.

22 (g) If a person sold cereal malt beverage in compliance with the
 23 provisions of this section and any rules and regulations adopted pursuant
 24 thereto, it shall be a defense to any criminal prosecution or proceeding or
 25 civil or administrative action under this section.

26 (h) Words and phrases used in this section shall have the meaning
 27 ascribed thereto by K.S.A. 41-2701, and amendments thereto.

28 Sec. 186. K.S.A. 2010 Supp. 44-5,125 is hereby amended to read as
 29 follows: 44-5,125. (a) (1) Any person who obtains or attempts to obtain
 30 workers compensation benefits for such person or another, or who denies
 31 or attempts to deny the obligation to make any payment of workers
 32 compensation benefits by knowingly or intentionally: (A) Making a false
 33 or misleading statement, (B) misrepresenting or concealing a material fact,
 34 (C) fabricating, altering, concealing or destroying a document; (D)
 35 receiving temporary total disability benefits or permanent total disability
 36 benefits to which they are not entitled, while employed, or (E) conspiring
 37 with another person to commit any act described by paragraph (1) of this
 38 subsection (a), shall be guilty of:

39 (i) A class A nonperson misdemeanor, if the amount received as a
 40 benefit or other payment under the workers compensation act as a result of
 41 such act or the amount that the person otherwise benefited monetarily as a
 42 result of a violation of this subsection (a) is \$1,000 or less;

43 (ii) a severity level 9, nonperson felony, if such amount is more than

1 \$1,000 but less than \$25,000;

2 (iii) a severity level 7, nonperson felony, if the amount is more than
3 \$25,000, but less than \$50,000;

4 (iv) a severity level 6, nonperson felony if the amount is more than
5 \$50,000, but less than \$100,000; or

6 (v) a severity level 5, nonperson felony if the amount is more than
7 \$100,000.

8 (b) Any person who knowingly and intentionally presents a false
9 certificate of insurance that purports that the presenter is insured under the
10 workers compensation act, shall be guilty of a level 8, nonperson felony.

11 (c) A health care provider under the workers compensation act who
12 knowingly and intentionally submits a charge for health care that was not
13 furnished, shall be guilty of a level 9, nonperson felony.

14 (d) Any person who obtains or attempts to obtain a more favorable
15 workers compensation insurance premium rate than that to which the
16 person is entitled, who prevents, reduces, avoids or attempts to prevent,
17 reduce or avoid the payment of any compensation under the workers
18 compensation act, or who fails to communicate a settlement offer or
19 similar information to a claimant under the workers compensation act, by,
20 in any such case knowingly or intentionally: (1) Making a false or
21 misleading statement; (2) misrepresenting or concealing a material fact;
22 (3) fabricating, concealing or destroying a document; or (4) conspiring
23 with another person or persons to commit the acts described in clause (1),
24 (2) or (3) of this subsection shall be guilty of a level 9, nonperson felony.

25 (e) Any person who has received any amount of money as a benefit
26 or other payment under the workers compensation act as a result of a
27 violation of subsection (a) or (c) and any person who has otherwise
28 benefited monetarily as a result of a violation of subsection (a) or (c) shall
29 be liable to repay an amount equal to the amount so received by such
30 person or the amount by which such person has benefited monetarily, with
31 interest thereon. Any such amount, plus any accrued interest thereon, shall
32 bear interest at the current rate of interest prescribed by law for judgments
33 under subsection (e)(1) of K.S.A. 16-204, and amendments thereto per
34 month or fraction of a month until repayment of such amount, plus any
35 accrued interest thereon. The interest shall accrue from the date of
36 overpayment or erroneous payment of any such amount or the date such
37 person benefited monetarily.

38 (f) Any person aggrieved by a violation of subsection (a), (b), (c) or
39 (d) shall have a cause of action against any other person to recover any
40 amounts of money erroneously paid as benefits or any other amounts of
41 money paid under the workers compensation act, and to seek relief for
42 other monetary damages, for which liability has accrued under this section
43 against such other person. Relief under this subsection is to be predicated

1 upon exhaustion of administrative remedies available in K.S.A. 44-5,120,
2 and amendments thereto.

3 (g) Nothing in this section shall prohibit an employer from exercising
4 a right to reimbursement under K.S.A. 44-534a, 44-556 or 44-569a, and
5 amendments thereto.

6 (h) Prosecution for any crime under this section shall be commenced
7 within five years subject to the time period set forth in subsection (8) of
8 K.S.A. 21-3106, *prior to its repeal, or subsection (e) of section 7 of*
9 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

10 Sec. 187. K.S.A. 2010 Supp. 44-706 is hereby amended to read as
11 follows: 44-706. An individual shall be disqualified for benefits:

12 (a) If the individual left work voluntarily without good cause
13 attributable to the work or the employer, subject to the other provisions of
14 this subsection (a). Failure to return to work after expiration of approved
15 personal or medical leave, or both, shall be considered a voluntary
16 resignation. After a temporary job assignment, failure of an individual to
17 affirmatively request an additional assignment on the next succeeding
18 workday, if required by the employment agreement, after completion of a
19 given work assignment, shall constitute leaving work voluntarily. The
20 disqualification shall begin the day following the separation and shall
21 continue until after the individual has become reemployed and has had
22 earnings from insured work of at least three times the individual's weekly
23 benefit amount. An individual shall not be disqualified under this
24 subsection (a) if:

25 (1) The individual was forced to leave work because of illness or
26 injury upon the advice of a licensed and practicing health care provider
27 and, upon learning of the necessity for absence, immediately notified the
28 employer thereof, or the employer consented to the absence, and after
29 recovery from the illness or injury, when recovery was certified by a
30 practicing health care provider, the individual returned to the employer and
31 offered to perform services and the individual's regular work or
32 comparable and suitable work was not available; as used in this paragraph
33 (1) "health care provider" means any person licensed by the proper
34 licensing authority of any state to engage in the practice of medicine and
35 surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or
36 psychology;

37 (2) the individual left temporary work to return to the regular
38 employer;

39 (3) the individual left work to enlist in the armed forces of the United
40 States, but was rejected or delayed from entry;

41 (4) the individual left work because of the voluntary or involuntary
42 transfer of the individual's spouse from one job to another job, which is for
43 the same employer or for a different employer, at a geographic location

1 which makes it unreasonable for the individual to continue work at the
2 individual's job;

3 (5) the individual left work because of hazardous working conditions;
4 in determining whether or not working conditions are hazardous for an
5 individual, the degree of risk involved to the individual's health, safety and
6 morals, the individual's physical fitness and prior training and the working
7 conditions of workers engaged in the same or similar work for the same
8 and other employers in the locality shall be considered; as used in this
9 paragraph (5), "hazardous working conditions" means working conditions
10 that could result in a danger to the physical or mental well-being of the
11 individual; each determination as to whether hazardous working
12 conditions exist shall include, but shall not be limited to, a consideration of
13 (A) the safety measures used or the lack thereof, and (B) the condition of
14 equipment or lack of proper equipment; no work shall be considered
15 hazardous if the working conditions surrounding the individual's work are
16 the same or substantially the same as the working conditions generally
17 prevailing among individuals performing the same or similar work for
18 other employers engaged in the same or similar type of activity;

19 (6) the individual left work to enter training approved under section
20 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
21 substantially equal or higher skill level than the individual's past adversely
22 affected employment (as defined for purposes of the federal trade act of
23 1974), and wages for such work are not less than 80% of the individual's
24 average weekly wage as determined for the purposes of the federal trade
25 act of 1974;

26 (7) the individual left work because of unwelcome harassment of the
27 individual by the employer or another employee of which the employing
28 unit had knowledge;

29 (8) the individual left work to accept better work; each determination
30 as to whether or not the work accepted is better work shall include, but
31 shall not be limited to, consideration of (A) the rate of pay, the hours of
32 work and the probable permanency of the work left as compared to the
33 work accepted, (B) the cost to the individual of getting to the work left in
34 comparison to the cost of getting to the work accepted, and (C) the
35 distance from the individual's place of residence to the work accepted in
36 comparison to the distance from the individual's residence to the work left;

37 (9) the individual left work as a result of being instructed or requested
38 by the employer, a supervisor or a fellow employee to perform a service or
39 commit an act in the scope of official job duties which is in violation of an
40 ordinance or statute;

41 (10) the individual left work because of a violation of the work
42 agreement by the employing unit and, before the individual left, the
43 individual had exhausted all remedies provided in such agreement for the

1 settlement of disputes before terminating;

2 (11) after making reasonable efforts to preserve the work, the
3 individual left work due to a personal emergency of such nature and
4 compelling urgency that it would be contrary to good conscience to
5 impose a disqualification; or

6 (12) (A) the individual left work due to circumstances resulting from
7 domestic violence, including:

8 (i) The individual's reasonable fear of future domestic violence at or
9 en route to or from the individual's place of employment; or

10 (ii) the individual's need to relocate to another geographic area in
11 order to avoid future domestic violence; or

12 (iii) the individual's need to address the physical, psychological and
13 legal impacts of domestic violence; or

14 (iv) the individual's need to leave employment as a condition of
15 receiving services or shelter from an agency which provides support
16 services or shelter to victims of domestic violence; or

17 (v) the individual's reasonable belief that termination of employment
18 is necessary to avoid other situations which may cause domestic violence
19 and to provide for the future safety of the individual or the individual's
20 family.

21 (B) An individual may prove the existence of domestic violence by
22 providing one of the following:

23 (i) A restraining order or other documentation of equitable relief by a
24 court of competent jurisdiction; or

25 (ii) a police record documenting the abuse; or

26 (iii) documentation that the abuser has been convicted of one or more
27 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
28 Kansas Statutes Annotated, *prior to their repeal, or sections 36 through*
29 *77, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
30 *Laws of Kansas*, and amendments thereto, where the victim was a family
31 or household member; or

32 (iv) medical documentation of the abuse; or

33 (v) a statement provided by a counselor, social worker, health care
34 provider, clergy, shelter worker, legal advocate, domestic violence or
35 sexual assault advocate or other professional who has assisted the
36 individual in dealing with the effects of abuse on the individual or the
37 individual's family; or

38 (vi) a sworn statement from the individual attesting to the abuse.

39 (C) No evidence of domestic violence experienced by an individual,
40 including the individual's statement and corroborating evidence, shall be
41 disclosed by the department of labor unless consent for disclosure is given
42 by the individual.

43 (b) If the individual has been discharged for misconduct connected

1 with the individual's work. The disqualification shall begin the day
2 following the separation and shall continue until after the individual
3 becomes reemployed and has had earnings from insured work of at least
4 three times the individual's determined weekly benefit amount, except that
5 if an individual is discharged for gross misconduct connected with the
6 individual's work, such individual shall be disqualified for benefits until
7 such individual again becomes employed and has had earnings from
8 insured work of at least eight times such individual's determined weekly
9 benefit amount. In addition, all wage credits attributable to the
10 employment from which the individual was discharged for gross
11 misconduct connected with the individual's work shall be canceled. No
12 such cancellation of wage credits shall affect prior payments made as a
13 result of a prior separation.

14 (1) For the purposes of this subsection (b), "misconduct" is defined as
15 a violation of a duty or obligation reasonably owed the employer as a
16 condition of employment. The term "gross misconduct" as used in this
17 subsection (b) shall be construed to mean conduct evincing extreme,
18 willful or wanton misconduct as defined by this subsection (b). Failure of
19 the employee to notify the employer of an absence shall be considered
20 prima facie evidence of a violation of a duty or obligation reasonably
21 owed the employer as a condition of employment.

22 (2) For the purposes of this subsection (b), the use of or impairment
23 caused by alcoholic liquor, a cereal malt beverage or a nonprescribed
24 controlled substance by an individual while working shall be conclusive
25 evidence of misconduct and the possession of alcoholic liquor, a cereal
26 malt beverage or a nonprescribed controlled substance by an individual
27 while working shall be prima facie evidence of conduct which is a
28 violation of a duty or obligation reasonably owed to the employer as a
29 condition of employment. Alcoholic liquor shall be defined as provided in
30 K.S.A. 41-102, and amendments thereto. Cereal malt beverage shall be
31 defined as provided in K.S.A. 41-2701, and amendments thereto.
32 Controlled substance shall be defined as provided in K.S.A. 2010 Supp.
33 21-36a01, and amendments thereto. As used in this subsection (b)(2),
34 "required by law" means required by a federal or state law, a federal or
35 state rule or regulation having the force and effect of law, a county
36 resolution or municipal ordinance, or a policy relating to public safety
37 adopted in open meeting by the governing body of any special district or
38 other local governmental entity. Chemical test shall include, but is not
39 limited to, tests of urine, blood or saliva. A positive chemical test shall
40 mean a chemical result showing a concentration at or above the levels
41 listed in K.S.A. 44-501, and amendments thereto, for the drugs or abuse
42 listed therein. A positive breath test shall mean a test result showing an
43 alcohol concentration of .04 or greater. Alcohol concentration means the

1 number of grams of alcohol per 210 liters of breath. An individual's refusal
2 to submit to a chemical test or breath alcohol test shall be conclusive
3 evidence of misconduct if the test meets the standards of the drug free
4 workplace act, 41 U.S.C. § 701 et seq.; the test was administered as part of
5 an employee assistance program or other drug or alcohol treatment
6 program in which the employee was participating voluntarily or as a
7 condition of further employment; the test was otherwise required by law
8 and the test constituted a required condition of employment for the
9 individual's job; the test was requested pursuant to a written policy of the
10 employer of which the employee had knowledge and was a required
11 condition of employment; or there was probable cause to believe that the
12 individual used, possessed or was impaired by alcoholic liquor, a cereal
13 malt beverage or a controlled substance while working. A positive breath
14 alcohol test or a positive chemical test shall be conclusive evidence to
15 prove misconduct if the following conditions are met:

16 (A) Either (i) the test was required by law and was administered
17 pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq., (ii) the
18 test was administered as part of an employee assistance program or other
19 drug or alcohol treatment program in which the employee was
20 participating voluntarily or as a condition of further employment, (iii) the
21 test was requested pursuant to a written policy of the employer of which
22 the employee had knowledge and was a required condition of employment,
23 (iv) the test was required by law and the test constituted a required
24 condition of employment for the individual's job, or (v) there was probable
25 cause to believe that the individual used, had possession of, or was
26 impaired by alcoholic liquor, the cereal malt beverage or the controlled
27 substance while working;

28 (B) the test sample was collected either (i) as prescribed by the drug
29 free workplace act, 41 U.S.C. § 701 et seq., (ii) as prescribed by an
30 employee assistance program or other drug or alcohol treatment program
31 in which the employee was participating voluntarily or as a condition of
32 further employment, (iii) as prescribed by the written policy of the
33 employer of which the employee had knowledge and which constituted a
34 required condition of employment, (iv) as prescribed by a test which was
35 required by law and which constituted a required condition of employment
36 for the individual's job, or (v) at a time contemporaneous with the events
37 establishing probable cause;

38 (C) the collecting and labeling of a chemical test sample was
39 performed by a licensed health care professional or any other individual
40 certified pursuant to paragraph (b)(2)(F) or authorized to collect or label
41 test samples by federal or state law, or a federal or state rule or regulation
42 having the force or effect of law, including law enforcement personnel;

43 (D) the chemical test was performed by a laboratory approved by the

1 United States department of health and human services or licensed by the
2 department of health and environment, except that a blood sample may be
3 tested for alcohol content by a laboratory commonly used for that purpose
4 by state law enforcement agencies;

5 (E) the chemical test was confirmed by gas chromatography, gas
6 chromatography-mass spectroscopy or other comparably reliable
7 analytical method, except that no such confirmation is required for a blood
8 alcohol sample or a breath alcohol test;

9 (F) the breath alcohol test was administered by an individual trained
10 to perform breath tests, the breath testing instrument used was certified
11 and operated strictly according to description provided by the
12 manufacturers and the reliability of the instrument performance was
13 assured by testing with alcohol standards; and

14 (G) the foundation evidence must establish, beyond a reasonable
15 doubt, that the test results were from the sample taken from the individual.

16 (3) (A) For the purposes of this subsection (b), misconduct shall
17 include, but not be limited to repeated absence, including incarceration,
18 resulting in absence from work of three days or longer, excluding
19 Saturdays, Sundays and legal holidays, and lateness, from scheduled work
20 if the facts show:

21 (i) The individual was absent without good cause;

22 (ii) the absence was in violation of the employer's written
23 absenteeism policy;

24 (iii) the employer gave or sent written notice to the individual, at the
25 individual's last known address, that future absence may or will result in
26 discharge; and

27 (iv) the employee had knowledge of the employer's written
28 absenteeism policy.

29 (B) For the purposes of this subsection (b), if an employee disputes
30 being absent without good cause, the employee shall present evidence that
31 a majority of the employee's absences were for good cause. If the
32 employee alleges that the employee's repeated absences were the result of
33 health related issues, such evidence shall include documentation from a
34 licensed and practicing health care provider as defined in subsection (a)(1).

35 (4) An individual shall not be disqualified under this subsection if the
36 individual is discharged under the following circumstances:

37 (A) The employer discharged the individual after learning the
38 individual was seeking other work or when the individual gave notice of
39 future intent to quit;

40 (B) the individual was making a good-faith effort to do the assigned
41 work but was discharged due to: (i) Inefficiency, (ii) unsatisfactory
42 performance due to inability, incapacity or lack of training or experience,
43 (iii) isolated instances of ordinary negligence or inadvertence, (iv) good-

1 faith errors in judgment or discretion, or (v) unsatisfactory work or
2 conduct due to circumstances beyond the individual's control; or

3 (C) the individual's refusal to perform work in excess of the contract
4 of hire.

5 (c) If the individual has failed, without good cause, to either apply for
6 suitable work when so directed by the employment office of the secretary
7 of labor, or to accept suitable work when offered to the individual by the
8 employment office, the secretary of labor, or an employer, such
9 disqualification shall begin with the week in which such failure occurred
10 and shall continue until the individual becomes reemployed and has had
11 earnings from insured work of at least three times such individual's
12 determined weekly benefit amount. In determining whether or not any
13 work is suitable for an individual, the secretary of labor, or a person or
14 persons designated by the secretary, shall consider the degree of risk
15 involved to health, safety and morals, physical fitness and prior training,
16 experience and prior earnings, length of unemployment and prospects for
17 securing local work in the individual's customary occupation or work for
18 which the individual is reasonably fitted by training or experience, and the
19 distance of the available work from the individual's residence.
20 Notwithstanding any other provisions of this act, an otherwise eligible
21 individual shall not be disqualified for refusing an offer of suitable
22 employment, or failing to apply for suitable employment when notified by
23 an employment office, or for leaving the individual's most recent work
24 accepted during approved training, including training approved under
25 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
26 for suitable employment or continuing such work would require the
27 individual to terminate approved training and no work shall be deemed
28 suitable and benefits shall not be denied under this act to any otherwise
29 eligible individual for refusing to accept new work under any of the
30 following conditions: (1) If the position offered is vacant due directly to a
31 strike, lockout or other labor dispute; (2) if the remuneration, hours or
32 other conditions of the work offered are substantially less favorable to the
33 individual than those prevailing for similar work in the locality; (3) if as a
34 condition of being employed, the individual would be required to join or
35 resign from or refrain from joining any labor organization; (4) if the
36 individual left employment as a result of domestic violence, and the
37 position offered does not reasonably accommodate the individual's
38 physical, psychological, safety, and/or legal needs relating to such
39 domestic violence.

40 (d) For any week with respect to which the secretary of labor, or a
41 person or persons designated by the secretary, finds that the individual's
42 unemployment is due to a stoppage of work which exists because of a
43 labor dispute or there would have been a work stoppage had normal

1 operations not been maintained with other personnel previously and
2 currently employed by the same employer at the factory, establishment or
3 other premises at which the individual is or was last employed, except that
4 this subsection (d) shall not apply if it is shown to the satisfaction of the
5 secretary of labor, or a person or persons designated by the secretary, that:
6 (1) The individual is not participating in or financing or directly interested
7 in the labor dispute which caused the stoppage of work; and (2) the
8 individual does not belong to a grade or class of workers of which,
9 immediately before the commencement of the stoppage, there were
10 members employed at the premises at which the stoppage occurs any of
11 whom are participating in or financing or directly interested in the dispute.
12 If in any case separate branches of work which are commonly conducted
13 as separate businesses in separate premises are conducted in separate
14 departments of the same premises, each such department shall, for the
15 purpose of this subsection (d) be deemed to be a separate factory,
16 establishment or other premises. For the purposes of this subsection (d),
17 failure or refusal to cross a picket line or refusal for any reason during the
18 continuance of such labor dispute to accept the individual's available and
19 customary work at the factory, establishment or other premises where the
20 individual is or was last employed shall be considered as participation and
21 interest in the labor dispute.

22 (e) For any week with respect to which or a part of which the
23 individual has received or is seeking unemployment benefits under the
24 unemployment compensation law of any other state or of the United
25 States, except that if the appropriate agency of such other state or the
26 United States finally determines that the individual is not entitled to such
27 unemployment benefits, this disqualification shall not apply.

28 (f) For any week with respect to which the individual is entitled to
29 receive any unemployment allowance or compensation granted by the
30 United States under an act of congress to ex-service men and women in
31 recognition of former service with the military or naval services of the
32 United States.

33 (g) For the period of one year beginning with the first day following
34 the last week of unemployment for which the individual received benefits,
35 or for one year from the date the act was committed, whichever is the later,
36 if the individual, or another in such individual's behalf with the knowledge
37 of the individual, has knowingly made a false statement or representation,
38 or has knowingly failed to disclose a material fact to obtain or increase
39 benefits under this act or any other unemployment compensation law
40 administered by the secretary of labor.

41 (h) For any week with respect to which the individual is receiving
42 compensation for temporary total disability or permanent total disability
43 under the workmen's compensation law of any state or under a similar law

1 of the United States.

2 (i) For any week of unemployment on the basis of service in an
3 instructional, research or principal administrative capacity for an
4 educational institution as defined in subsection (v) of K.S.A. 44-703, and
5 amendments thereto, if such week begins during the period between two
6 successive academic years or terms or, when an agreement provides
7 instead for a similar period between two regular but not successive terms
8 during such period or during a period of paid sabbatical leave provided for
9 in the individual's contract, if the individual performs such services in the
10 first of such academic years or terms and there is a contract or a reasonable
11 assurance that such individual will perform services in any such capacity
12 for any educational institution in the second of such academic years or
13 terms.

14 (j) For any week of unemployment on the basis of service in any
15 capacity other than service in an instructional, research, or administrative
16 capacity in an educational institution, as defined in subsection (v) of
17 K.S.A. 44-703, and amendments thereto, if such week begins during the
18 period between two successive academic years or terms if the individual
19 performs such services in the first of such academic years or terms and
20 there is a reasonable assurance that the individual will perform such
21 services in the second of such academic years or terms, except that if
22 benefits are denied to the individual under this subsection (j) and the
23 individual was not offered an opportunity to perform such services for the
24 educational institution for the second of such academic years or terms,
25 such individual shall be entitled to a retroactive payment of benefits for
26 each week for which the individual filed a timely claim for benefits and for
27 which benefits were denied solely by reason of this subsection (j).

28 (k) For any week of unemployment on the basis of service in any
29 capacity for an educational institution as defined in subsection (v) of
30 K.S.A. 44-703, and amendments thereto, if such week begins during an
31 established and customary vacation period or holiday recess, if the
32 individual performs services in the period immediately before such
33 vacation period or holiday recess and there is a reasonable assurance that
34 such individual will perform such services in the period immediately
35 following such vacation period or holiday recess.

36 (l) For any week of unemployment on the basis of any services,
37 substantially all of which consist of participating in sports or athletic
38 events or training or preparing to so participate, if such week begins during
39 the period between two successive sport seasons or similar period if such
40 individual performed services in the first of such seasons or similar periods
41 and there is a reasonable assurance that such individual will perform such
42 services in the later of such seasons or similar periods.

43 (m) For any week on the basis of services performed by an alien

1 unless such alien is an individual who was lawfully admitted for
2 permanent residence at the time such services were performed, was
3 lawfully present for purposes of performing such services, or was
4 permanently residing in the United States under color of law at the time
5 such services were performed, including an alien who was lawfully present
6 in the United States as a result of the application of the provisions of
7 section 212(d)(5) of the federal immigration and nationality act. Any data
8 or information required of individuals applying for benefits to determine
9 whether benefits are not payable to them because of their alien status shall
10 be uniformly required from all applicants for benefits. In the case of an
11 individual whose application for benefits would otherwise be approved, no
12 determination that benefits to such individual are not payable because of
13 such individual's alien status shall be made except upon a preponderance
14 of the evidence.

15 (n) For any week in which an individual is receiving a governmental
16 or other pension, retirement or retired pay, annuity or other similar
17 periodic payment under a plan maintained by a base period employer and
18 to which the entire contributions were provided by such employer, except
19 that: (1) If the entire contributions to such plan were provided by the base
20 period employer but such individual's weekly benefit amount exceeds such
21 governmental or other pension, retirement or retired pay, annuity or other
22 similar periodic payment attributable to such week, the weekly benefit
23 amount payable to the individual shall be reduced (but not below zero) by
24 an amount equal to the amount of such pension, retirement or retired pay,
25 annuity or other similar periodic payment which is attributable to such
26 week; or (2) if only a portion of contributions to such plan were provided
27 by the base period employer, the weekly benefit amount payable to such
28 individual for such week shall be reduced (but not below zero) by the
29 prorated weekly amount of the pension, retirement or retired pay, annuity
30 or other similar periodic payment after deduction of that portion of the
31 pension, retirement or retired pay, annuity or other similar periodic
32 payment that is directly attributable to the percentage of the contributions
33 made to the plan by such individual; or (3) if the entire contributions to the
34 plan were provided by such individual, or by the individual and an
35 employer (or any person or organization) who is not a base period
36 employer, no reduction in the weekly benefit amount payable to the
37 individual for such week shall be made under this subsection (n); or (4)
38 whatever portion of contributions to such plan were provided by the base
39 period employer, if the services performed for the employer by such
40 individual during the base period, or remuneration received for the
41 services, did not affect the individual's eligibility for, or increased the
42 amount of, such pension, retirement or retired pay, annuity or other similar
43 periodic payment, no reduction in the weekly benefit amount payable to

1 the individual for such week shall be made under this subsection (n). No
2 reduction shall be made for payments made under the social security act or
3 railroad retirement act of 1974.

4 (o) For any week of unemployment on the basis of services
5 performed in any capacity and under any of the circumstances described in
6 subsection (i), (j) or (k) which an individual performed in an educational
7 institution while in the employ of an educational service agency. For the
8 purposes of this subsection (o), the term "educational service agency"
9 means a governmental agency or entity which is established and operated
10 exclusively for the purpose of providing such services to one or more
11 educational institutions.

12 (p) For any week of unemployment on the basis of service as a school
13 bus or other motor vehicle driver employed by a private contractor to
14 transport pupils, students and school personnel to or from school-related
15 functions or activities for an educational institution, as defined in
16 subsection (v) of K.S.A. 44-703, and amendments thereto, if such week
17 begins during the period between two successive academic years or during
18 a similar period between two regular terms, whether or not successive, if
19 the individual has a contract or contracts, or a reasonable assurance
20 thereof, to perform services in any such capacity with a private contractor
21 for any educational institution for both such academic years or both such
22 terms. An individual shall not be disqualified for benefits as provided in
23 this subsection (p) for any week of unemployment on the basis of service
24 as a bus or other motor vehicle driver employed by a private contractor to
25 transport persons to or from nonschool-related functions or activities.

26 (q) For any week of unemployment on the basis of services
27 performed by the individual in any capacity and under any of the
28 circumstances described in subsection (i), (j), (k) or (o) which are provided
29 to or on behalf of an educational institution, as defined in subsection (v) of
30 K.S.A. 44-703, and amendments thereto, while the individual is in the
31 employ of an employer which is a governmental entity, Indian tribe or any
32 employer described in section 501(c)(3) of the federal internal revenue
33 code of 1986 which is exempt from income under section 501(a) of the
34 code.

35 (r) For any week in which an individual is registered at and attending
36 an established school, training facility or other educational institution, or is
37 on vacation during or between two successive academic years or terms. An
38 individual shall not be disqualified for benefits as provided in this
39 subsection (r) provided:

40 (1) The individual was engaged in full-time employment concurrent
41 with the individual's school attendance; or

42 (2) the individual is attending approved training as defined in
43 subsection (s) of K.S.A. 44-703, and amendments thereto; or

1 (3) the individual is attending evening, weekend or limited day time
2 classes, which would not affect availability for work, and is otherwise
3 eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

4 (s) For any week with respect to which an individual is receiving or
5 has received remuneration in the form of a back pay award or settlement.
6 The remuneration shall be allocated to the week or weeks in the manner as
7 specified in the award or agreement, or in the absence of such specificity
8 in the award or agreement, such remuneration shall be allocated to the
9 week or weeks in which such remuneration, in the judgment of the
10 secretary, would have been paid.

11 (1) For any such weeks that an individual receives remuneration in
12 the form of a back pay award or settlement, an overpayment will be
13 established in the amount of unemployment benefits paid and shall be
14 collected from the claimant.

15 (2) If an employer chooses to withhold from a back pay award or
16 settlement, amounts paid to a claimant while they claimed unemployment
17 benefits, such employer shall pay the department the amount withheld.
18 With respect to such amount, the secretary shall have available all of the
19 collection remedies authorized or provided in K.S.A. 44-717, and
20 amendments thereto.

21 (t) If the individual has been discharged for failing a preemployment
22 drug screen required by the employer and if such discharge occurs not later
23 than seven days after the employer is notified of the results of such drug
24 screen. The disqualification shall begin the day following the separation
25 and shall continue until after the individual becomes reemployed and has
26 had earnings from insured work of at least three times the individual's
27 determined weekly benefit amount.

28 (u) If the individual was found not to have a disqualifying
29 adjudication or conviction under K.S.A. 39-970, and amendments thereto,
30 or K.S.A. 65-5117, and amendments thereto, was hired and then was
31 subsequently convicted of a disqualifying felony under K.S.A. 39-970, and
32 amendments thereto, or K.S.A. 65-5117, and amendments thereto, and
33 discharged pursuant to K.S.A. 39-970, and amendments thereto, or K.S.A.
34 65-5117, and amendments thereto. The disqualification shall begin the day
35 following the separation and shall continue until after the individual
36 becomes reemployed and has had earnings from insured work of at least
37 three times the individual's determined weekly benefit amount.

38 Sec. 188. K.S.A. 2010 Supp. 44-719 is hereby amended to read as
39 follows: 44-719. (a) Any person who makes a false statement or
40 representation knowing it to be false or knowingly fails to disclose a
41 material fact, to obtain or increase any benefit or other payment under this
42 act, either for such person or for any other person, shall be guilty of theft
43 and shall be punished in accordance with the provisions of ~~K.S.A. 21-~~

1 ~~3701~~section 87 of chapter 136 of the 2010 Session Laws of Kansas, and
2 amendments thereto.

3 (b) Any employing unit or any officer or agent for any employing
4 unit or any other person who makes a false statement or representation
5 knowing it to be false, or who knowingly fails to disclose a material fact,
6 to prevent or reduce the payment of benefits to any individual entitled
7 thereto, or to avoid becoming or remaining subject hereto or to avoid or
8 reduce any contribution or other payment required from an employing unit
9 under this act, or who willfully fails or refuses to make any such
10 contributions or other payment or to furnish any reports required
11 hereunder or to produce or permit the inspection or copying of records as
12 required hereunder, shall be punished by a fine of not less than \$20 nor
13 more than \$200, or by imprisonment for not longer than 60 days, or both
14 such fine and imprisonment. Each such false statement or representation or
15 failure to disclose a material fact and each day of such failure or refusal
16 shall constitute a separate offense.

17 (c) Any person who willfully violates any provision of this act or any
18 rule and regulation adopted by the secretary hereunder, the violation of
19 which is made unlawful or the observance of which is required under the
20 terms of this act, and for which a penalty is neither prescribed herein or
21 provided by any other applicable statute, shall be punished by a fine of not
22 less than \$20 nor more than \$200, or by imprisonment for not longer than
23 60 days, or by both such fine and imprisonment, and each day such
24 violation continues shall be deemed to be a separate offense.

25 (d) (1) Any person who has received any amount of money as
26 benefits under this act while any conditions for the receipt of benefits
27 imposed by this act were not fulfilled in such person's case, or while such
28 person was disqualified from receiving benefits, shall in the discretion of
29 the secretary, either be liable to have such amount of money deducted from
30 any future benefits payable to such person under this act or shall be liable
31 to repay to the secretary for the employment security fund an amount of
32 money equal to the amount so received by such person. After a period of
33 five years, the secretary may waive the collection of any such amount of
34 money when the secretary has determined that the payment of such
35 amount of money was not due to fraud, misrepresentation, or willful
36 nondisclosure on the part of the person receiving such amount of money,
37 and the collection thereof would be against equity or would cause extreme
38 hardship with regard to such person. The collection of benefit
39 overpayments which were made in the absence of fraud, misrepresentation
40 or willful nondisclosure of required information on the part of the person
41 who received such overpayments, may be waived by the secretary at any
42 time if such person met all eligibility requirements of the employment
43 security law during the weeks in which the overpayments were made.

1 (2) Any benefit erroneously paid which is not repaid shall bear
2 interest at the rate of 1.5% per month or fraction of a month. If the benefit
3 was received as a result of fraud, misrepresentation or willful
4 nondisclosure of required information, interest shall accrue from the date
5 of the final determination of overpayment until repayment plus interest is
6 received by the secretary. If the overpayment was without fraud,
7 misrepresentation or willful nondisclosure of required information, interest
8 shall accrue upon any balance which remains unpaid two years after the
9 final determination of overpayment is made and shall continue until
10 payment plus accrued interest is received by the secretary. Interest
11 collected pursuant to this section shall be paid into the special employment
12 security fund, except that interest collected on federal administrative
13 programs shall be returned to the federal government. Upon written
14 request and for good cause shown, the secretary may abate any interest or
15 portion thereof provided for by this subsection (d)(2). Interest accrued may
16 not be paid by money deducted from any future benefits payable to such
17 persons liable for any overpayment.

18 (3) Unless collection is waived by the secretary, any such amount
19 shall be collectible in the manner provided in subsection (b) of K.S.A. 44-
20 717, and amendments thereto, for the collection of past due contributions.
21 The courts of this state shall in like manner entertain actions to collect
22 amounts of money erroneously paid as benefits, or unlawfully obtained,
23 for which liability has accrued under the employment security law of any
24 other state or of the federal government.

25 (e) Any employer or person who willfully fails or refuses to pay
26 contributions, payments in lieu of contributions or benefit cost payments
27 or attempts in any manner to evade or defeat any such contributions,
28 payments in lieu of contributions or benefit cost payments or the payment
29 thereof, shall be liable for the payment of such contributions, payments in
30 lieu of contributions or benefit cost payments and, in addition to any other
31 penalties provided by law, shall be liable to pay a penalty equal to the total
32 amount of the contributions, payments in lieu of contributions or benefit
33 cost payments evaded or not paid.

34 (f) (1) It shall be unlawful for an employing unit to knowingly obtain
35 or attempt to obtain a reduced liability for contributions under subsection
36 (b)(1) of K.S.A. 44-710a, and amendments thereto, through manipulation
37 of the employer's workforce, or for an employing unit that is not an
38 employing unit at the time it acquires the trade or business, to knowingly
39 obtain or attempt to obtain a reduced liability for contributions under
40 subsection (b)(5) of K.S.A. 44-710a, and amendments thereto, or any other
41 provision of K.S.A. 44-710a, and amendments thereto, related to
42 determining the assignment of a contribution rate, when the sole or
43 primary purpose of the business acquisition was for the purpose of

1 obtaining a lower rate of contributions, or for a person to knowingly advise
2 an employing unit in such a way that results in such a violation, such
3 employing unit or person shall be subject to the following penalties:

4 (A) If the person is an employer, then such employer shall be
5 assigned the highest rate assignable under K.S.A. 44-710a, and
6 amendments thereto, for the rate year during which such violation or
7 attempted violation occurred and the three rate years immediately
8 following this rate year. However, if the employer's business is already at
9 such highest rate for any year, or if the amount of increase in the
10 employer's rate would be less than 2% for such year, then a penalty rate of
11 contributions of 2% of taxable wages shall be imposed for such year. Any
12 moneys resulting from the difference of the computed rate and the penalty
13 rate shall be remitted to the state treasurer in accordance with the
14 provisions of K.S.A. 75-4215 and amendments thereto. Upon receipt of
15 each such remittance, the state treasurer shall deposit the entire amount in
16 the state treasury to the credit of the special employment security fund.

17 (B) If the person is not an employer, such person shall be subject to a
18 civil money penalty of not more than \$5,000. All fines assessed and
19 collected under this section shall be remitted to the state treasurer in
20 accordance with the provisions of K.S.A. 75-4215, and amendments
21 thereto. Upon receipt of each such remittance, the state treasurer shall
22 deposit the entire amount in the state treasury to the credit of the special
23 employment security fund.

24 (2) For purposes of this subsection, the term "knowingly" means
25 having actual knowledge of or acting with deliberate ignorance or reckless
26 disregard for the prohibition involved.

27 (3) For purposes of this subsection, the term "violates or attempts to
28 violate" includes, but is not limited to, any intent to evade,
29 misrepresentation or willful nondisclosure.

30 (4) (A) In addition to, or in lieu of, any civil penalty imposed by
31 paragraph (1) if, the director of employment security or a special assistant
32 attorney general assigned to the department of labor, has probable cause to
33 believe that a violation of this subsection (f) should be prosecuted as a
34 crime, a copy of any order, all investigative reports and any evidence in the
35 possession of the division of employment security which relates to such
36 violation, may be forwarded to the prosecuting attorney in the county in
37 which the act or any of the acts were performed which constitute a
38 violation of this subsection (f). Any case which a county or district
39 attorney fails to prosecute within 90 days shall be returned promptly to the
40 director of employment security. The special assistant attorney general
41 assigned to the Kansas department of labor shall then prosecute the case,
42 if, in the opinion of the special assistant attorney general, the acts or
43 practices involved still warrant prosecution.

1 (B) Violation of this subsection (f) shall be a level 9, nonperson
2 felony.

3 (5) The secretary shall establish procedures to identify the transfer or
4 acquisition of a business for purposes of this section.

5 (6) For purposes of subsection (f):

6 (A) "Person" has the meaning given such term by section 7701(a)(1)
7 of the internal revenue code of 1986;

8 (B) "trade or business" shall include the employer's workforce; and

9 (C) the provisions of ~~K.S.A. 21-3206 and K.S.A. 21-3207~~*sections 31*
10 *and 32 of chapter 136 of the 2010 Session Laws of Kansas*, and
11 amendments thereto, shall apply.

12 (7) This subsection (f) shall be interpreted and applied in such a
13 manner as to meet the minimum requirements contained in any guidance
14 or regulation issued by the United States department of labor.

15 Sec. 189. K.S.A. 44-1039 is hereby amended to read as follows: 44-
16 1039. Any person ~~willfully, knowingly, intentionally~~ and falsely swearing,
17 testifying, affirming, declaring or subscribing to any material fact upon
18 any oath or affirmation required by the Kansas act against discrimination
19 shall be deemed guilty of perjury as defined by ~~K.S.A. 21-3805~~ *in section*
20 *128 of chapter 136 of the 2010 Session Laws of Kansas*, and ~~any~~
21 amendments thereto.

22 Sec. 190. K.S.A. 2010 Supp. 44-1131 is hereby amended to read as
23 follows: 44-1131. As used in K.S.A. 44-1131 and 44-1132, and
24 amendments thereto:

25 (a) "Domestic violence" means abuse as defined in K.S.A. 60-3102,
26 and amendments thereto.

27 (b) "Sexual assault" means any crime defined in K.S.A. 21-3502,
28 **[prior to its repeal,]** *or section 67 of chapter 136 of the 2010 Session Laws*
29 *of Kansas, [and amendments thereto,]* (rape), 21-3503, **[prior to its repeal,]**
30 *or subsection (a) of section 70 of chapter 136 of the 2010 Session Laws of*
31 *Kansas, [and amendments thereto,]* (indecent liberties with a child), 21-
32 3504, **[prior to its repeal,]** *or subsection (b) of section 70 of chapter 136 of*
33 *the 2010 Session Laws of Kansas, [and amendments thereto,]* (aggravated
34 indecent liberties with a child), 21-3505, **[prior to its repeal,]** *or subsection*
35 *(a) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, [and*
36 **[amendments thereto,]** (criminal sodomy), 21-3506, **[prior to its repeal,]** *or*
37 *subsection (b) of section 68 of chapter 136 of the 2010 Session Laws of*
38 *Kansas, [and amendments thereto,]* (aggravated criminal sodomy), 21-
39 3602, **[prior to its repeal,]** *or subsection (a) of section 81 of chapter 136 of*
40 *the 2010 Session Laws of Kansas, [and amendments thereto,]* (incest) or
41 21-3603, **[prior to its repeal,]** *or subsection (b) of section 81 of chapter 136*
42 *of the 2010 Session Laws of Kansas, [and amendments thereto,]*
43 (aggravated incest), ~~and amendments thereto.~~

1 Sec. 191. K.S.A. 2010 Supp. 45-217 is hereby amended to read as
2 follows: 45-217. As used in the open records act, unless the context
3 otherwise requires:

4 (a) "Business day" means any day other than a Saturday, Sunday or
5 day designated as a holiday by the congress of the United States, by the
6 legislature or governor of this state or by the respective political
7 subdivision of this state.

8 (b) "Clearly unwarranted invasion of personal privacy" means
9 revealing information that would be highly offensive to a reasonable
10 person, including information that may pose a risk to a person or property
11 and is not of legitimate concern to the public.

12 (c) "Criminal investigation records" means records of an
13 investigatory agency or criminal justice agency as defined by K.S.A. 22-
14 4701, and amendments thereto, compiled in the process of preventing,
15 detecting or investigating violations of criminal law, but does not include
16 police blotter entries, court records, rosters of inmates of jails or other
17 correctional or detention facilities or records pertaining to violations of
18 any traffic law other than vehicular homicide as defined by K.S.A. 21-
19 3405, *prior to its repeal, or section 41 of chapter 136 of the 2010 Session*
20 *Laws of Kansas*, and amendments thereto.

21 (d) "Custodian" means the official custodian or any person designated
22 by the official custodian to carry out the duties of custodian of this act.

23 (e) "Official custodian" means any officer or employee of a public
24 agency who is responsible for the maintenance of public records,
25 regardless of whether such records are in the officer's or employee's actual
26 personal custody and control.

27 (f) (1) "Public agency" means the state or any political or taxing
28 subdivision of the state or any office, officer, agency or instrumentality
29 thereof, or any other entity receiving or expending and supported in whole
30 or in part by the public funds appropriated by the state or by public funds
31 of any political or taxing subdivision of the state.

32 (2) "Public agency" shall not include:

33 (A) Any entity solely by reason of payment from public funds for
34 property, goods or services of such entity; (B) any municipal judge, judge
35 of the district court, judge of the court of appeals or justice of the supreme
36 court; or (C) any officer or employee of the state or political or taxing
37 subdivision of the state if the state or political or taxing subdivision does
38 not provide the officer or employee with an office which is open to the
39 public at least 35 hours a week.

40 ~~(f)-(h)~~ (g) (1) "Public record" means any recorded information,
41 regardless of form or characteristics, which is made, maintained or kept by
42 or is in the possession of any public agency including, but not limited to,
43 an agreement in settlement of litigation involving the Kansas public

1 employees retirement system and the investment of moneys of the fund.

2 (2) "Public record" shall not include records which are owned by a
3 private person or entity and are not related to functions, activities,
4 programs or operations funded by public funds or records which are made,
5 maintained or kept by an individual who is a member of the legislature or
6 of the governing body of any political or taxing subdivision of the state.

7 (3) "Public record" shall not include records of employers related to
8 the employer's individually identifiable contributions made on behalf of
9 employees for workers compensation, social security, unemployment
10 insurance or retirement. The provisions of this subsection shall not apply
11 to records of employers of lump-sum payments for contributions as
12 described in this subsection paid for any group, division or section of an
13 agency.

14 (h) "Undercover agent" means an employee of a public agency
15 responsible for criminal law enforcement who is engaged in the detection
16 or investigation of violations of criminal law in a capacity where such
17 employee's identity or employment by the public agency is secret.

18 Sec. 192. K.S.A. 2010 Supp. 45-221 is hereby amended to read as
19 follows: 45-221. (a) Except to the extent disclosure is otherwise required
20 by law, a public agency shall not be required to disclose:

21 (1) Records the disclosure of which is specifically prohibited or
22 restricted by federal law, state statute or rule of the Kansas supreme court
23 or rule of the senate committee on confirmation oversight relating to
24 information submitted to the committee pursuant to K.S.A. 2010 Supp. 75-
25 4315d, and amendments thereto, or the disclosure of which is prohibited or
26 restricted pursuant to specific authorization of federal law, state statute or
27 rule of the Kansas supreme court or rule of the senate committee on
28 confirmation oversight relating to information submitted to the committee
29 pursuant to K.S.A. 2010 Supp. 75-4315d, and amendments thereto, to
30 restrict or prohibit disclosure.

31 (2) Records which are privileged under the rules of evidence, unless
32 the holder of the privilege consents to the disclosure.

33 (3) Medical, psychiatric, psychological or alcoholism or drug
34 dependency treatment records which pertain to identifiable patients.

35 (4) Personnel records, performance ratings or individually identifiable
36 records pertaining to employees or applicants for employment, except that
37 this exemption shall not apply to the names, positions, salaries or actual
38 compensation employment contracts or employment-related contracts or
39 agreements and lengths of service of officers and employees of public
40 agencies once they are employed as such.

41 (5) Information which would reveal the identity of any undercover
42 agent or any informant reporting a specific violation of law.

43 (6) Letters of reference or recommendation pertaining to the character

1 or qualifications of an identifiable individual, except documents relating to
2 the appointment of persons to fill a vacancy in an elected office.

3 (7) Library, archive and museum materials contributed by private
4 persons, to the extent of any limitations imposed as conditions of the
5 contribution.

6 (8) Information which would reveal the identity of an individual who
7 lawfully makes a donation to a public agency, if anonymity of the donor is
8 a condition of the donation, except if the donation is intended for or
9 restricted to providing remuneration or personal tangible benefit to a
10 named public officer or employee.

11 (9) Testing and examination materials, before the test or examination
12 is given or if it is to be given again, or records of individual test or
13 examination scores, other than records which show only passage or failure
14 and not specific scores.

15 (10) Criminal investigation records, except as provided herein. The
16 district court, in an action brought pursuant to K.S.A. 45-222, and
17 amendments thereto, may order disclosure of such records, subject to such
18 conditions as the court may impose, if the court finds that disclosure:

19 (A) Is in the public interest;

20 (B) would not interfere with any prospective law enforcement action,
21 criminal investigation or prosecution;

22 (C) would not reveal the identity of any confidential source or
23 undercover agent;

24 (D) would not reveal confidential investigative techniques or
25 procedures not known to the general public;

26 (E) would not endanger the life or physical safety of any person; and

27 (F) would not reveal the name, address, phone number or any other
28 information which specifically and individually identifies the victim of any
29 sexual offense in article 35 of chapter 21 of the Kansas Statutes
30 Annotated, *prior to their repeal, or sections 65 through 77 or 229 through*
31 *231 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
32 thereto.

33 If a public record is discretionarily closed by a public agency pursuant
34 to this subsection, the record custodian, upon request, shall provide a
35 written citation to the specific provisions of paragraphs (A) through (F)
36 that necessitate closure of that public record.

37 (11) Records of agencies involved in administrative adjudication or
38 civil litigation, compiled in the process of detecting or investigating
39 violations of civil law or administrative rules and regulations, if disclosure
40 would interfere with a prospective administrative adjudication or civil
41 litigation or reveal the identity of a confidential source or undercover
42 agent.

43 (12) Records of emergency or security information or procedures of a

1 public agency, or plans, drawings, specifications or related information for
2 any building or facility which is used for purposes requiring security
3 measures in or around the building or facility or which is used for the
4 generation or transmission of power, water, fuels or communications, if
5 disclosure would jeopardize security of the public agency, building or
6 facility.

7 (13) The contents of appraisals or engineering or feasibility estimates
8 or evaluations made by or for a public agency relative to the acquisition of
9 property, prior to the award of formal contracts therefor.

10 (14) Correspondence between a public agency and a private
11 individual, other than correspondence which is intended to give notice of
12 an action, policy or determination relating to any regulatory, supervisory or
13 enforcement responsibility of the public agency or which is widely
14 distributed to the public by a public agency and is not specifically in
15 response to communications from such a private individual.

16 (15) Records pertaining to employer-employee negotiations, if
17 disclosure would reveal information discussed in a lawful executive
18 session under K.S.A. 75-4319, and amendments thereto.

19 (16) Software programs for electronic data processing and
20 documentation thereof, but each public agency shall maintain a register,
21 open to the public, that describes:

22 (A) The information which the agency maintains on computer
23 facilities; and

24 (B) the form in which the information can be made available using
25 existing computer programs.

26 (17) Applications, financial statements and other information
27 submitted in connection with applications for student financial assistance
28 where financial need is a consideration for the award.

29 (18) Plans, designs, drawings or specifications which are prepared by
30 a person other than an employee of a public agency or records which are
31 the property of a private person.

32 (19) Well samples, logs or surveys which the state corporation
33 commission requires to be filed by persons who have drilled or caused to
34 be drilled, or are drilling or causing to be drilled, holes for the purpose of
35 discovery or production of oil or gas, to the extent that disclosure is
36 limited by rules and regulations of the state corporation commission.

37 (20) Notes, preliminary drafts, research data in the process of
38 analysis, unfunded grant proposals, memoranda, recommendations or
39 other records in which opinions are expressed or policies or actions are
40 proposed, except that this exemption shall not apply when such records are
41 publicly cited or identified in an open meeting or in an agenda of an open
42 meeting.

43 (21) Records of a public agency having legislative powers, which

1 records pertain to proposed legislation or amendments to proposed
2 legislation, except that this exemption shall not apply when such records
3 are:

4 (A) Publicly cited or identified in an open meeting or in an agenda of
5 an open meeting; or

6 (B) distributed to a majority of a quorum of any body which has
7 authority to take action or make recommendations to the public agency
8 with regard to the matters to which such records pertain.

9 (22) Records of a public agency having legislative powers, which
10 records pertain to research prepared for one or more members of such
11 agency, except that this exemption shall not apply when such records are:

12 (A) Publicly cited or identified in an open meeting or in an agenda of
13 an open meeting; or

14 (B) distributed to a majority of a quorum of any body which has
15 authority to take action or make recommendations to the public agency
16 with regard to the matters to which such records pertain.

17 (23) Library patron and circulation records which pertain to
18 identifiable individuals.

19 (24) Records which are compiled for census or research purposes and
20 which pertain to identifiable individuals.

21 (25) Records which represent and constitute the work product of an
22 attorney.

23 (26) Records of a utility or other public service pertaining to
24 individually identifiable residential customers of the utility or service,
25 except that information concerning billings for specific individual
26 customers named by the requester shall be subject to disclosure as
27 provided by this act.

28 (27) Specifications for competitive bidding, until the specifications
29 are officially approved by the public agency.

30 (28) Sealed bids and related documents, until a bid is accepted or all
31 bids rejected.

32 (29) Correctional records pertaining to an identifiable inmate or
33 release, except that:

34 (A) The name; photograph and other identifying information;
35 sentence data; parole eligibility date; custody or supervision level;
36 disciplinary record; supervision violations; conditions of supervision,
37 excluding requirements pertaining to mental health or substance abuse
38 counseling; location of facility where incarcerated or location of parole
39 office maintaining supervision and address of a releasee whose crime was
40 committed after the effective date of this act shall be subject to disclosure
41 to any person other than another inmate or releasee, except that the
42 disclosure of the location of an inmate transferred to another state pursuant
43 to the interstate corrections compact shall be at the discretion of the

1 secretary of corrections;

2 (B) the ombudsman of corrections, the attorney general, law
3 enforcement agencies, counsel for the inmate to whom the record pertains
4 and any county or district attorney shall have access to correctional records
5 to the extent otherwise permitted by law;

6 (C) the information provided to the law enforcement agency pursuant
7 to the sex offender registration act, K.S.A. 22-4901 et seq., and
8 amendments thereto, shall be subject to disclosure to any person, except
9 that the name, address, telephone number or any other information which
10 specifically and individually identifies the victim of any offender required
11 to register as provided by the Kansas offender registration act, K.S.A. 22-
12 4901 et seq., and amendments thereto, shall not be disclosed; and

13 (D) records of the department of corrections regarding the financial
14 assets of an offender in the custody of the secretary of corrections shall be
15 subject to disclosure to the victim, or such victim's family, of the crime for
16 which the inmate is in custody as set forth in an order of restitution by the
17 sentencing court.

18 (30) Public records containing information of a personal nature where
19 the public disclosure thereof would constitute a clearly unwarranted
20 invasion of personal privacy.

21 (31) Public records pertaining to prospective location of a business or
22 industry where no previous public disclosure has been made of the
23 business' or industry's interest in locating in, relocating within or
24 expanding within the state. This exception shall not include those records
25 pertaining to application of agencies for permits or licenses necessary to
26 do business or to expand business operations within this state, except as
27 otherwise provided by law.

28 (32) Engineering and architectural estimates made by or for any
29 public agency relative to public improvements.

30 (33) Financial information submitted by contractors in qualification
31 statements to any public agency.

32 (34) Records involved in the obtaining and processing of intellectual
33 property rights that are expected to be, wholly or partially vested in or
34 owned by a state educational institution, as defined in K.S.A. 76-711, and
35 amendments thereto, or an assignee of the institution organized and
36 existing for the benefit of the institution.

37 (35) Any report or record which is made pursuant to K.S.A. 65-4922,
38 65-4923 or 65-4924, and amendments thereto, and which is privileged
39 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

40 (36) Information which would reveal the precise location of an
41 archeological site.

42 (37) Any financial data or traffic information from a railroad
43 company, to a public agency, concerning the sale, lease or rehabilitation of

1 the railroad's property in Kansas.

2 (38) Risk-based capital reports, risk-based capital plans and
3 corrective orders including the working papers and the results of any
4 analysis filed with the commissioner of insurance in accordance with
5 K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

6 (39) Memoranda and related materials required to be used to support
7 the annual actuarial opinions submitted pursuant to subsection (b) of
8 K.S.A. 40-409, and amendments thereto.

9 (40) Disclosure reports filed with the commissioner of insurance
10 under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

11 (41) All financial analysis ratios and examination synopses
12 concerning insurance companies that are submitted to the commissioner by
13 the national association of insurance commissioners' insurance regulatory
14 information system.

15 (42) Any records the disclosure of which is restricted or prohibited by
16 a tribal-state gaming compact.

17 (43) Market research, market plans, business plans and the terms and
18 conditions of managed care or other third party contracts, developed or
19 entered into by the university of Kansas medical center in the operation
20 and management of the university hospital which the chancellor of the
21 university of Kansas or the chancellor's designee determines would give an
22 unfair advantage to competitors of the university of Kansas medical center.

23 (44) The amount of franchise tax paid to the secretary of revenue or
24 the secretary of state by domestic corporations, foreign corporations,
25 domestic limited liability companies, foreign limited liability companies,
26 domestic limited partnership, foreign limited partnership, domestic limited
27 liability partnerships and foreign limited liability partnerships.

28 (45) Records, other than criminal investigation records, the disclosure
29 of which would pose a substantial likelihood of revealing security
30 measures that protect: (A) Systems, facilities or equipment used in the
31 production, transmission or distribution of energy, water or
32 communications services; (B) transportation and sewer or wastewater
33 treatment systems, facilities or equipment; or (C) private property or
34 persons, if the records are submitted to the agency. For purposes of this
35 paragraph, security means measures that protect against criminal acts
36 intended to intimidate or coerce the civilian population, influence
37 government policy by intimidation or coercion or to affect the operation of
38 government by disruption of public services, mass destruction,
39 assassination or kidnapping. Security measures include, but are not limited
40 to, intelligence information, tactical plans, resource deployment and
41 vulnerability assessments.

42 (46) Any information or material received by the register of deeds of
43 a county from military discharge papers (DD Form 214). Such papers shall

1 be disclosed: To the military dischargee; to such dischargee's immediate
2 family members and lineal descendants; to such dischargee's heirs, agents
3 or assigns; to the licensed funeral director who has custody of the body of
4 the deceased dischargee; when required by a department or agency of the
5 federal or state government or a political subdivision thereof; when the
6 form is required to perfect the claim of military service or honorable
7 discharge or a claim of a dependent of the dischargee; and upon the written
8 approval of the commissioner of veterans affairs, to a person conducting
9 research.

10 (47) Information that would reveal the location of a shelter or a
11 safehouse or similar place where persons are provided protection from
12 abuse or the name, address, location or other contact information of
13 alleged victims of stalking, domestic violence or sexual assault.

14 (48) Policy information provided by an insurance carrier in
15 accordance with subsection (h)(1) of K.S.A. 44-532, and amendments
16 thereto. This exemption shall not be construed to preclude access to an
17 individual employer's record for the purpose of verification of insurance
18 coverage or to the department of labor for their business purposes.

19 (49) An individual's e-mail address, cell phone number and other
20 contact information which has been given to the public agency for the
21 purpose of public agency notifications or communications which are
22 widely distributed to the public.

23 (b) Except to the extent disclosure is otherwise required by law or as
24 appropriate during the course of an administrative proceeding or on appeal
25 from agency action, a public agency or officer shall not disclose financial
26 information of a taxpayer which may be required or requested by a county
27 appraiser or the director of property valuation to assist in the determination
28 of the value of the taxpayer's property for ad valorem taxation purposes; or
29 any financial information of a personal nature required or requested by a
30 public agency or officer, including a name, job description or title
31 revealing the salary or other compensation of officers, employees or
32 applicants for employment with a firm, corporation or agency, except a
33 public agency. Nothing contained herein shall be construed to prohibit the
34 publication of statistics, so classified as to prevent identification of
35 particular reports or returns and the items thereof.

36 (c) As used in this section, the term "cited or identified" shall not
37 include a request to an employee of a public agency that a document be
38 prepared.

39 (d) If a public record contains material which is not subject to
40 disclosure pursuant to this act, the public agency shall separate or delete
41 such material and make available to the requester that material in the
42 public record which is subject to disclosure pursuant to this act. If a public
43 record is not subject to disclosure because it pertains to an identifiable

1 individual, the public agency shall delete the identifying portions of the
2 record and make available to the requester any remaining portions which
3 are subject to disclosure pursuant to this act, unless the request is for a
4 record pertaining to a specific individual or to such a limited group of
5 individuals that the individuals' identities are reasonably ascertainable, the
6 public agency shall not be required to disclose those portions of the record
7 which pertain to such individual or individuals.

8 (e) The provisions of this section shall not be construed to exempt
9 from public disclosure statistical information not descriptive of any
10 identifiable person.

11 (f) Notwithstanding the provisions of subsection (a), any public
12 record which has been in existence more than 70 years shall be open for
13 inspection by any person unless disclosure of the record is specifically
14 prohibited or restricted by federal law, state statute or rule of the Kansas
15 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and
16 amendments thereto.

17 (g) Any confidential records or information relating to security
18 measures provided or received under the provisions of subsection (a)(45)
19 shall not be subject to subpoena, discovery or other demand in any
20 administrative, criminal or civil action.

21 Sec. 193. K.S.A. 2010 Supp. 45-230 is hereby amended to read as
22 follows: 45-230. (a) No person shall knowingly sell, give or receive, for
23 the purpose of selling or offering for sale any property or service to
24 persons listed therein, any list of names and addresses contained in or
25 derived from public records except:

26 (1) Lists of names and addresses from public records of the division
27 of vehicles obtained under K.S.A. 74-2012, and amendments thereto;

28 (2) lists of names and addresses of persons licensed, registered or
29 issued certificates or permits to practice a profession or vocation may be
30 sold or given to, and received by, an organization of persons who practice
31 that profession or vocation for membership, informational or other
32 purposes related to the practice of the profession or vocation;

33 (3) lists of names and addresses of persons applying for examination
34 for licenses, registrations, certificates or permits to practice a profession or
35 vocation shall be sold or given to, and received by, organizations providing
36 professional or vocational educational materials or courses to such persons
37 for the sole purpose of providing such persons with information relating to
38 the availability of such materials or courses;

39 (4) lists of names, addresses and other information from voter
40 registration lists may be compiled, used, given, received, sold or purchased
41 by any person, as defined in ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of*
42 *the 2010 Session Laws of Kansas*, and amendments thereto, solely for
43 political campaign or election purposes;

1 (5) lists of names and addresses from the public records of
2 postsecondary institutions as defined in K.S.A. 74-3201b, and
3 amendments thereto, may be given to, and received and disseminated by
4 such institution's separately incorporated affiliates and supporting
5 organizations, which qualify under section 501(c)(3) of the federal internal
6 revenue code of 1986, for use in the furtherance of the purposes and
7 programs of such institutions and such affiliates and supporting
8 organizations; and

9 (6) to the extent otherwise authorized by law.

10 (b) Any person subject to this section who knowingly violates the
11 provisions of this section shall be liable for the payment of a civil penalty
12 in an action brought by the attorney general or county or district attorney
13 in a sum set by the court not to exceed \$500 for each violation.

14 (c) The provisions of this section shall not apply to nor impose any
15 civil liability or penalty upon any public official, public agency or records
16 custodian for granting access to or providing copies of public records or
17 information containing names and addresses, in good faith compliance
18 with the Kansas open records act, to a person who has made a written
19 request for access to such information and has executed a written
20 certification pursuant to subsection (c)(2) of K.S.A. 45-220, and
21 amendments thereto.

22 (d) This section shall be a part of and supplemental to the Kansas
23 open records act.

24 Sec. 194. K.S.A. 46-920 is hereby amended to read as follows: 46-
25 920. (a) The secretary of corrections may reimburse any inmate of any
26 correctional institution or other facility under the secretary's jurisdiction
27 for any personal injury or personal property damage or loss occurring
28 under circumstances which establish, in the secretary's opinion, that such
29 loss or damage was caused by the negligence of the state or any agency,
30 officer or employee thereof. No reimbursement payment shall be made on
31 any claim for an amount of more than \$500. Nothing in this section shall
32 prohibit the crediting of any payment made to an inmate of a correctional
33 institution or other facility under the secretary's jurisdiction to such
34 inmate's account within the institution or facility, as the case may be.

35 (b) When an inmate owes an outstanding unpaid amount of restitution
36 ordered by a court pursuant to K.S.A. 21-4603, 21-4603d or 21-4610,
37 *prior to their repeal, or section 244, 247 or 271 of chapter 136 of the 2010*
38 *Session Laws of Kansas*, and amendments thereto, the secretary of
39 corrections shall withdraw from the inmate's trust account as a set-off:

40 (1) Money received by the inmate from the state as a settlement of a
41 claim against the state through the joint committee on special claims
42 against the state which is otherwise specifically approved for payment by
43 appropriation act of the legislature, or which is approved through the

1 department of corrections internal claims procedure under this section; or

2 (2) money received by the inmate from the state as the result of a
3 settlement or a final judgment in a civil action in which the state of Kansas
4 or an employee of the department of corrections was a named defendant
5 and the state was found to be liable.

6 (c) When an inmate on post release, parole or conditional release
7 supervision owes an outstanding unpaid amount of restitution ordered by a
8 court pursuant to K.S.A. 21-4603, 21-4603d or 21-4610, *prior to their*
9 *repeal, or section 244, 247 or 271 of chapter 136 of the 2010 Session*
10 *Laws of Kansas*, and amendments thereto, the state shall setoff the unpaid
11 restitution from:

12 (1) Money payable to the inmate from the state as a settlement of a
13 claim against the state through the joint committee against the state which
14 is specifically approved for payment by appropriation act of the legislature
15 or which is approved through the department of corrections under this
16 section; or

17 (2) money payable to the inmate from the state as a result of a
18 settlement or final judgment in a civil action in which the state of Kansas
19 or an employee of the department of corrections was a named defendant
20 and the state was found to be liable.

21 (d) Vouchers certifying the amount to be setoff under subsection (c)
22 for the outstanding unpaid restitution and any balance remaining payable
23 to the inmate shall be prepared and submitted to the director of accounts
24 and reports of the department of administration.

25 (e) When more than one state court order of restitution is outstanding
26 and unpaid, moneys shall be applied to and paid for the restitution orders
27 in accordance with this section in the order in which the final judgment
28 orders were entered.

29 (f) Moneys collected for payment towards outstanding unpaid
30 restitution in accordance with this section shall be forwarded to the
31 appropriate clerk of the district court for disbursement.

32 Sec. 195. K.S.A. 47-653c is hereby amended to read as follows: 47-
33 653c. Any person who shall violate any provision of this act or regulations
34 adopted in accordance therewith shall be deemed guilty of a misdemeanor
35 and upon conviction shall be punished as prescribed by ~~K.S.A. 21-~~
36 ~~4502~~*section 242 of chapter 136 of the 2010 Session Laws of Kansas, and*
37 *amendments thereto.*

38 Sec. 196. K.S.A. 2010 Supp. 47-1706 is hereby amended to read as
39 follows: 47-1706. (a) The commissioner may refuse to issue or renew or
40 may suspend or revoke any license or permit required under K.S.A. 47-
41 1701 et seq., and amendments thereto, for any one or more of the
42 following reasons:

43 (1) Material misstatement in the application for the original license or

- 1 permit, or in the application for any renewal of a license or permit;
- 2 (2) willful disregard of any provision of the Kansas pet animal act or
3 any rule and regulation adopted hereunder, or any willful aiding or
4 abetting of another in the violation of any provision of the Kansas pet
5 animal act or any rule and regulation adopted hereunder;
- 6 (3) permitting any license or permit issued hereunder to be used by an
7 unlicensed or unpermitted person or transferred to unlicensed or
8 unpermitted premises;
- 9 (4) the conviction of any crime relating to the theft of animals or a
10 first conviction of cruelty to animals;
- 11 (5) substantial misrepresentation;
- 12 (6) misrepresentation or false promise, made through advertising,
13 salespersons, agents or otherwise, in connection with the operation of
14 business of the licensee or permittee;
- 15 (7) fraudulent bill of sale;
- 16 (8) the housing facility or the primary enclosure is inadequate; or
- 17 (9) the feeding, watering, sanitizing and housing practices at the
18 licensee's or permittee's premises are not consistent with the Kansas pet
19 animal act or the rules and regulations adopted hereunder.
- 20 (b) The commissioner shall refuse to issue or renew and shall suspend
21 or revoke any license or permit required under K.S.A. 47-1701 et seq., and
22 amendments thereto, for the second or subsequent conviction of cruelty to
23 animals, K.S.A. 21-4310, *prior to its repeal, or subsections (a)(1) through*
24 *(a)(5) of section 223 of chapter 136 of the 2010 Session Laws of Kansas,*
25 and amendments thereto.
- 26 (c) Any refusal to issue or renew a license or permit, and any
27 suspension or revocation of a license or permit, under this section shall be
28 in accordance with the provisions of the Kansas administrative procedure
29 act and shall be subject to review in accordance with the Kansas judicial
30 review act.
- 31 (d) Whenever the commissioner denies, suspends or revokes a license
32 or permit under this section, the commissioner or the commissioner's
33 authorized, trained representatives shall seize and impound any animals in
34 the possession, custody or care of the person whose license or permit is
35 denied, suspended or revoked if there are reasonable grounds to believe
36 that the animals' health, safety or welfare is endangered. Except as
37 provided by ~~K.S.A. 21-4311~~ *section 223 of chapter 136 of the 2010*
38 *Session Laws of Kansas,* and amendments thereto, such animals may be
39 returned to the person owning them if there is satisfactory evidence that
40 the animals will receive adequate care by that person or such animals may
41 be sold, placed or euthanized, at the discretion of the commissioner. Costs
42 of care and services for such animals while seized and impounded shall be
43 paid by the person from whom the animals were seized and impounded, if

1 that person's license or permit is denied, suspended or revoked. Such funds
 2 shall be paid to the commissioner for reimbursement of care and services
 3 provided during seizure and impoundment. If such person's license or
 4 permit is not denied, suspended or revoked, the commissioner shall pay the
 5 costs of care and services provided during seizure and impoundment.

6 Sec. 197. K.S.A. 2010 Supp. 47-1707 is hereby amended to read as
 7 follows: 47-1707. (a) In addition to or in lieu of any other civil or criminal
 8 penalty provided by law, the commissioner, upon a finding that a person
 9 has violated or failed to comply with any provision of the Kansas pet
 10 animal act or any rule and regulation adopted hereunder, may impose on
 11 such person a civil fine not exceeding \$1,000 for each violation or
 12 requirement to attend an educational course regarding animals and their
 13 care and treatment. If the commissioner imposes the educational course,
 14 such person may choose either the fine or the educational course. If such
 15 person chooses the fine, the commissioner shall establish the amount
 16 pursuant to the fine provisions of this section. The educational course shall
 17 be administered by the commissioner in consultation with Kansas state
 18 university college of veterinary medicine.

19 (b) Any imposition of a civil fine pursuant to this section shall be
 20 only upon notice and a hearing conducted in accordance with the Kansas
 21 administrative procedure act and shall be subject to review in accordance
 22 with the Kansas judicial review act.

23 (c) Whenever the commissioner has reasonable grounds to believe
 24 that a person or premises required to be licensed or permitted under the
 25 Kansas pet animal act has failed to comply with or has violated any
 26 provision of the Kansas pet animal act or any rule and regulation adopted
 27 hereunder and that the health, safety or welfare of animals in such person's
 28 possession, custody or care is endangered thereby, the commissioner shall
 29 seize and impound such animals using emergency adjudicative
 30 proceedings in accordance with the Kansas administrative procedure act.
 31 Except as provided by ~~K.S.A. 21-4311~~ *section 223 of chapter 136 of the*
 32 *2010 Session Laws of Kansas*, and amendments thereto, such animals may
 33 be returned to the person owning them if there is satisfactory evidence that
 34 the animals will receive adequate care by that person or such animals may
 35 be sold, placed or euthanized, at the discretion of the commissioner. Costs
 36 of care and services for such animals while seized and impounded shall be
 37 paid by the person from whom the animals were seized and impounded, if
 38 that person is found to be in violation of the Kansas pet animal act or any
 39 rules and regulations adopted hereunder. Such funds shall be paid to the
 40 commissioner for reimbursement of care and services provided during
 41 seizure and impoundment. If such person is not found to be in violation of
 42 the Kansas pet animal act or any rules and regulations adopted hereunder,
 43 the commissioner shall pay the costs of care and services provided during

1 seizure and impoundment.

2 Sec. 198. K.S.A. 47-1715 is hereby amended to read as follows: 47-
3 1715. (a) Any violation of or failure to comply with any provision of the
4 Kansas pet animal act, or any rule and regulation adopted hereunder, shall
5 constitute a class A nonperson misdemeanor. Continued operation, after a
6 conviction, shall constitute a separate offense for each day of operation.

7 (b) Upon a conviction of a person for any violation of the Kansas pet
8 animal act, or any rule and regulation adopted hereunder, the court shall
9 order the commissioner to seize and impound any animals in the convicted
10 person's possession, custody or care if there are reasonable grounds to
11 believe that the animals' health, safety or welfare is endangered. Except as
12 provided by ~~K.S.A. 21-431~~*section 223 of chapter 136 of the 2010*
13 *Session Laws of Kansas*, and amendments thereto, such animals may be
14 returned to the person owning them if there is satisfactory evidence that
15 the animals will receive adequate care by that person or such animals may
16 be sold, placed or euthanized, at the discretion of the commissioner. Costs
17 of care and services for such animals while seized and impounded shall be
18 paid by the convicted person. Such funds shall be paid to the
19 commissioner for reimbursement of care and services provided during
20 seizure and impoundment. If the person is not convicted, the commissioner
21 shall pay the costs of care and services provided during seizure and
22 impoundment.

23 Sec. 199. K.S.A. 50-618 is hereby amended to read as follows: 50-
24 618. Whenever any person, firm, partnership, association, corporation or
25 other business organization, or any agent thereof, shall voluntarily issue or
26 cause to be issued a ~~credit~~*financial* card, as defined by ~~K.S.A. 21-3729~~*in*
27 *section 114 of chapter 136 of the 2010 Session Laws of Kansas*, and
28 *amendments thereto*, where the person to whom the card is issued has not
29 requested or solicited such issuance, and has neither signed nor used such
30 card, the person to whom the card is issued shall not be liable for any use
31 or misuse of such card if it shall be lost or stolen. In any action for the
32 return of ~~said credit~~*such* card, or for the return of any goods, wares or
33 merchandise acquired through use of ~~said credit~~*such* card subsequent to it
34 being lost by or stolen from the recipient thereof, or for the payment of the
35 purchase price of said goods, wares or merchandise, it shall be a complete
36 defense by such recipient that the ~~credit~~*financial* card was issued, sent or delivered,
37 or caused to be issued, sent or delivered, to the recipient unsolicited or that
38 the recipient did not actually order or request the same and that the
39 recipient neither signed nor used such card. Where any person has
40 requested or solicited the issuance of a ~~credit~~*financial* card from any
41 person, firm, partnership, association, corporation or other business
42 organization, or any agent thereof or such person has signed or used such
43 card, the reissuance or renewal of such card, regardless of any specific

1 request or solicitation therefor by the holder of such card, shall not be
2 deemed to be the receipt of an unsolicited ~~credit~~*financial* card within the
3 meaning of this act.

4 Sec. 200. K.S.A. 50-648 is hereby amended to read as follows: 50-
5 648. (a) Any consumer who has purchased a motor vehicle from a supplier
6 and who proves: (1) That any of the acts declared to be a violation of
7 ~~K.S.A. 21-3757~~*section 121 of chapter 136 of the 2010 Session Laws of*
8 *Kansas, and amendments thereto*, have taken place; and (2) that the
9 mileage or use of the motor vehicle is materially different from that shown
10 on the vehicle's odometer shall be entitled to a declaration from the court
11 that the purchase of the motor vehicle is voidable at the consumer's
12 request.

13 (b) If the purchase of a motor vehicle is voided under subsection (a),
14 the consumer shall recover the greater of the following but recovery shall
15 not exceed the actual purchase price of the vehicle:

16 (1) Purchase price before trade-in allowance less set off;

17 (2) Purchase price before trade-in allowance plus verified repairs less
18 set off; or

19 (3) The civil penalties in K.S.A. 50-651, *and amendments thereto*.

20 (c) The consumer may recover reasonable attorney fees, if the
21 consumer prevails in an action against the supplier under this section.

22 Sec. 201. K.S.A. 50-651 is hereby amended to read as follows: 50-
23 651. (a) The commission of any act or practice declared to be a violation
24 of ~~K.S.A. 21-3757~~*section 121 of chapter 136 of the 2010 Session Laws of*
25 *Kansas, and amendments thereto*, or K.S.A. 50-653, and amendments
26 thereto, shall make the violator liable to the aggrieved consumer, or to the
27 state, for the payment of a civil penalty, recoverable in an individual action
28 or in an action brought by the attorney general in a sum set by the court of
29 not more than \$2,000 per violation of K.S.A. 50-653, and amendments
30 thereto, and not more than \$10,000 per violation of ~~K.S.A. 21-3757~~*section*
31 *121 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
32 thereto.

33 (b) The remedies provided in subsection (a) are in addition to any
34 remedies available under federal odometer law.

35 Sec. 202. K.S.A. 50-653 is hereby amended to read as follows: 50-
36 653. A supplier as defined herein shall disclose in writing to the purchaser
37 of a motor vehicle at or before the time of entering into the purchase
38 agreement whether the supplier has or has not performed a title search for
39 such motor vehicle and such disclosure statement shall be signed by the
40 purchaser acknowledging such disclosure was made to the purchaser. A
41 supplier who makes the foregoing disclosure shall have no liability under
42 K.S.A. 50-648, 50-650 and 50-651, *and amendments thereto*, to a
43 purchaser of the vehicle in the event the mileage shown for the motor

1 vehicle is inaccurate or untrue, unless such supplier violated the provisions
2 of subsection ~~(f)~~ of ~~K.S.A. 21-3757(a)(4)~~ of section 121 of chapter 136 of
3 the 2010 Session Laws of Kansas, and amendments thereto.

4 Sec. 203. K.S.A. 57-227 is hereby amended to read as follows: 57-
5 227. This act shall not apply to:

6 (a) Investigations by law enforcement officers or other persons
7 concerning a suspected violation of ~~K.S.A. 21-3750~~ subsection (a)(3) of
8 section 92 of chapter 136 of the 2010 Session Laws of Kansas, and
9 amendments thereto; or

10 (b) contracts between copyright owners or performing rights societies
11 and broadcasters licensed by the federal communications commission or
12 contracts with cable operators, programmers or other transmission
13 services.

14 Sec. 204. K.S.A. 58-2573 is hereby amended to read as follows: 58-
15 2573. The provisions of this act shall not: (a) Apply to or affect any valid
16 rental agreement entered into prior to the effective date of this act, nor
17 shall it apply to or affect any conduct or transaction of the parties to such
18 rental agreement, if such conduct or transaction is in accordance with and
19 pursuant to such rental agreement; but the provisions of this act shall apply
20 to and govern any renewal, extension or modification of any such rental
21 agreement, where such renewal, extension or modification is effected on or
22 after the effective date of this act; or

23 (b) apply to any person or persons who enter and remain in a
24 dwelling unit without a rental agreement and without the landlord's
25 knowledge and such person knows that such person is not authorized or
26 privileged to do so and an order to leave has been personally
27 communicated to such person by the landlord. Such person or persons
28 may be prosecuted pursuant to ~~K.S.A. 21-3721~~ section 94 of chapter 136 of
29 the 2010 Session Laws of Kansas, and amendments thereto.

30 Sec. 205. K.S.A. 2010 Supp. 58-3043 is hereby amended to read as
31 follows: 58-3043. (a) In determining whether to grant or renew a license
32 the commission shall consider:

33 (1) Any revocation or suspension of a prior real estate license;

34 (2) (A) Whether an applicant has committed any of the following
35 during the term of any prior real estate license:

36 (i) A violation of any of the practices enumerated in K.S.A. 58-3062,
37 and amendments thereto;

38 (ii) a violation of this act or rules and regulations adopted hereunder;
39 or

40 (iii) a violation of the brokerage relationships in real estate
41 transactions act, K.S.A. 58-30,101 et seq., and amendments thereto;

42 (B) whether an applicant has been finally adjudicated and a
43 determination was made by a federal, state or other appropriate licensing

1 body that the applicant committed any violation that is comparable to a
2 violation in subparagraph (A) during the term of any real estate license
3 issued to the applicant by another jurisdiction;

4 (3) any plea of guilty or *nolo contendere* to, or any conviction of any
5 misdemeanor which reflects on the applicant's honesty, trustworthiness,
6 integrity or competence to transact the business of real estate;

7 (4) any conduct of the applicant which reflects on the applicant's
8 honesty, trustworthiness, integrity or competence to transact the business
9 of real estate; and

10 (5) such other matters as the commission deems pertinent.

11 (b) The commission may renew or grant an original license to an
12 applicant who has any prior revocation or suspension, conduct or plea of
13 guilty or *nolo contendere* to or conviction of a misdemeanor as specified in
14 subsection (a) if the applicant presents to the commission satisfactory
15 proof that the applicant now bears a good reputation for honesty,
16 trustworthiness, integrity and competence to transact the business of real
17 estate in such a manner as to safeguard the interest of the public. The
18 burden of proof shall be on the applicant to present such evidence to the
19 commission. In its consideration of any prior revocation, conduct or plea
20 of guilty or *nolo contendere* to or conviction of a misdemeanor as
21 specified in subsection (a), the commission shall consider the following
22 factors:

23 (1) The nature of the offense;

24 (2) any aggravating or extenuating circumstances;

25 (3) the time elapsed since such revocation, conduct or plea of guilty
26 or *nolo contendere* to or conviction of a misdemeanor;

27 (4) the rehabilitation or restitution performed by the applicant; and

28 (5) any other factors that the commission deems relevant.

29 (c) The commission may deny a license to any person who, without a
30 license, has engaged in a real estate activity for which a license was
31 required.

32 (d) When an applicant has made a false statement of material fact on
33 the application, such false statement may be sufficient reason for refusal of
34 a license.

35 (e) (1) Except as provided in paragraph (2), the commission shall
36 refuse to grant a license to an applicant if the applicant has entered a plea
37 of guilty or *nolo contendere* to, or has been convicted of:

38 (A) (i) Any offense that is comparable to any crime which would
39 require the applicant to register as provided in the Kansas offender
40 registration act; or

41 (ii) any federal, military or other state conviction for an offense that is
42 comparable to any crime under the laws of this state which would require
43 the applicant to register as provided in the Kansas offender registration act;

1 or

2 (B) (i) Any felony other than a felony under subparagraph (A); or

3 (ii) any federal, military or other state conviction for an offense that is
4 comparable to any under the laws of this state other than a felony under
5 subparagraph (A).

6 (2) The commission may grant an original license pursuant to
7 subsection (f) if the applicant's application is received at least:

8 (A) Fifteen years after the date of the applicant's discharge from
9 postrelease supervision, completion of any nonprison sanction or
10 suspension of the imposition of the sentence resulting from any plea of
11 guilty or nolo contendere to or conviction of any offense specified in
12 subparagraph (A) of paragraph (1); or

13 (B) five years after the date of the applicant's discharge from
14 postrelease supervision, completion of any nonprison sanction or
15 suspension of the imposition of the sentence resulting from any plea of
16 guilty or nolo contendere to or conviction of any offense specified in
17 subparagraph (B) of paragraph (1), whichever is applicable.

18 (3) For the purposes of this subsection, "postrelease supervision" and
19 "nonprison sanction" shall have the meaning ascribed to it in ~~K.S.A. 21-~~
20 ~~4703~~ *them in section 284 of chapter 136 of the 2010 Session Laws of*
21 *Kansas*, and amendments thereto.

22 ~~(4) For the purposes of this subsection, "nonprison sanction" shall~~
23 ~~have the meaning ascribed to it in K.S.A. 21-4703, and amendments~~
24 ~~thereto.~~

25 (f) (1) The commission may renew or grant an original license to an
26 applicant who has entered a plea of guilty or nolo contendere to, or has
27 been convicted of any crime listed in paragraph (1) of subsection (e) if the
28 applicant presents to the commission satisfactory proof that the applicant
29 now bears a good reputation for honesty, trustworthiness, integrity and
30 competence to transact the business of real estate in such a manner as to
31 safeguard the interest of the public. The burden of proof shall be on the
32 applicant to present such evidence to the commission.

33 (2) In addition to the factors listed in subsections (a) and (b), in
34 determining whether or not the applicant presently has a good reputation
35 as required in subsection (f), the commission shall consider the following
36 additional factors:

37 (A) The extent and nature of the applicant's past criminal activity;

38 (B) the age of the applicant at the time of the commission of the
39 crime or crimes;

40 (C) the amount of time elapsed since the applicant's last criminal
41 activity;

42 (D) the conduct and work activity of the applicant prior to and
43 following the criminal activity;

1 (E) evidence of the applicant's rehabilitation or rehabilitative effort;
2 and

3 (F) all other evidence of the applicant's present fitness for a license.

4 Sec. 206. K.S.A. 2010 Supp. 58-3068 is hereby amended to read as
5 follows: 58-3068. (a) Except as provided in subsection (d), moneys in the
6 real estate recovery revolving fund shall be used in the manner provided
7 by this act to reimburse persons who suffer monetary damages by reason
8 of any of the following acts committed in connection with any transaction
9 involving the sale of real estate in this state by any broker or salesperson
10 who was licensed under the laws of this state at the time the act was
11 committed or by any unlicensed employee of such broker or salesperson:

12 (1) Violation of any of the following provisions of this act:

13 (A) K.S.A. 58-3061, and amendments thereto; or

14 (B) subsection (a)(1), (2), (13), (18), (19) or (25) or subsection (b)(2)
15 of K.S.A. 58-3062, and amendments thereto; or

16 (2) violation of any provision of the brokerage relationships in real
17 estate transactions act; or

18 (3) obtaining money or property by any act which would constitute
19 any crime defined by K.S.A. 21-3701, 21-3704, 21-3705, 21-3707, 21-
20 3710, 21-3711 or 21-3712, *prior to their repeal, or section 87, 89, 107,*
21 *109, 110 or 112 of chapter 136 of the 2010 Session Laws of Kansas,* and
22 amendments thereto.

23 (b) Any person may seek recovery from the real estate recovery
24 revolving fund under the following conditions:

25 (1) Such person has received final judgment in a court of competent
26 jurisdiction of this state in any action wherein the cause of action was
27 based on any of the acts described in subsection (a);

28 (2) the claim is made within two years after the date that final
29 judgment is entered;

30 (3) such person has caused to be issued a writ of execution upon such
31 judgment, and the officer executing the same has made a return showing
32 that no personal or real property of the judgment debtor liable to be levied
33 upon in satisfaction of the judgment could be found, or that the amount
34 realized on the sale of the judgment debtor's property pursuant to such
35 execution was insufficient to satisfy the judgment;

36 (4) such person has made all reasonable searches and inquiries to
37 ascertain whether the judgment debtor is possessed of real or personal
38 property or other assets, subject to being sold or applied in satisfaction of
39 the judgment, and by such search such person has discovered no such
40 property or assets, or that such person has discovered such property and
41 assets and that such person has taken all necessary action and proceedings
42 for the application thereof to the judgment and that the amount thereby
43 realized was insufficient to satisfy the judgment;

1 (5) any amounts recovered by such person from the judgment debtor,
2 or from any other source, has been applied to the damages awarded by the
3 court; and

4 (6) such person is not a person who is precluded by subsection (c)
5 from making a claim for recovery.

6 (c) A person shall not be qualified to make a claim for recovery from
7 the real estate recovery revolving fund, if:

8 (1) The person is the spouse of the judgment debtor or a personal
9 representative of such spouse;

10 (2) the person acted as principal or agent in the real estate transaction
11 which is the subject of the claim and is a licensed broker or salesperson or
12 is an association, corporation, limited liability company, limited liability
13 partnership, partnership or professional corporation whose partners,
14 members, officers and employees are licensed as provided by subsection
15 (b) of K.S.A. 58-3042, and amendments thereto; or

16 (3) such person's claim is based upon a real estate transaction in
17 which the licensed broker or salesperson was acting on the broker's or
18 salesperson's own behalf with respect to property owned or controlled by
19 such broker or salesperson.

20 (d) At any time that the balance remaining in the real estate recovery
21 revolving fund is greater than \$250,000, any amount over \$250,000 may
22 be used by the commission for the following purposes:

23 (1) Production and distribution of an agency newsletter;

24 (2) monitoring education courses;

25 (3) expansion of materials available for consumers; and

26 (4) education grants to high schools and universities for course
27 materials on money management and home ownership.

28 Sec. 207. K.S.A. 2010 Supp. 58-4505 is hereby amended to read as
29 follows: 58-4505. (a) Except as provided in subsections (b) and (c), the
30 board may deny, suspend or revoke a registration, or may impose
31 probationary conditions on a registrant or applicant if the registrant or
32 applicant has engaged in any of the following conduct:

33 (1) Making a materially false or fraudulent statement in an
34 application for registration or renewal;

35 (2) been convicted of or plead guilty or nolo contendere in a court of
36 competent jurisdiction to any misdemeanor involving dishonesty;

37 (3) intentionally falsifying a home inspection report;

38 (4) performing any of the following acts as part of the home
39 inspection:

40 (A) Inspecting for a fee any property in which the home inspector has
41 any personal or financial interest unless the interest is disclosed in writing
42 to the client before the home inspection is performed and the client signs
43 an acknowledgment of receipt of the disclosure;

1 (B) offering or delivering any commission, referral fee or kickback
2 for the referral of any business to the home inspector; and

3 (C) accepting an engagement to perform a home inspection or to
4 prepare a home inspection report in which the employment itself or the fee
5 payable for the inspection is contingent upon the conclusions in the home
6 inspection report, pre-established or prescribed findings or the closing of
7 the underlying real estate transaction;

8 (5) including as a term or condition in an agreement to conduct a
9 home inspection any provision that disclaims the liability of the registered
10 home inspector for any errors and omissions which may arise during a
11 home inspection or to limit the amount of damage for liability for any
12 errors and omissions which may arise during a home inspection to less
13 than \$10,000 in the aggregate for each home inspection;

14 (6) failing to provide a client with a pre-inspection notice prior to the
15 home inspection;

16 (7) failing to substantially follow the approved standards of practice
17 and code of ethics;

18 (8) failing to respond as requested by the board to any summons for
19 attendance and testimony or to produce documents or any other physical
20 evidence during an investigation into the qualifications of or allegations of
21 misconduct of an applicant or registrant; and

22 (9) violating any provision of this act or rules and regulations
23 promulgated by the board pursuant to this act.

24 (b) (1) Except as provided in paragraph (2), the board shall refuse to
25 issue a registration to an applicant or registrant if the applicant or
26 registrant has entered a plea of guilty or nolo contendere to, or has been
27 convicted of:

28 (A) (i) Any offense that is comparable to any crime which would
29 require the applicant to register as provided in the Kansas offender
30 registration act; or

31 (ii) any federal, military or other state conviction for an offense that is
32 comparable to any crime under the laws of this state which would require
33 the applicant to register as provided in the Kansas offender registration act;
34 or

35 (B) (i) Any felony other than a felony under subparagraph (A); or

36 (ii) any federal, military or other state conviction for an offense that is
37 comparable to any under the laws of this state other than a felony under
38 subparagraph (A).

39 (2) The board may grant an original registration pursuant to
40 subsection (c) if the applicant's or registrant's application is received at
41 least:

42 (A) Fifteen years after the date of the applicant's or registrant's
43 discharge from postrelease supervision, completion of any nonprison

1 sanction or suspension of the imposition of the sentence resulting from any
2 plea of guilty or nolo contendere to or conviction of any offense specified
3 in subparagraph (A) of paragraph (1); or

4 (B) five years after the date of the applicant's discharge from
5 postrelease supervision, completion of any nonprison sanction or
6 suspension of the imposition of the sentence resulting from any plea of
7 guilty or nolo contendere to or conviction of any offense specified in
8 subparagraph (B) of paragraph (1), whichever is applicable.

9 (3) For the purposes of this subsection, "postrelease supervision" and
10 "nonprison sanction" shall have the meaning ascribed to it in ~~K.S.A. 21-~~
11 ~~4703~~them in section 284 of chapter 136 of the 2010 Session Laws of
12 Kansas, and amendments thereto.

13 ~~(4) For the purposes of this subsection, "nonprison sanction" shall~~
14 ~~have the meaning ascribed to it in K.S.A. 21-4703 and amendments~~
15 ~~thereto.~~

16 (c) (1) The board may renew or grant an original registration to an
17 applicant or registrant who has entered a plea of guilty or nolo contendere
18 to, or has been convicted of any misdemeanor or any crime listed in
19 paragraph (1) of subsection (b) if the applicant or registrant presents to the
20 board satisfactory proof that the applicant or registrant now bears a good
21 reputation for honesty, trustworthiness, integrity and competence to
22 transact the business of registered home inspector in such a manner as to
23 safeguard the interest of the public. The burden of proof shall be on the
24 applicator or registrant to present such evidence to the board.

25 (2) In determining whether or not the applicant or registrant presently
26 has a good reputation as required in this subsection, the board shall
27 consider the following additional factors:

28 (A) The extent and nature of the applicant's or registrant's past
29 criminal activity;

30 (B) the age of the applicant or registrant at the time of the
31 commission of the crime or crimes;

32 (C) the amount of time elapsed since the applicant's or registrant's last
33 criminal activity;

34 (D) the conduct and work activity of the applicant or registrant prior
35 to and following the criminal activity; and

36 (E) evidence of the applicant's or registrant's rehabilitation or
37 rehabilitative effort; and

38 (F) all other evidence of the applicant's or registrant's present fitness
39 for a registration.

40 (d) In addition to or in lieu of any other administrative, civil or
41 criminal remedy provided by law, if the board determines after notice and
42 an opportunity for a hearing in accordance with the Kansas administrative
43 procedures act that a registrant has violated any provision of this act or any

1 rule and regulation adopted hereunder, the board may impose on such
2 registrant a civil fine not to exceed \$500 for each violation.

3 (e) All proceedings pursuant to this section shall be conducted in
4 accordance with the provisions of the Kansas administrative procedure act.

5 Sec. 208. K.S.A. 2010 Supp. 59-2132 is hereby amended to read as
6 follows: 59-2132. (a) Except as provided in subsection (h), in independent
7 and agency adoptions, the court shall require the petitioner to obtain an
8 assessment of the advisability of the adoption by a court approved:

9 (1) (A) Licensed social worker, licensed specialist social worker,
10 licensed specialist clinical social worker, licensed masters social worker,
11 licensed baccalaureate social worker or licensed associate social worker
12 licensed by the behavioral sciences regulatory board;

13 (B) licensed clinical marriage and family therapist as defined in
14 K.S.A. 65-6402, and amendments thereto;

15 (C) licensed marriage and family therapist as defined in K.S.A. 65-
16 6402, and amendments thereto;

17 (D) licensed clinical professional counselor as defined in K.S.A. 65-
18 5802, and amendments thereto;

19 (E) licensed professional counselor as defined in K.S.A. 65-5802, and
20 amendments thereto;

21 (F) licensed psychologist as defined in K.S.A. 65-6319, and
22 amendments thereto;

23 (G) licensed masters level psychologist as defined in K.S.A. 74-5362,
24 and amendments thereto;

25 (H) licensed clinical psychotherapist as defined in K.S.A. 74-5363,
26 and amendments thereto; or

27 (I) a licensed child-placing agency.

28 (2) Any person performing an assessment pursuant to this subsection
29 shall:

30 (A) Possess a minimum of two years experience in adoption services
31 or be supervised by a person with such experience; or

32 (B) if licensed by the behavioral sciences regulatory board to
33 diagnose and treat mental disorders in independent practice, possess a
34 minimum of one year of experience in adoption services or be supervised
35 by a person with such experience.

36 (b) The petitioner shall file with the court, not less than 10 days
37 before the hearing on the petition, a report of the assessment and, if
38 necessary, confirmation or clarification of the information filed under
39 K.S.A. 59-2130, and amendments thereto.

40 (c) If there is no one authorized pursuant to this section available to
41 make the assessment and report to the court, the court may use the
42 department of social and rehabilitation services for that purpose.

43 (d) The costs of making the assessment and report may be assessed as

1 court costs in the case as provided in article 20 of chapter 60 of the Kansas
2 Statutes Annotated, and amendments thereto.

3 (e) In making the assessment, the person authorized pursuant to this
4 section or department of social and rehabilitation services is authorized to
5 observe the child in the petitioner's home, verify financial information of
6 the petitioner, shall clear the name of the petitioner with the child abuse
7 and neglect registry through the department of social and rehabilitation
8 services and, when appropriate, with a similar registry in another state or
9 nation, shall determine whether the petitioner has been convicted of a
10 felony for any act described in articles 34, 35 or 36 of chapter 21 of the
11 Kansas Statutes Annotated, *prior to their repeal, or section 36 through 86,*
12 *174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session Laws*
13 *of Kansas*, and amendments thereto, or, within the last five years been
14 convicted of a felony violation of K.S.A. 2010 Supp. 21-36a01 through
15 21-36a17, and amendments thereto, or any felony violation of any
16 provision of the uniform controlled substances act prior to July 1, 2009,
17 and, when appropriate, any similar conviction in another jurisdiction, and
18 to contact the agency or individuals consenting to the adoption and
19 confirm and, if necessary, clarify any genetic and medical history filed
20 with the petition. This information shall be made a part of the report to the
21 court. The report to the court by any person authorized pursuant to this
22 section to perform this assessment shall include the results of the
23 investigation of the petitioner, the petitioner's home and the ability of the
24 petitioner to care for the child.

25 (f) In the case of a nonresident who is filing a petition to adopt a child
26 in Kansas, the assessment and report required by this section must be
27 completed in the petitioner's state of residence by a person authorized in
28 that state to conduct such assessments. Such report shall be filed with the
29 court not less than 10 days before the hearing on the petition.

30 (g) The assessment and report required by this section shall comply
31 with any applicable rules and regulations of the department of health and
32 environment and shall have been completed not more than one year prior
33 to the filing of the petition for adoption.

34 (h) The assessment and report required by this section may be waived
35 by the court upon: (1) Review of a petition requesting such waiver by a
36 relative of the child; or

37 (2) the court's own motion.

38 Sec. 209. K.S.A. 2010 Supp. 59-2948 is hereby amended to read as
39 follows: 59-2948. (a) The fact that a person may have voluntarily accepted
40 any form of psychiatric treatment, or become subject to a court order
41 entered under authority of this act, shall not be construed to mean that such
42 person shall have lost any civil right they otherwise would have as a
43 resident or citizen, any property right or their legal capacity, except as may

1 be specified within any court order or as otherwise limited by the
2 provisions of this act or the reasonable rules and regulations which the
3 head of a treatment facility may for good cause find necessary to make for
4 the orderly operations of that facility. No person held in custody under the
5 provisions of this act shall be denied the right to apply for a writ of habeas
6 corpus.

7 (b) There shall be no implication or presumption that a patient within
8 the terms of this act is for that reason alone a person in need of a guardian
9 or a conservator as provided for in K.S.A. 59-3050 through 59-3095, and
10 amendments thereto.

11 (c) A person who is a mentally ill person subject to involuntary
12 commitment for care and treatment as defined in K.S.A. 59-2946, and
13 amendments thereto, or a person with an alcohol or substance abuse
14 problem subject to involuntary commitment for care and treatment as
15 defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to
16 ~~K.S.A. 21-4204~~ *section 186 of chapter 136 of the 2010 Session Laws of*
17 *Kansas*, and amendments thereto.

18 Sec. 210. K.S.A. 2010 Supp. 59-29a02 is hereby amended to read as
19 follows: 59-29a02. As used in this act:

20 (a) "Sexually violent predator" means any person who has been
21 convicted of or charged with a sexually violent offense and who suffers
22 from a mental abnormality or personality disorder which makes the person
23 likely to engage in repeat acts of sexual violence.

24 (b) "Mental abnormality" means a congenital or acquired condition
25 affecting the emotional or volitional capacity which predisposes the person
26 to commit sexually violent offenses in a degree constituting such person a
27 menace to the health and safety of others.

28 (c) "Likely to engage in repeat acts of sexual violence" means the
29 person's propensity to commit acts of sexual violence is of such a degree
30 as to pose a menace to the health and safety of others.

31 (d) "Sexually motivated" means that one of the purposes for which
32 the defendant committed the crime was for the purpose of the defendant's
33 sexual gratification.

34 (e) "Sexually violent offense" means:

35 (1) Rape as defined in K.S.A. 21-3502, *prior to its repeal, or section*
36 *67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
37 thereto;

38 (2) indecent liberties with a child as defined in K.S.A. 21-3503, *prior*
39 *to its repeal, or subsection (a) of section 70 of chapter 136 of the 2010*
40 *Session Laws of Kansas*, and amendments thereto;

41 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-
42 3504, *prior to its repeal, or subsection (b) of section 70 of chapter 136 of*
43 *the 2010 Session Laws of Kansas*, and amendments thereto;

1 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of
2 K.S.A. 21-3505, *prior to its repeal, or subsection (a)(3) and (a)(4) of*
3 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
4 amendments thereto;

5 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, *prior*
6 *to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010*
7 *Session Laws of Kansas*, and amendments thereto;

8 (6) indecent solicitation of a child as defined in K.S.A. 21-3510,
9 *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the*
10 *2010 Session Laws of Kansas*, and amendments thereto;

11 (7) aggravated indecent solicitation of a child as defined in K.S.A.
12 21-3511, *prior to its repeal, or subsection (b) of section 72 of chapter 136*
13 *of the 2010 Session Laws of Kansas*, and amendments thereto;

14 (8) sexual exploitation of a child as defined in K.S.A. 21-3516, *prior*
15 *to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of*
16 *Kansas*, and amendments thereto;

17 (9) aggravated sexual battery as defined in K.S.A. 21-3518, *prior to*
18 *its repeal, or subsection (b) of section 69 of chapter 136 of the 2010*
19 *Session Laws of Kansas*, and amendments thereto;

20 (10) aggravated incest as defined in K.S.A. 21-3603, *prior to its*
21 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
22 *Laws of Kansas*, and amendments thereto;

23 (11) any conviction for a felony offense in effect at any time prior to
24 the effective date of this act, that is comparable to a sexually violent
25 offense as defined in subparagraphs (1) through (11) or any federal or
26 other state conviction for a felony offense that under the laws of this state
27 would be a sexually violent offense as defined in this section;

28 (12) an attempt, conspiracy or criminal solicitation, as defined in
29 K.S.A. 21-3301, 21-3302 and 21-3303, *prior to their repeal, or sections*
30 *33, 34 and 35 of chapter 136 of the 2010 Session Laws of Kansas*, and
31 amendments thereto, of a sexually violent offense as defined in this
32 subsection; or

33 (13) any act which either at the time of sentencing for the offense or
34 subsequently during civil commitment proceedings pursuant to this act,
35 has been determined beyond a reasonable doubt to have been sexually
36 motivated.

37 (f) "Agency with jurisdiction" means that agency which releases upon
38 lawful order or authority a person serving a sentence or term of
39 confinement and includes the department of corrections, the department of
40 social and rehabilitation services and the Kansas parole board.

41 (g) "Person" means an individual who is a potential or actual subject
42 of proceedings under this act.

43 (h) "Treatment staff" means the persons, agencies or firms employed

1 by or contracted with the secretary to provide treatment, supervision or
2 other services at the sexually violent predator facility.

3 (i) "Transitional release" means any halfway house, work release,
4 sexually violent predator treatment facility or other placement designed to
5 assist the person's adjustment and reintegration into the community once
6 released from commitment.

7 (j) "Secretary" means the secretary of the department of social and
8 rehabilitation services.

9 Sec. 211. K.S.A. 2010 Supp. 59-29a07 is hereby amended to read as
10 follows: 59-29a07. (a) The court or jury shall determine whether, beyond a
11 reasonable doubt, the person is a sexually violent predator. If such
12 determination that the person is a sexually violent predator is made by a
13 jury, such determination shall be by unanimous verdict of such jury. Such
14 determination may be appealed. If the court or jury determines that the
15 person is a sexually violent predator, the person shall be committed to the
16 custody of the secretary of social and rehabilitation services for control,
17 care and treatment until such time as the person's mental abnormality or
18 personality disorder has so changed that the person is safe to be at large.
19 Such control, care and treatment shall be provided at a facility operated by
20 the department of social and rehabilitation services.

21 (b) At all times, persons committed for control, care and treatment by
22 the department of social and rehabilitation services pursuant to K.S.A. 59-
23 29a01 et seq., and amendments thereto, shall be kept in a secure facility
24 and such persons shall be segregated at all times from any other patient
25 under the supervision of the secretary of social and rehabilitation services
26 and commencing June 1, 1995, such persons committed pursuant to K.S.A.
27 59-29a01 et seq., and amendments thereto, shall be kept in a facility or
28 building separate from any other patient under the supervision of the
29 secretary. The provisions of this subsection shall apply to any facility or
30 building utilized in any transitional release program or conditional release
31 program.

32 (c) The department of social and rehabilitation services is authorized
33 to enter into an interagency agreement with the department of corrections
34 for the confinement of such persons. Such persons who are in the
35 confinement of the secretary of corrections pursuant to an interagency
36 agreement shall be housed and managed separately from offenders in the
37 custody of the secretary of corrections, and except for occasional instances
38 of supervised incidental contact, shall be segregated from such offenders.

39 (d) If any person while committed to the custody of the secretary
40 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall be
41 taken into custody by any law enforcement officer as defined in ~~K.S.A. 21-~~
42 ~~3110~~ *section 11 of chapter 136 of the 2010 Session Laws of Kansas*, and
43 amendments thereto pursuant to any parole revocation proceeding or any

1 arrest or conviction for a criminal offense of any nature, upon the person's
2 release from the custody of any law enforcement officer, the person shall
3 be returned to the custody of the secretary for further treatment pursuant to
4 K.S.A. 59-29a01 et seq., and amendments thereto. During any such period
5 of time a person is not in the actual custody or supervision of the secretary,
6 the secretary shall be excused from the provisions of K.S.A. 59-29a08, and
7 amendments thereto, with regard to providing that person an annual
8 examination, annual notice and annual report to the court, except that the
9 secretary shall give notice to the court as soon as reasonably possible after
10 the taking of the person into custody that the person is no longer in
11 treatment pursuant to K.S.A. 59-29a01 et seq., and amendments thereto,
12 and notice to the court when the person is returned to the custody of the
13 secretary for further treatment.

14 (e) If the court or jury is not satisfied beyond a reasonable doubt that
15 the person is a sexually violent predator, the court shall direct the person's
16 release.

17 (f) Upon a mistrial, the court shall direct that the person be held at an
18 appropriate secure facility, including, but not limited to, a county jail, until
19 another trial is conducted. Any subsequent trial following a mistrial shall
20 be held within 90 days of the previous trial, unless such subsequent trial is
21 continued as provided in K.S.A. 59-29a06, and amendments thereto.

22 (g) If the person charged with a sexually violent offense has been
23 found incompetent to stand trial, and is about to be released pursuant to
24 K.S.A. 22-3305, and amendments thereto, and such person's commitment
25 is sought pursuant to subsection (a), the court shall first hear evidence and
26 determine whether the person did commit the act or acts charged. The
27 hearing on this issue must comply with all the procedures specified in this
28 section. In addition, the rules of evidence applicable in criminal cases shall
29 apply, and all constitutional rights available to defendants at criminal trials,
30 other than the right not to be tried while incompetent, shall apply. After
31 hearing evidence on this issue, the court shall make specific findings on
32 whether the person did commit the act or acts charged, the extent to which
33 the person's incompetence or developmental disability affected the
34 outcome of the hearing, including its effect on the person's ability to
35 consult with and assist counsel and to testify on such person's own behalf,
36 the extent to which the evidence could be reconstructed without the
37 assistance of the person and the strength of the prosecution's case. If after
38 the conclusion of the hearing on this issue, the court finds, beyond a
39 reasonable doubt, that the person did commit the act or acts charged, the
40 court shall enter a final order, appealable by the person, on that issue, and
41 may proceed to consider whether the person should be committed pursuant
42 to this section.

43 Sec. 212. K.S.A. 2010 Supp. 59-29a14 is hereby amended to read as

1 follows: 59-29a14. (a) The county or district attorney shall file a special
2 allegation of sexual motivation within 14 days after arraignment in every
3 criminal case other than sex offenses as defined in article 35 of chapter 21
4 of the Kansas Statutes Annotated, *prior to their repeal, or sections 65*
5 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws of*
6 *Kansas*, and amendments thereto, when sufficient admissible evidence
7 exists, which, when considered with the most plausible, reasonably
8 foreseeable defense that could be raised under the evidence, would justify
9 a finding of sexual motivation by a reasonable and objective fact finder.

10 (b) In a criminal case wherein there has been a special allegation, the
11 state shall prove beyond a reasonable doubt that the accused committed the
12 crime with a sexual motivation. The court shall make a finding of fact of
13 whether or not a sexual motivation was present at the time of the
14 commission of the crime, or if a jury trial is had, the jury, if it finds the
15 defendant guilty, also shall find a special verdict as to whether or not the
16 defendant committed the crime with a sexual motivation. This finding
17 shall not be applied to sex offenses as defined in article 35 of chapter 21 of
18 the Kansas Statutes Annotated, *prior to their repeal, or sections 65*
19 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws of*
20 *Kansas*, and amendments thereto.

21 (c) The county or district attorney shall not withdraw the special
22 allegation of sexual motivation without approval of the court through an
23 order of dismissal of the special allegation. The court shall not dismiss this
24 special allegation unless it finds that such an order is necessary to correct
25 an error in the initial charging decision or unless there are evidentiary
26 problems which make proving the special allegation doubtful.

27 Sec. 213. K.S.A. 2010 Supp. 59-29b48 is hereby amended to read as
28 follows: 59-29b48. (a) The fact that a person may have voluntarily
29 accepted any form of treatment for an alcohol or substance abuse problem,
30 or become subject to a court order entered under authority of this act, shall
31 not be construed to mean that such person shall have lost any civil right
32 they otherwise would have as a resident or citizen, any property right or
33 their legal capacity, except as may be specified within any court order or as
34 otherwise limited by the provisions of this act or the reasonable rules and
35 regulations which the head of a treatment facility may for good cause find
36 necessary to make for the orderly operations of that facility. No person
37 held in custody under the provisions of this act shall be denied the right to
38 apply for a writ of habeas corpus.

39 (b) There shall be no implication or presumption that a patient within
40 the terms of this act is for that reason alone a person in need of a guardian
41 or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095,
42 and amendments thereto.

43 (c) A person who is a mentally ill person subject to involuntary

1 commitment for care and treatment as defined in K.S.A. 59-2946, and
2 amendments thereto, or a person with an alcohol or substance abuse
3 problem subject to involuntary commitment for care and treatment as
4 defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to
5 ~~K.S.A. 21-4204~~ *section 186 of chapter 136 of the 2010 Session Laws of*
6 *Kansas*, and amendments thereto.

7 Sec. 214. K.S.A. 2010 Supp. 60-312 is hereby amended to read as
8 follows: 60-312. Proof of service must be filed with the court and made as
9 follows:

10 (a) *Personal and residence service.*(1) Every officer to whom
11 summons or other process is delivered for service must make a statement
12 subject to penalty of perjury as provided in ~~K.S.A. 21-3805~~ *section 128 of*
13 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
14 as to the time, place and manner of service.

15 (2) If process is delivered to a person, other than an officer, for
16 service, the person must make an affidavit or a declaration pursuant to
17 K.S.A. 53-601, and amendments thereto, as to the time, place and manner
18 of service.

19 (b) *Service by return receipt delivery.* Service by return receipt
20 delivery must be proved in the manner provided by subsection (c) of
21 K.S.A. 60-303, and amendments thereto.

22 (c) *Publication service.* Service by publication must be proved by an
23 affidavit or a declaration pursuant to K.S.A. 53-601, and amendments
24 thereto, showing the dates on which and the newspaper in which notice
25 was published. A copy of the notice must be filed with the affidavit or
26 declaration. When mailing of copies of the publication notice is required
27 by subsection (e) of K.S.A. 60-307, and amendments thereto, the proof of
28 mailing must be by affidavit or by declaration pursuant to K.S.A. 53-601,
29 and amendments thereto, of the person who mailed the copies. If mailing
30 was by certified mail, the return receipt must be filed with the affidavit or
31 declaration.

32 (d) *Time for return.* An officer or other person receiving a summons
33 or other process for service must file a return of service not later than 14
34 days after the service is effected. If the summons or other process cannot
35 be served it must be returned to the court within 30 days after the date
36 issued with a statement of the reason for the failure to serve it, except the
37 court may extend the time for service up to 90 days after the date issued.
38 Upon receipt of the return on any summons or other process, the clerk
39 must serve a copy of the return on the attorney for the party requesting
40 issuance of the summons or other process or, if the party has no attorney,
41 on the requesting party.

42 Sec. 215. K.S.A. 2010 Supp. 60-455 is hereby amended to read as
43 follows: 60-455. (a) Subject to K.S.A. 60-447, and amendments thereto,

1 evidence that a person committed a crime or civil wrong on a specified
2 occasion, is inadmissible to prove such person's disposition to commit
3 crime or civil wrong as the basis for an inference that the person
4 committed another crime or civil wrong on another specified occasion.

5 (b) Subject to K.S.A. 60-445 and 60-448, and amendments thereto,
6 such evidence is admissible when relevant to prove some other material
7 fact including motive, opportunity, intent, preparation, plan, knowledge,
8 identity or absence of mistake or accident.

9 (c) Subject to K.S.A. 60-445 and 60-448, and amendments thereto, in
10 any criminal action other than a criminal action in which the defendant is
11 accused of a sex offense under articles 34, 35 or 36 of chapter 21 of the
12 Kansas Statutes Annotated, *prior to their repeal, or sections 36 through*
13 *86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
14 *Laws of Kansas*, and amendments thereto, such evidence is admissible to
15 show the modus operandi or general method used by a defendant to
16 perpetrate similar but totally unrelated crimes when the method of
17 committing the prior acts is so similar to that utilized in the current case
18 before the court that it is reasonable to conclude the same individual
19 committed both acts.

20 (d) Except as provided in K.S.A. 60-445, and amendments thereto, in
21 a criminal action in which the defendant is accused of a sex offense under
22 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, *prior*
23 *to their repeal, or sections 36 through 86, 174, 210, 211 or 229 through*
24 *231 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
25 thereto, evidence of the defendant's commission of another act or offense
26 of sexual misconduct is admissible, and may be considered for its bearing
27 on any matter to which it is relevant and probative.

28 (e) In a criminal action in which the prosecution intends to offer
29 evidence under this rule, the prosecuting attorney shall disclose the
30 evidence to the defendant, including statements of witnesses, at least 10
31 days before the scheduled date of trial or at such later time as the court
32 may allow for good cause.

33 (f) This rule shall not be construed to limit the admission or
34 consideration of evidence under any other rule or to limit the admissibility
35 of the evidence of other crimes or civil wrongs in a criminal action under a
36 criminal statute other than in articles 34, 35 or 36 of chapter 21 of the
37 Kansas Statutes Annotated, *prior to their repeal, or sections 36 through*
38 *86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
39 *Laws of Kansas*, and amendments thereto.

40 (g) As used in this section, an "act or offense of sexual misconduct"
41 includes:

42 (1) Any conduct proscribed by article 35 of chapter 21 of the Kansas
43 Statutes Annotated, *prior to their repeal, or sections 65 through 77 or 229*

1 *through 231 of chapter 136 of the 2010 Session Laws of Kansas, and*
2 *amendments thereto;*

3 (2) the sexual gratification component of aggravated *human*
4 *trafficking, as described in subsection (a)(1)(B) and (a)(2) of K.S.A. 21-*
5 *3447, prior to its repeal, or subsection (b)(1)(B) or (b)(2) of section 61 of*
6 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;*

7 (3) exposing another to a life threatening communicable disease, as
8 described in subsection (a)(1) of K.S.A. 21-3435, *prior to its repeal, or*
9 *subsection (a)(1) of section 59 of chapter 136 of the 2010 Session Laws of*
10 *Kansas, and amendments thereto;*

11 (4) incest, as described in K.S.A. 21-3602, *prior to its repeal, or*
12 *subsection (a) of section 81 of chapter 136 of the 2010 Session Laws of*
13 *Kansas, and amendments thereto;*

14 (5) aggravated incest, as described in K.S.A. 21-3603, *prior to its*
15 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
16 *Laws of Kansas, and amendments thereto;*

17 (6) contact, without consent, between any part of the defendant's
18 body or an object and the genitals, mouth or anus of the victim;

19 (7) contact, without consent, between the genitals, mouth or anus of
20 the defendant and any part of the victim's body;

21 (8) deriving sexual pleasure or gratification from the infliction of
22 death, bodily injury or physical pain to the victim;

23 (9) an attempt, solicitation or conspiracy to engage in conduct
24 described in paragraphs (1) through (8); or

25 (10) any federal or other state conviction of an offense, or any
26 violation of a city ordinance or county resolution, that would constitute an
27 offense under article 35 of chapter 21 of the Kansas Statutes Annotated,
28 *prior to their repeal, or sections 65 through 77 or 229 through 231 of*
29 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*
30 the sexual gratification component of aggravated *human* trafficking, as
31 described in subsection (a)(1)(B) and (a)(2) of K.S.A. 21-3447, *prior to its*
32 *repeal, or subsection (b)(1)(B) or (b)(2) of section 61 of chapter 136 of the*
33 *2010 Session Laws of Kansas, and amendments thereto;* incest, as
34 described in K.S.A. 21-3602, *prior to its repeal, or subsection (a)*
35 *section 81 of chapter 136 of the 2010 Session Laws of Kansas, and*
36 *amendments thereto;* or aggravated incest, as described in K.S.A. 21-3603,
37 *prior to its repeal, or subsection (b) of section 81 of chapter 136 of the*
38 *2010 Session Laws of Kansas, and amendments thereto, or involved*
39 *conduct described in paragraphs (6) through (9).*

40 (h) If any provisions of this section or the application thereof to any
41 person or circumstances is held invalid, the invalidity does not affect other
42 provisions or applications of this section which can be given effect without
43 the invalid provisions or application. To this end the provisions of this

1 section are severable.

2 Sec. 216. K.S.A. 60-523 is hereby amended to read as follows: 60-
3 523. (a) No action for recovery of damages suffered as a result of
4 childhood sexual abuse shall be commenced more than three years after
5 the date the person attains 18 years of age or more than three years from
6 the date the person discovers or reasonably should have discovered that the
7 injury or illness was caused by childhood sexual abuse, whichever occurs
8 later.

9 (b) As used in this section:

10 (1) "Injury or illness" includes psychological injury or illness, whether
11 or not accompanied by physical injury or illness.

12 (2) "Childhood sexual abuse" includes any act committed against the
13 person which act occurred when the person was under the age of 18 years
14 and which act would have been a violation of any of the following:

15 (A) Indecent liberties with a child as defined in K.S.A. 21-3503,
16 *prior to its repeal, or subsection (a) of section 70 of chapter 136 of the*
17 *2010 Session Laws of Kansas*, and amendments thereto; (B) aggravated
18 indecent liberties with a child as defined in K.S.A. 21-3504, *prior to its*
19 *repeal, or subsection (b) of section 70 of chapter 136 of the 2010 Session*
20 *Laws of Kansas*, and amendments thereto; (C) aggravated criminal
21 sodomy as defined in K.S.A. 21-3506, *prior to its repeal, or subsection (b)*
22 *of section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
23 amendments thereto; (D) enticement of a child as defined in K.S.A. 21-
24 3509, ~~and amendments thereto~~ *prior to its repeal*; (E) indecent solicitation
25 of a child as defined in K.S.A. 21-3510, *prior to its repeal, or subsection*
26 *(a) of section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and
27 amendments thereto; (F) aggravated indecent solicitation of a child as
28 defined in K.S.A. 21-3511, *prior to its repeal, or subsection (b) of section*
29 *72 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
30 thereto; (G) sexual exploitation of a child as defined in K.S.A. 21-3516,
31 *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws*
32 *of Kansas*, and amendments thereto; or (H) aggravated incest as defined in
33 K.S.A. 21-3603, *prior to its repeal, or subsection (b) of section 81 of*
34 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;
35 or any prior laws of this state of similar effect at the time the act was
36 committed.

37 (c) Discovery that the injury or illness was caused by childhood
38 sexual abuse shall not be deemed to have occurred solely by virtue of the
39 person's awareness, knowledge or memory of the acts of abuse. The person
40 need not establish which act in a series of continuing sexual abuse
41 incidents caused the injury or illness complained of, but may compute the
42 date of discovery from the date of discovery of the last act by the same
43 perpetrator which is a part of a common scheme or plan of sexual abuse.

1 (d) This section shall be applicable to:

2 (1) Any action commenced on or after July 1, 1992, including any
3 action which would be barred by application of the period of limitation
4 applicable prior to July 1, 1992;

5 (2) any action commenced prior to July 1, 1992, and pending on July
6 1, 1992.

7 Sec. 217. K.S.A. 2010 Supp. 60-1610 is hereby amended to read as
8 follows: 60-1610. A decree in an action under this article may include
9 orders on the following matters:

10 (a) *Minor children.* (1) *Child support and education.* The court shall
11 make provisions for the support and education of the minor children.
12 Subject to the provisions of K.S.A. 23-9,207, and amendments thereto, the
13 court may modify or change any prior order, including any order issued in
14 a title IV-D case, within three years of the date of the original order or a
15 modification order, when a material change in circumstances is shown,
16 irrespective of the present domicile of the child or the parents. If more than
17 three years has passed since the date of the original order or modification
18 order, a material change in circumstance need not be shown. The court
19 may make a modification of child support retroactive to a date at least one
20 month after the date that the motion to modify was filed with the court.
21 Any increase in support ordered effective prior to the date the court's
22 judgment is filed shall not become a lien on real property pursuant to
23 K.S.A. 60-2202, and amendments thereto. Regardless of the type of
24 custodial arrangement ordered by the court, the court may order the child
25 support and education expenses to be paid by either or both parents for any
26 child less than 18 years of age, at which age the support shall terminate
27 unless: (A) The parent or parents agree, by written agreement approved by
28 the court, to pay support beyond the time the child reaches 18 years of age;
29 (B) the child reaches 18 years of age before completing the child's high
30 school education in which case the support shall not terminate
31 automatically, unless otherwise ordered by the court, until June 30 of the
32 school year during which the child became 18 years of age if the child is
33 still attending high school; or (C) the child is still a bona fide high school
34 student after June 30 of the school year during which the child became 18
35 years of age, in which case the court, on motion, may order support to
36 continue through the school year during which the child becomes 19 years
37 of age so long as the child is a bona fide high school student and the
38 parents jointly participated or knowingly acquiesced in the decision which
39 delayed the child's completion of high school. The court, in extending
40 support pursuant to subsection (a)(1)(C), may impose such conditions as
41 are appropriate and shall set the child support utilizing the guideline table
42 category for 12-year through 18-year old children. Provision for payment
43 of support and educational expenses of a child after reaching 18 years of

1 age if still attending high school shall apply to any child subject to the
2 jurisdiction of the court, including those whose support was ordered prior
3 to July 1, 1992. If an agreement approved by the court prior to July 1,
4 1992, provides for termination of support before the date provided by
5 subsection (a)(1)(C), the court may review and modify such agreement,
6 and any order based on such agreement, to extend the date for termination
7 of support to the date provided by subsection (a)(1)(C). For purposes of
8 this section, "bona fide high school student" means a student who is
9 enrolled in full accordance with the policy of the accredited high school in
10 which the student is pursuing a high school diploma or a graduate
11 equivalency diploma (GED). In determining the amount to be paid for
12 child support, the court shall consider all relevant factors, without regard
13 to marital misconduct, including the financial resources and needs of both
14 parents, the financial resources and needs of the child and the physical and
15 emotional condition of the child. Until a child reaches 18 years of age, the
16 court may set apart any portion of property of either the husband or wife,
17 or both, that seems necessary and proper for the support of the child.
18 Except for good cause shown, every order requiring payment of child
19 support under this section shall require that the support be paid through the
20 central unit for collection and disbursement of support payments
21 designated pursuant to K.S.A. 23-4,118, and amendments thereto. A
22 written agreement between the parties to make direct child support
23 payments to the obligee and not pay through the central unit shall
24 constitute good cause, unless the court finds the agreement is not in the
25 best interest of the child or children. The obligor shall file such written
26 agreement with the court. The obligor shall maintain written evidence of
27 the payment of the support obligation and, at least annually, shall provide
28 such evidence to the court and the obligee. If the divorce decree of the
29 parties provides for an abatement of child support during any period
30 provided in such decree, the child support such nonresidential parent owes
31 for such period shall abate during such period of time, except that if the
32 residential parent shows that the criteria for the abatement has not been
33 satisfied there shall not be an abatement of such child support.

34 (2) *Child custody and residency. (A) Changes in custody.* Subject to
35 the provisions of the uniform child custody jurisdiction and enforcement
36 act (K.S.A. 38-1336 through 38-1377, and amendments thereto), the court
37 may change or modify any prior order of custody, residency, visitation and
38 parenting time, when a material change of circumstances is shown, but no
39 ex parte order shall have the effect of changing residency of a minor child
40 from the parent who has had the sole de facto residency of the child to the
41 other parent unless there is sworn testimony to support a showing of
42 extraordinary circumstances. If an interlocutory order is issued ex parte,
43 the court shall hear a motion to vacate or modify the order within 15 days

1 of the date that a party requests a hearing whether to vacate or modify the
2 order.

3 (B) *Examination of parties.* The court may order physical or mental
4 examinations of the parties if requested pursuant to K.S.A. 60-235, and
5 amendments thereto.

6 (3) *Child custody or residency criteria.* The court shall determine
7 custody or residency of a child in accordance with the best interests of the
8 child.

9 (A) If the parties have entered into a parenting plan, it shall be
10 presumed that the agreement is in the best interests of the child. This
11 presumption may be overcome and the court may make a different order if
12 the court makes specific findings of fact stating why the agreed parenting
13 plan is not in the best interests of the child.

14 (B) In determining the issue of child custody, residency and parenting
15 time, the court shall consider all relevant factors, including but not limited to:
16

17 (i) The length of time that the child has been under the actual care and
18 control of any person other than a parent and the circumstances relating
19 thereto;

20 (ii) the desires of the child's parents as to custody or residency;

21 (iii) the desires of the child as to the child's custody or residency;

22 (iv) the interaction and interrelationship of the child with parents,
23 siblings and any other person who may significantly affect the child's best
24 interests;

25 (v) the child's adjustment to the child's home, school and community;

26 (vi) the willingness and ability of each parent to respect and
27 appreciate the bond between the child and the other parent and to allow for
28 a continuing relationship between the child and the other parent;

29 (vii) evidence of spousal abuse;

30 (viii) whether a parent is subject to the registration requirements of
31 the Kansas offender registration act, K.S.A. 22-4901, et seq., and
32 amendments thereto, or any similar act in any other state, or under military
33 or federal law;

34 (ix) whether a parent has been convicted of abuse of a child, K.S.A.
35 21-3609, *prior to its repeal, or section 79 of chapter 136 of the 2010*
36 *Session Laws of Kansas*, and amendments thereto;

37 (x) whether a parent is residing with an individual who is subject to
38 registration requirements of the Kansas offender registration act, K.S.A.
39 22-4901, et seq., and amendments thereto, or any similar act in any other
40 state, or under military or federal law; and

41 (xi) whether a parent is residing with an individual who has been
42 convicted of abuse of a child, K.S.A. 21-3609, *prior to its repeal, or*
43 *section 79 of chapter 136 of the 2010 Session Laws of Kansas*, and

1 amendments thereto.

2 (C) Neither parent shall be considered to have a vested interest in the
3 custody or residency of any child as against the other parent, regardless of
4 the age of the child, and there shall be no presumption that it is in the best
5 interests of any infant or young child to give custody or residency to the
6 mother.

7 (D) There shall be a rebuttable presumption that it is not in the best
8 interest of the child to have custody or residency granted to a parent who:

9 (i) Is residing with an individual who is subject to registration
10 requirements of the Kansas offender registration act, K.S.A. 22-4901; et
11 seq., and amendments thereto, or any similar act in any other state, or
12 under military or federal law; or

13 (ii) is residing with an individual who has been convicted of abuse of
14 a child, K.S.A. 21-3609, *prior to its repeal, or section 79 of chapter 136 of*
15 *the 2010 Session Laws of Kansas*, and amendments thereto.

16 (E) If a court of competent jurisdiction within this state has entered an
17 order pursuant to the revised Kansas code for care of children regarding
18 custody of a child or children who are involved in a proceeding filed
19 pursuant to this section, and such court has determined pursuant to
20 subsection (i)(2) of K.S.A. 38-2264, and amendments thereto, that the
21 orders in that case shall become the custody orders in the divorce case,
22 such court shall file a certified copy of the orders with the civil case
23 number in the caption and then close the case under the revised Kansas
24 code for care of children. Such orders shall be binding on the parties,
25 unless modified based on a material change in circumstances, even if such
26 courts have different venues.

27 (4) *Types of legal custodial arrangements.* Subject to the provisions
28 of this article, the court may make any order relating to custodial
29 arrangements which is in the best interests of the child. The order shall
30 provide one of the following legal custody arrangements, in the order of
31 preference:

32 (A) *Joint legal custody.* The court may order the joint legal custody of
33 a child with both parties. In that event, the parties shall have equal rights to
34 make decisions in the best interests of the child.

35 (B) *Sole legal custody.* The court may order the sole legal custody of
36 a child with one of the parties when the court finds that it is not in the best
37 interests of the child that both of the parties have equal rights to make
38 decisions pertaining to the child. If the court does not order joint legal
39 custody, the court shall include on the record specific findings of fact upon
40 which the order for sole legal custody is based. The award of sole legal
41 custody to one parent shall not deprive the other parent of access to
42 information regarding the child unless the court shall so order, stating the
43 reasons for that determination.

1 (5) *Types of residential arrangements.* After making a determination
2 of the legal custodial arrangements, the court shall determine the residency
3 of the child from the following options, which arrangement the court must
4 find to be in the best interest of the child. The parties shall submit to the
5 court either an agreed parenting plan or, in the case of dispute, proposed
6 parenting plans for the court's consideration. Such options are:

7 (A) *Residency.* The court may order a residential arrangement in
8 which the child resides with one or both parents on a basis consistent with
9 the best interests of the child.

10 (B) *Divided residency.* In an exceptional case, the court may order a
11 residential arrangement in which one or more children reside with each
12 parent and have parenting time with the other.

13 (C) *Nonparental residency.* If during the proceedings the court
14 determines that there is probable cause to believe that the child is a child in
15 need of care as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of
16 K.S.A. 2010 Supp. 38-2202, and amendments thereto, or that neither
17 parent is fit to have residency, the court may award temporary residency of
18 the child to a grandparent, aunt, uncle or adult sibling, or, another person
19 or agency if the court finds by written order that: (i) (a) The child is likely
20 to sustain harm if not immediately removed from the home;

21 (b) allowing the child to remain in home is contrary to the welfare of
22 the child; or

23 (c) immediate placement of the child is in the best interest of the
24 child; and

25 (ii) reasonable efforts have been made to maintain the family unit and
26 prevent the unnecessary removal of the child from the child's home or that
27 an emergency exists which threatens the safety to the child. In making
28 such a residency order, the court shall give preference, to the extent that
29 the court finds it is in the best interests of the child, first to awarding such
30 residency to a relative of the child by blood, marriage or adoption and
31 second to awarding such residency to another person with whom the child
32 has close emotional ties. The court may make temporary orders for care,
33 support, education and visitation that it considers appropriate. Temporary
34 residency orders are to be entered in lieu of temporary orders provided for
35 in K.S.A. 2010 Supp. 38-2243 and 38-2244, and amendments thereto, and
36 shall remain in effect until there is a final determination under the revised
37 Kansas code for care of children. An award of temporary residency under
38 this paragraph shall not terminate parental rights nor give the court the
39 authority to consent to the adoption of the child. When the court enters
40 orders awarding temporary residency of the child to an agency or a person
41 other than the parent, the court shall refer a transcript of the proceedings to
42 the county or district attorney. The county or district attorney shall file a
43 petition as provided in K.S.A. 2010 Supp. 38-2234, and amendments

1 thereto, and may request termination of parental rights pursuant to K.S.A.
2 2010 Supp. 38-2266, and amendments thereto. The costs of the
3 proceedings shall be paid from the general fund of the county. If a final
4 determination is made that the child is not a child in need of care, the
5 county or district attorney shall notify the court in writing and the court,
6 after a hearing, shall enter appropriate custody orders pursuant to this
7 section. If the same judge presides over both proceedings, the notice is not
8 required. Any order pursuant to the revised Kansas code for care of
9 children shall take precedence over any order under this section.

10 (6) *Priority*. Any custody or parenting time order, or order relating to
11 the best interests of a child, issued pursuant to the revised Kansas code for
12 care of children or the revised Kansas juvenile justice code, shall be
13 binding and shall take precedence over any order under article 16 of
14 chapter 60 of the Kansas Statutes Annotated, and amendments thereto
15 (divorce), until jurisdiction under the revised Kansas code for care of
16 children or the revised Kansas juvenile justice code is terminated.

17 (7) *Child health insurance coverage*. The court may order that each
18 parent execute any and all documents, including any releases, necessary so
19 that both parents may obtain information from and to communicate with
20 any health insurance provider regarding the health insurance coverage
21 provided by such health insurance provider to the child. The provisions of
22 this paragraph shall apply irrespective of which parent owns, subscribes or
23 pays for such health insurance coverage.

24 (b) *Financial matters*. (1) *Division of property*. The decree shall
25 divide the real and personal property of the parties, including any
26 retirement and pension plans, whether owned by either spouse prior to
27 marriage, acquired by either spouse in the spouse's own right after
28 marriage or acquired by the spouses' joint efforts, by: (A) A division of the
29 property in kind; (B) awarding the property or part of the property to one
30 of the spouses and requiring the other to pay a just and proper sum; or (C)
31 ordering a sale of the property, under conditions prescribed by the court,
32 and dividing the proceeds of the sale. Upon request, the trial court shall set
33 a valuation date to be used for all assets at trial, which may be the date of
34 separation, filing or trial as the facts and circumstances of the case may
35 dictate. The trial court may consider evidence regarding changes in value
36 of various assets before and after the valuation date in making the division
37 of property. In dividing defined-contribution types of retirement and
38 pension plans, the court shall allocate profits and losses on the
39 nonparticipant's portion until date of distribution to that nonparticipant. In
40 making the division of property the court shall consider the age of the
41 parties; the duration of the marriage; the property owned by the parties;
42 their present and future earning capacities; the time, source and manner of
43 acquisition of property; family ties and obligations; the allowance of

1 maintenance or lack thereof; dissipation of assets; the tax consequences of
2 the property division upon the respective economic circumstances of the
3 parties; and such other factors as the court considers necessary to make a
4 just and reasonable division of property. The decree shall provide for any
5 changes in beneficiary designation on: (A) Any insurance or annuity
6 policy that is owned by the parties, or in the case of group life insurance
7 policies, under which either of the parties is a covered person; (B) any
8 trust instrument under which one party is the grantor or holds a power of
9 appointment over part or all of the trust assets, that may be exercised in
10 favor of either party; or (C) any transfer on death or payable on death
11 account under which one or both of the parties are owners or beneficiaries.
12 Nothing in this section shall relieve the parties of the obligation to
13 effectuate any change in beneficiary designation by the filing of such
14 change with the insurer or issuer in accordance with the terms of such
15 policy.

16 (2) *Maintenance.* The decree may award to either party an allowance
17 for future support denominated as maintenance, in an amount the court
18 finds to be fair, just and equitable under all of the circumstances. The
19 decree may make the future payments modifiable or terminable under
20 circumstances prescribed in the decree. The court may make a
21 modification of maintenance retroactive to a date at least one month after
22 the date that the motion to modify was filed with the court. In any event,
23 the court may not award maintenance for a period of time in excess of 121
24 months. If the original court decree reserves the power of the court to hear
25 subsequent motions for reinstatement of maintenance and such a motion is
26 filed prior to the expiration of the stated period of time for maintenance
27 payments, the court shall have jurisdiction to hear a motion by the
28 recipient of the maintenance to reinstate the maintenance payments. Upon
29 motion and hearing, the court may reinstate the payments in whole or in
30 part for a period of time, conditioned upon any modifying or terminating
31 circumstances prescribed by the court, but the reinstatement shall be
32 limited to a period of time not exceeding 121 months. The recipient may
33 file subsequent motions for reinstatement of maintenance prior to the
34 expiration of subsequent periods of time for maintenance payments to be
35 made, but no single period of reinstatement ordered by the court may
36 exceed 121 months. Maintenance may be in a lump sum, in periodic
37 payments, on a percentage of earnings or on any other basis. At any time,
38 on a hearing with reasonable notice to the party affected, the court may
39 modify the amounts or other conditions for the payment of any portion of
40 the maintenance originally awarded that has not already become due, but
41 no modification shall be made without the consent of the party liable for
42 the maintenance, if it has the effect of increasing or accelerating the
43 liability for the unpaid maintenance beyond what was prescribed in the

1 original decree. Except for good cause shown, every order requiring
 2 payment of maintenance under this section shall require that the
 3 maintenance be paid through the central unit for collection and
 4 disbursement of support payments designated pursuant to K.S.A. 23-4,118,
 5 and amendments thereto. A written agreement between the parties to make
 6 direct maintenance payments to the obligee and not pay through the central
 7 unit shall constitute good cause. If child support and maintenance
 8 payments are both made to an obligee by the same obligor, and if the court
 9 has made a determination concerning the manner of payment of child
 10 support, then maintenance payments shall be paid in the same manner.

11 (3) *Separation agreement.* If the parties have entered into a separation
 12 agreement which the court finds to be valid, just and equitable, the
 13 agreement shall be incorporated in the decree. A separation agreement may
 14 include provisions relating to a parenting plan. The provisions of the
 15 agreement on all matters settled by it shall be confirmed in the decree
 16 except that any provisions relating to the legal custody, residency,
 17 visitation parenting time, support or education of the minor children shall
 18 be subject to the control of the court in accordance with all other
 19 provisions of this article. Matters settled by an agreement incorporated in
 20 the decree, other than matters pertaining to the legal custody, residency,
 21 visitation, parenting time, support or education of the minor children, shall
 22 not be subject to subsequent modification by the court except: (A) As
 23 prescribed by the agreement or (B) as subsequently consented to by the
 24 parties.

25 (4) *Costs and fees.* Costs and attorney fees may be awarded to either
 26 party as justice and equity require. The court may order that the amount be
 27 paid directly to the attorney, who may enforce the order in the attorney's
 28 name in the same case.

29 (c) *Miscellaneous matters.* (1) *Restoration of name.* Upon the request
 30 of a spouse, the court shall order the restoration of that spouse's maiden or
 31 former name. The court shall have jurisdiction to restore the spouse's
 32 maiden or former name at or after the time the decree of divorce becomes
 33 final. The judicial council shall develop a form which is simple, concise
 34 and direct for use with this paragraph.

35 (2) *Effective date as to remarriage.* Any marriage contracted by a
 36 party, within or outside this state, with any other person before a judgment
 37 of divorce becomes final shall be voidable until the decree of divorce
 38 becomes final. An agreement which waives the right of appeal from the
 39 granting of the divorce and which is incorporated into the decree or signed
 40 by the parties and filed in the case shall be effective to shorten the period
 41 of time during which the remarriage is voidable.

42 Sec. 218. K.S.A. 60-1620 is hereby amended to read as follows: 60-
 43 1620. (a) Except as provided in subsection (d), a parent entitled to legal

1 custody or residency of or parenting time with a child pursuant to K.S.A.
 2 60-1610, and amendments thereto, shall give written notice to the other
 3 parent not less than 30 days prior to: (1) Changing the residence of the
 4 child; or (2) removing the child from this state for a period of time
 5 exceeding 90 days. Such notice shall be sent by restricted mail, return
 6 receipt requested, to the last known address of the other parent.

7 (b) Failure to give notice as required by subsection (a) is an indirect
 8 civil contempt punishable as provided by law. In addition, the court may
 9 assess, against the parent required to give notice, reasonable attorney fees
 10 and any other expenses incurred by the other parent by reason of the
 11 failure to give notice.

12 (c) A change of the residence or the removal of a child as described in
 13 subsection (a) may be considered a material change of circumstances
 14 which justifies modification of a prior order of legal custody, residency,
 15 child support or parenting time. In determining any motion seeking a
 16 modification of a prior order based on change of residence or removal as
 17 described in (a), the court shall consider all factors the court deems
 18 appropriate including, but not limited to: (1) The effect of the move on the
 19 best interests of the child; (2) the effect of the move on any party having
 20 rights granted pursuant to K.S.A. 60-1610, and amendments thereto; and
 21 (3) the increased cost the move will impose on any party seeking to
 22 exercise rights granted under K.S.A. 60-1610, and amendments thereto.

23 (d) A parent entitled to the legal custody or residency of a child
 24 pursuant to K.S.A. 60-1610, and amendments thereto, shall not be required
 25 to give the notice required by this section to the other parent when the
 26 other parent has been convicted of any crime specified in article 34, 35 or
 27 36 of chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, or*
 28 *sections 36 through 86, 174, 210, 211 or 229 through 231 of chapter 136*
 29 *of the 2010 Session Laws of Kansas, and amendments thereto,* in which
 30 the child is the victim of such crime.

31 Sec. 219. K.S.A. 2010 Supp. 60-1629 is hereby amended to read as
 32 follows: 60-1629. (a) A parent entitled to legal custody of, or residency of,
 33 or parenting time with a child pursuant to K.S.A. 60-1610, and
 34 amendments thereto, shall give written notice to the other parent of one or
 35 more of the following events when such parent: (1) Is subject to the
 36 registration requirements of the Kansas offender registration act, K.S.A.
 37 22-4901; et seq., and amendments thereto, or any similar act in any other
 38 state, or under military or federal law; (2) has been convicted of abuse of a
 39 child, K.S.A. 21-3609, *prior to its repeal, or section 79 of chapter 136 of*
 40 *the 2010 Session Laws of Kansas,* and amendments thereto; (3) is residing
 41 with an individual who is known by the parent to be subject to the
 42 registration requirements of the Kansas offender registration act, K.S.A.
 43 22-4901; et seq., and amendments thereto, or any similar act in any other

1 state, or under military or federal law; or (4) is residing with an individual
2 who is known by the parent to have been convicted of abuse of a child,
3 K.S.A. 21-3609, *prior to its repeal, or section 79 of chapter 136 of the*
4 *2010 Session Laws of Kansas*, and amendments thereto. Such notice shall
5 be sent by restricted mail, return receipt requested, to the last known
6 address of the other parent within 14 days following such event.

7 (b) Failure to give notice as required by subsection (a) is an indirect
8 civil contempt punishable as provided by law. In addition, the court may
9 assess, against the parent required to give notice, reasonable attorney fees
10 and any other expenses incurred by the other parent by reason of the
11 failure to give notice.

12 (c) An event described in subsection (a) may be considered a material
13 change of circumstances which justifies modification of a prior order of
14 legal custody, residency, child support or parenting time.

15 Sec. 220. K.S.A. 60-2610 is hereby amended to read as follows: 60-
16 2610. (a) If a person gives a worthless check, the person shall be liable to
17 the holder of the check for the amount of the check, the incurred court
18 costs, the incurred service charge, interest at the statutory rate and the costs
19 of collection including but not limited to reasonable attorney fees, plus an
20 amount equal to the greater of the following:

21 (1) Damages equal to three times the amount of the check but not
22 exceeding the amount of the check by more than \$500; or

23 (2) \$100.

24 The court may waive all or part of the attorney fees provided for by this
25 subsection, if the court finds that the damages and other amounts awarded
26 are sufficient to adequately compensate the holder of the check. In the
27 event the court waives all or part of the attorney fees, the court shall make
28 written findings of fact as to the specific reasons that the amounts awarded
29 are sufficient to adequately compensate the holder of the check.

30 (b) The amounts specified by subsection (a) shall be recoverable in a
31 civil action brought by or on behalf of the holder of the check only if: (1)
32 Not less than 14 days before filing the civil action, the holder of the check
33 made written demand on the maker or drawer for payment of the amount
34 of the check, the incurred service charge and accrued interest; and (2) the
35 maker or drawer failed to tender to the holder, prior to the filing of the
36 action, an amount not less than the amount demanded.

37 The written demand shall be sent by first class mail, to the person to be
38 given notice at such person's address as it appears on such check, draft or
39 order or to the last known address of the maker or drawer. The written
40 demand shall include notice that, if the money is not paid within 14 days,
41 triple damages in addition to an amount of money equal to the sum of the
42 amount of the check, the incurred service charge, court costs, accrued
43 interest, the costs of collection, including but not limited to, reasonable

1 attorney fees unless the court otherwise orders, may be incurred by the
2 maker or drawer of the check.

3 Notice required by subsection (b)(1) shall state the exact amount and
4 date due, as well as an estimate of the amount that may be incurred if the
5 amount demanded is not paid by the specified date.

6 (c) Subsequent to the filing of an action under this section but prior to
7 the commencement of a dispositional hearing by the court, the defendant
8 may tender to the plaintiff as satisfaction of the claim, an amount of money
9 equal to the sum of the amount of the check, the incurred service charge,
10 accrued interest, the costs of collection including, but not limited to,
11 reasonable attorney fees and court costs. The plaintiff shall include in the
12 petition a statement alleging that the defendant may tender such amount as
13 satisfaction of the claim as provided in this subsection. If the amount
14 alleged in the petition is tendered to the plaintiff in full satisfaction of the
15 debt prior to the commencement of the dispositional hearing by the court,
16 the case shall be dismissed by the plaintiff. For purposes of this subsection
17 only, the amount tendered as satisfaction of the claim shall not include
18 triple damages or damages of \$100 as provided in subsections (a)(1) and
19 (2). For purposes of this subsection, a dispositional hearing means a trial
20 or other hearing by the court in which the plaintiff is seeking the entry of
21 judgment against the defendant. The court may waive all or part of the
22 attorney fees provided for by this subsection, if the court finds that the
23 amount tendered is sufficient to adequately compensate the holder of the
24 check. In the event the court waives all or part of the attorney fees, the
25 court shall make written findings of fact as to the specific reasons that the
26 amount tendered is sufficient to adequately compensate the holder of the
27 check.

28 (d) If the trier of fact determines that the failure of the defendant to
29 satisfy the dishonored check was due to economic hardship, the court may
30 waive all or part of the damages provided for by this section, but the court
31 shall render judgment against defendant for not less than the amount of the
32 dishonored check, the incurred court costs, service charge and the costs of
33 collection, including but not limited to reasonable attorney fees, unless
34 otherwise provided in this subsection. The court may waive all or part of
35 the attorney fees provided for by this subsection, if the court finds that the
36 damages and other amounts awarded are sufficient to adequately
37 compensate the holder of the check. In the event the court waives all or
38 part of the attorney fees, the court shall make written findings of fact as to
39 the specific reasons that the amounts awarded are sufficient to adequately
40 compensate the holder of the check.

41 (e) Any amount previously paid as restitution or reparations to the
42 holder of the check by or on behalf of its maker or drawer shall be credited
43 against the amount for which the maker or drawer is liable under

1 subsection (a).

2 (f) Conviction of giving a worthless check ~~or habitually giving a~~
3 ~~worthless check~~, as defined by ~~K.S.A. 21-3707~~*section 107 of chapter 136*
4 *of the 2010 Session Laws of Kansas*, and amendments thereto, shall not be
5 a prerequisite or bar to recovery pursuant to this section.

6 (g) The service charge on a check which is dishonored by the drawee
7 because the maker or drawer had no deposits in or credits with the drawee
8 or has not sufficient funds in, or credits with, the drawee for the payment
9 of each check, order or draft in full upon its presentation, shall not exceed
10 \$30.

11 (h) As used in this section, "giving a worthless check" means the
12 making, drawing, issuing or delivering or causing or directing the making,
13 drawing, issuing or delivering of any check, order or draft on any bank,
14 credit union, savings and loan association or depository for the payment of
15 money or its equivalent:

16 (1) With intent to defraud or in payment for a preexisting debt; or

17 (2) Which is dishonored by the drawee because the maker or drawer
18 had no deposits in or credits with the drawee or has not sufficient funds in,
19 or credits with, the drawee for the payment of such check, order or draft in
20 full upon its presentation; and

21 (3) for which the maker or drawer has not tendered to the holder's
22 agent the amount of money demanded and within the time allowed by the
23 demand required in subsection (b).

24 Sec. 221. K.S.A. 2010 Supp. 60-3107 is hereby amended to read as
25 follows: 60-3107. (a) The court may approve any consent agreement to
26 bring about a cessation of abuse of the plaintiff or minor children or grant
27 any of the following orders:

28 (1) Restraining the defendant from abusing, molesting or interfering
29 with the privacy or rights of the plaintiff or of any minor children of the
30 parties. Such order shall contain a statement that if such order is violated,
31 such violation may constitute assault as ~~provided in K.S.A. 21-~~
32 ~~3408~~*defined in subsection (a) of section 47 of chapter 136 of the 2010*
33 *Session Laws of Kansas*, and amendments thereto, battery as ~~provided in~~
34 ~~K.S.A. 21-3412~~*defined in subsection (a) of section 48 of chapter 136 of*
35 *the 2010 Session Laws of Kansas*, and amendments thereto, domestic
36 battery as ~~provided in K.S.A. 21-3412~~*defined in section 49 of chapter*
37 *136 of the 2010 Session Laws of Kansas*, and amendments thereto and
38 violation of a protective order as ~~provided in K.S.A. 21-3843~~*defined in*
39 *section 149 of chapter 136 of the 2010 Session Laws of Kansas*, and
40 amendments thereto.

41 (2) Granting possession of the residence or household to the plaintiff
42 to the exclusion of the defendant, and further restraining the defendant
43 from entering or remaining upon or in such residence or household,

1 subject to the limitation of subsection (d). Such order shall contain a
2 statement that if such order is violated, such violation shall constitute
3 criminal trespass as ~~provided in subsection (e) of K.S.A. 21-3721~~ defined
4 *in subsection (a)(1)(C) of section 94 of chapter 136 of the 2010 Session*
5 *Laws of Kansas*, and amendments thereto, and violation of a protective
6 order as ~~provided in K.S.A. 21-3843~~ defined *in section 149 of chapter 136*
7 *of the 2010 Session Laws of Kansas*, and amendments thereto. The court
8 may grant an order, which shall expire 60 days following the date of
9 issuance, restraining the defendant from cancelling utility service to the
10 residence or household.

11 (3) Requiring defendant to provide suitable, alternate housing for the
12 plaintiff and any minor children of the parties.

13 (4) Awarding temporary custody and residency and establishing
14 temporary parenting time with regard to minor children.

15 (5) Ordering a law enforcement officer to evict the defendant from
16 the residence or household.

17 (6) Ordering support payments by a party for the support of a party's
18 minor child, if the party is the father or mother of the child, or the plaintiff,
19 if the plaintiff is married to the defendant. Such support orders shall
20 remain in effect until modified or dismissed by the court or until expiration
21 and shall be for a fixed period of time not to exceed one year. On the
22 motion of the plaintiff, the court may extend the effect of such order for 12
23 months.

24 (7) Awarding costs and attorney fees to either party.

25 (8) Making provision for the possession of personal property of the
26 parties and ordering a law enforcement officer to assist in securing
27 possession of that property, if necessary.

28 (9) Requiring any person against whom an order is issued to seek
29 counseling to aid in the cessation of abuse.

30 (10) Ordering or restraining any other acts deemed necessary to
31 promote the safety of the plaintiff or of any minor children of the parties.

32 (b) No protection from abuse order shall be entered against the
33 plaintiff unless:

34 (1) The defendant properly files a written cross or counter petition
35 seeking such a protection order;

36 (2) the plaintiff had reasonable notice of the written cross or counter
37 petition by personal service as provided in subsection (d) of K.S.A. 60-
38 3104, and amendments thereto; and

39 (3) the issuing court made specific findings of abuse against both the
40 plaintiff and the defendant and determined that both parties acted primarily
41 as aggressors and neither party acted primarily in self-defense.

42 (c) Any order entered under the protection from abuse act shall not be
43 subject to modification on ex parte application or on motion for temporary

1 orders in any action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-
2 1101 et seq., and amendments thereto. Orders previously issued in an
3 action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-1101 et seq.,
4 and amendments thereto, shall be subject to modification under the
5 protection from abuse act only as to those matters subject to modification
6 by the terms of K.S.A. 60-1610 et seq., and amendments thereto, and on
7 sworn testimony to support a showing of good cause. Immediate and
8 present danger of abuse to the plaintiff or minor children shall constitute
9 good cause. If an action is filed pursuant to K.S.A. 60-1610 et seq., or
10 K.S.A. 38-1101 et seq., and amendments thereto, during the pendency of a
11 proceeding filed under the protection from abuse act or while an order
12 issued under the protection from abuse act is in effect, the court, on final
13 hearing or on agreement of the parties, may issue final orders authorized
14 by K.S.A. 60-1610, and amendments thereto, that are inconsistent with
15 orders entered under the protection from abuse act. Any inconsistent order
16 entered pursuant to this subsection shall be specific in its terms, reference
17 the protection from abuse order and parts thereof being modified and a
18 copy thereof shall be filed in both actions. The court shall consider
19 whether the actions should be consolidated in accordance with K.S.A. 60-
20 242, and amendments thereto. Any custody or parenting time order, or
21 order relating to the best interests of a child, issued pursuant to the revised
22 Kansas code for care of children or the revised Kansas juvenile justice
23 code, shall be binding and shall take precedence over any such custody or
24 parenting order involving the same child issued under the protection from
25 abuse act, until jurisdiction under the revised Kansas code for care of
26 children or the revised Kansas juvenile justice code is terminated. Any
27 inconsistent custody or parenting order issued in the revised Kansas code
28 for care of children case or the revised Kansas juvenile justice code case
29 shall be specific in its terms, reference any preexisting protection from
30 abuse order and the custody being modified, and a copy of such order shall
31 be filed in the preexisting protection from abuse case.

32 (d) If the parties to an action under the protection from abuse act are
33 not married to each other and one party owns the residence or household,
34 the court shall not have the authority to grant possession of the residence
35 or household under subsection (a)(2) to the exclusion of the party who
36 owns it.

37 (e) Subject to the provisions of subsections (b), (c) and (d), a
38 protective order or approved consent agreement shall remain in effect until
39 modified or dismissed by the court and shall be for a fixed period of time
40 not to exceed one year, except that, on motion of the plaintiff, such period
41 may be extended for one additional year.

42 (f) The court may amend its order or agreement at any time upon
43 motion filed by either party.

1 (g) No order or agreement under the protection from abuse act shall
2 in any manner affect title to any real property.

3 (h) If a person enters or remains on premises or property violating an
4 order issued pursuant to subsection (a)(2), such violation shall constitute
5 criminal trespass as ~~provided in subsection (c) of K.S.A. 21-3721~~ defined
6 *in subsection (a)(1)(C) of section 94 of chapter 136 of the 2010 Session*
7 *Laws of Kansas*, and amendments thereto, and violation of a protective
8 order as ~~provided in K.S.A. 21-3843~~ defined *in section 149 of chapter 136*
9 *of the 2010 Session Laws of Kansas*, and amendments thereto. If a person
10 abuses, molests or interferes with the privacy or rights of another violating
11 an order issued pursuant to subsection (a)(1), such violation may constitute
12 assault as ~~provided in K.S.A. 21-3408~~ defined *in subsection (a) of section*
13 *47 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
14 thereto, battery as ~~provided in K.S.A. 21-3412~~ defined *in subsection (a) of*
15 *section 48 of chapter 136 of the 2010 Session Laws of Kansas*, and
16 amendments thereto, domestic battery as ~~provided in K.S.A. 21-~~
17 ~~3412~~ defined *in section 49 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto, and violation of a protective order as
19 ~~provided in K.S.A. 21-3843~~ defined *in section 149 of chapter 136 of the*
20 *2010 Session Laws of Kansas*, and amendments thereto.

21 Sec. 222. K.S.A. 2010 Supp. 60-31a06 is hereby amended to read as
22 follows: 60-31a06. (a) The court may issue a protection from stalking
23 order granting any of the following orders:

24 (1) Restraining the defendant from following, harassing, telephoning,
25 contacting or otherwise communicating with the victim. Such order shall
26 contain a statement that if such order is violated such violation may
27 constitute stalking as ~~provided in K.S.A. 21-3438~~ defined *in section 62 of*
28 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
29 and violation of a protective order as ~~provided in K.S.A. 21-3843~~ defined
30 *in section 149 of chapter 136 of the 2010 Session Laws of Kansas*, and
31 amendments thereto.

32 (2) Restraining the defendant from abusing, molesting or interfering
33 with the privacy rights of the victim. Such order shall contain a statement
34 that if such order is violated, such violation may constitute stalking as
35 ~~provided in K.S.A. 21-3438~~ defined *in section 62 of chapter 136 of the*
36 *2010 Session Laws of Kansas*, and amendments thereto, assault as
37 ~~provided in K.S.A. 21-3408~~ defined *in subsection (a) of section 47 of*
38 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
39 battery as ~~provided in K.S.A. 21-3412~~ defined *in subsection (a) of section*
40 *48 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
41 thereto, and violation of a protective order as ~~provided in K.S.A. 21-~~
42 ~~3843~~ defined *in section 149 of chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto.

1 (3) Restraining the defendant from entering upon or in the victim's
2 residence or the immediate vicinity thereof. Such order shall contain a
3 statement that if such order is violated, such violation shall constitute
4 criminal trespass as ~~provided in subsection (a)(1)(C) of K.S.A. 21-~~
5 ~~372~~*defined in subsection (a)(1)(C) of section 94 of chapter 136 of the*
6 *2010 Session Laws of Kansas*, and amendments thereto, and violation of a
7 protective order as ~~provided in K.S.A. 21-3843~~*defined in section 149 of*
8 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

9 (4) Any other order deemed necessary by the court to carry out the
10 provisions of this act.

11 (b) A protection from stalking order shall remain in effect until
12 modified or dismissed by the court and shall be for a fixed period of time
13 not to exceed one year, except that, on motion of the plaintiff, such period
14 may be extended for one additional year. Before the expiration of an order
15 for protection from stalking, a victim, or a parent on behalf of the victim,
16 may request an extension of the protection from stalking order for up to
17 one additional year on showing of continuing threat of stalking.

18 (c) The court may amend its order at any time upon motion filed by
19 either party.

20 (d) The court shall assess costs against the defendant and may award
21 attorney fees to the victim in any case in which the court issues a
22 protection from stalking order pursuant to this act. The court may award
23 attorney fees to the defendant in any case where the court finds that the
24 petition to seek relief pursuant to this act is without merit.

25 (e) A no contact or restraining provision in a protective order issued
26 pursuant to this section shall not be construed to prevent:

27 (1) Contact between the attorneys representing the parties;

28 (2) a party from appearing at a scheduled court or administrative
29 hearing; or

30 (3) a defendant or defendant's attorney from sending the plaintiff
31 copies of any legal pleadings filed in court relating to civil or criminal
32 matters presently relevant to the plaintiff.

33 Sec. 223. K.S.A. 2010 Supp. 60-4104 is hereby amended to read as
34 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
35 act, whether or not there is a prosecution or conviction related to the
36 offense, are:

37 (a) All offenses which statutorily and specifically authorize forfeiture;

38 (b) violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, and
39 amendments thereto;

40 (c) theft which is classified as a felony violation pursuant to ~~K.S.A.~~
41 ~~21-3701~~*section 87 of chapter 136 of the 2010 Session Laws of Kansas*,
42 and amendments thereto, in which the property taken was livestock;

43 (d) ~~unlawful~~ *criminal* discharge of a firearm, ~~K.S.A. 21-4219~~ *as*

1 *defined in subsections (a)(1) and (a)(2) of section 193 of chapter 136 of*
2 *the 2010 Session Laws of Kansas, and amendments thereto;*

3 (e) *violations of K.S.A. 2010 Supp. 21-36a16, and amendments*
4 *thereto;*

5 (f) *gambling, ~~K.S.A. 21-4303~~ section 215 of chapter 136 of the 2010*
6 *Session Laws of Kansas, and amendments thereto, and commercial*
7 *gambling, ~~K.S.A. 21-4304~~ as defined in subsection (a)(1) of section 217 of*
8 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;*

9 (g) *counterfeiting, ~~K.S.A. 21-3763~~ section 111 of chapter 136 of the*
10 *2010 Session Laws of Kansas, and amendments thereto;*

11 (h) *violations of ~~K.S.A. 21-4019~~ section 178 of chapter 136 of the*
12 *2010 Session Laws of Kansas, and amendments thereto;*

13 (i) *medicaid fraud, ~~K.S.A. 21-3844 et seq.~~ sections 150 through 161*
14 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
15 *thereto;*

16 (j) *an act or omission occurring outside this state, which would be a*
17 *violation in the place of occurrence and would be described in this section*
18 *if the act occurred in this state, whether or not it is prosecuted in any state;*

19 (k) *an act or omission committed in furtherance of any act or*
20 *omission described in this section including any inchoate or preparatory*
21 *offense, whether or not there is a prosecution or conviction related to the*
22 *act or omission;*

23 (l) *any solicitation or conspiracy to commit any act or omission*
24 *described in this section, whether or not there is a prosecution or*
25 *conviction related to the act or omission;*

26 (m) *~~furtherance of terrorism or illegal use of weapons of mass~~*
27 *~~destruction, ~~K.S.A. 21-3451~~ violations of section 58 of chapter 136 of the~~*
28 *2010 Session Laws of Kansas, and amendments thereto;*

29 (n) *unlawful conduct of dog fighting and unlawful possession of dog*
30 *fighting paraphernalia, ~~K.S.A. 21-4315~~ as defined in subsections (a) and*
31 *(b) of section 225 of chapter 136 of the 2010 Session Laws of Kansas, and*
32 *amendments thereto;*

33 (o) *unlawful conduct of cockfighting and unlawful possession of*
34 *cockfighting paraphernalia, ~~K.S.A. 21-4319~~ as defined in subsections (a)*
35 *and (b) of section 228 of chapter 136 of the 2010 Session Laws of Kansas,*
36 *and amendments thereto;*

37 (p) *prostitution, ~~K.S.A. 21-3512~~ section 229 of chapter 136 of the*
38 *2010 Session Laws of Kansas, and amendments thereto, promoting*
39 *prostitution, ~~K.S.A. 21-3513~~ section 230 of chapter 136 of the 2010*
40 *Session Laws of Kansas, and amendments thereto, and patronizing a*
41 *prostitute, ~~K.S.A. 21-3515~~ section 231 of chapter 136 of the 2010 Session*
42 *Laws of Kansas, and amendments thereto; and*

43 (q) *human trafficking, ~~K.S.A. 21-3446~~, and amendments thereto; and*

1 aggravated human trafficking, ~~K.S.A. 21-3447~~ *section 61 of chapter 136*
2 *of the 2010 Session Laws of Kansas*, and amendments thereto.

3 Sec. 224. K.S.A. 2010 Supp. 60-4105 is hereby amended to read as
4 follows: 60-4105. The following property is subject to forfeiture:

5 (a) Property described in a statute authorizing forfeiture;

6 (b) except as otherwise provided by law, all property, of every kind,
7 including, but not limited to, cash and negotiable instruments and the
8 whole of any lot or tract of land and any appurtenances or improvements
9 to real property that is either:

10 (1) Furnished or intended to be furnished by any person in an
11 exchange that constitutes conduct giving rise to forfeiture; or

12 (2) used or intended to be used in any manner to facilitate conduct
13 giving rise to forfeiture, including, but not limited to, any computer,
14 computer system, computer network or any software or data owned by the
15 defendant which is used during the commission of a violation of ~~K.S.A.~~
16 ~~21-4019~~*section 178 of chapter 136 of the 2010 Session Laws of Kansas*,
17 and amendments thereto;

18 (c) all proceeds of any conduct giving rise to forfeiture;

19 (d) all property of every kind, including, but not limited to, cash and
20 negotiable instruments derived from or realized through any proceeds
21 which were obtained directly or indirectly from the commission of an
22 offense listed in K.S.A. 60-4104, and amendments thereto;

23 (e) all weapons possessed, used, or available for use in any manner to
24 facilitate conduct giving rise to forfeiture;

25 (f) ownership or interest in real property that is a homestead, to the
26 extent the homestead was acquired with proceeds from conduct giving rise
27 to forfeiture;

28 (g) contraband, which shall be seized and summarily forfeited to the
29 state without regard to the procedures set forth in this act;

30 (h) all controlled substances, raw materials, controlled substance
31 analogs, counterfeit substances, or imitation controlled substances that
32 have been manufactured, distributed, dispensed, possessed, or acquired in
33 violation of the laws of this state; and

34 (i) any items bearing a counterfeit mark.

35 Sec. 225. K.S.A. 60-4111 is hereby amended to read as follows: 60-
36 4111. (a) Only an owner of or interest holder in property seized for
37 forfeiture may file a claim, and shall do so in the manner provided in this
38 section. The claim shall be mailed to the seizing agency and to the
39 plaintiff's attorney by certified mail, return receipt requested, within 30
40 days after the effective date of notice of pending forfeiture. No extension
41 of time for the filing of a claim shall be granted except for good cause
42 shown.

43 (b) The claim and all supporting documents shall be in affidavit form,

1 signed by the claimant under oath, and sworn to by the affiant before one
2 who has authority to administer the oath, under penalty of perjury, ~~K.S.A.~~
3 ~~21-3805~~section 128 of chapter 136 of the 2010 Session Laws of Kansas,
4 and amendments thereto, or making a false writing, ~~K.S.A. 21-371~~section
5 110 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
6 thereto, and shall set forth all of the following:

7 (1) The caption of the proceedings and identifying number, if any, as
8 set forth on the notice of pending forfeiture or complaint, the name of the
9 claimant, and the name of the plaintiff's attorney who authorized the notice
10 of pending forfeiture or complaint.

11 (2) The address where the claimant will accept mail.

12 (3) The nature and extent of the claimant's interest in the property.

13 (4) The date, the identity of the transferor, and a detailed description
14 of the circumstances of the claimant's acquisition of the interest in the
15 property.

16 (5) The specific provision of this act relied on in asserting that the
17 property is not subject to forfeiture.

18 (6) All essential facts supporting each assertion.

19 (7) The specific relief sought.

20 Sec. 226. K.S.A. 2010 Supp. 60-4113 is hereby amended to read as
21 follows: 60-4113. (a) A judicial *in rem* forfeiture proceeding brought by
22 the plaintiff's attorney pursuant to a notice of pending forfeiture or verified
23 petition for forfeiture is also subject to the provisions of this section. If a
24 forfeiture is authorized by this act, it shall be ordered by the court in the *in*
25 *rem* action.

26 (b) An action *in rem* may be brought by the plaintiff's attorney in
27 addition to, or in lieu of, civil *in personam* forfeiture procedures. The
28 seizing agency may serve the complaint in the manner provided by
29 subsection (a)(3) of K.S.A. 60-4109, and amendments thereto, or as
30 provided by the rules of civil procedure.

31 (c) Only an owner of or an interest holder in the property who has
32 timely filed a proper claim may file an answer in an action *in rem*. For the
33 purposes of this section, an owner of or interest holder in property who has
34 filed a claim and answer shall be referred to as a claimant.

35 (d) The answer shall be in affidavit form, signed by the claimant
36 under oath, and sworn to by the affiant before one who has authority to
37 administer the oath, under penalty of perjury, ~~K.S.A. 21-3805~~section 128
38 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
39 thereto, or making a false writing, ~~K.S.A. 21-371~~section 110 of chapter
40 136 of the 2010 Session Laws of Kansas, and amendments thereto, and
41 shall otherwise be in accordance with the rules of civil procedure on
42 answers and shall also set forth all of the following:

43 (1) The caption of the proceedings and identifying number, if any, as

1 set forth on the notice of pending forfeiture or complaint and the name of
2 the claimant.

3 (2) The address where the claimant will accept mail.

4 (3) The nature and extent of the claimant's interest in the property.

5 (4) The date, the identity of the transferor, and the detailed
6 description of the circumstances of the claimant's acquisition of the
7 interest in the property.

8 (5) The specific provision of this act relied on in asserting that such
9 property is not subject to forfeiture.

10 (6) All essential facts supporting each assertion.

11 (7) The specific relief sought.

12 (e) The answer shall be filed within 21 days after service of the civil
13 *in rem* complaint.

14 (f) The seizing agency and any claimant who has timely answered the
15 complaint, at the time of filing such agency's pleadings, or at any other
16 time not less than 30 days prior to the hearing, may serve discovery
17 requests on any other party, the answers or response to which shall be due
18 within 21 days of service. Discovery may include deposition of any person
19 at any time after the expiration of 14 days after the filing and service of the
20 complaint. Any party may move for a summary judgment at any time after
21 an answer or responsive pleading is served and not less than 30 days prior
22 to the hearing.

23 (g) The issue shall be determined by the court alone, and the hearing
24 on the claim shall be held within 60 days after service of the petition
25 unless continued for good cause. The plaintiff's attorney shall have the
26 initial burden of proving the interest in the property is subject to forfeiture
27 by a preponderance of the evidence. If the state proves the interest in the
28 property is subject to forfeiture, the claimant has the burden of showing by
29 a preponderance of the evidence that the claimant has an interest in the
30 property which is not subject to forfeiture.

31 (h) If the plaintiff's attorney fails to meet the burden of proof for
32 forfeiture, or a claimant establishes by a preponderance of the evidence
33 that the claimant has an interest that is exempt under the provisions of
34 K.S.A. 60-4106, and amendments thereto, the court shall order the interest
35 in the property returned or conveyed to the claimant. The court shall order
36 all other property forfeited to the seizing agency and conduct further
37 proceedings pursuant to the provision of K.S.A. 60-4116 and 60-4117, and
38 amendments thereto.

39 Sec. 227. K.S.A. 2010 Supp. 60-4119 is hereby amended to read as
40 follows: 60-4119. (a) If a person is or may be called to produce evidence at
41 a deposition, hearing or trial under this act or at an investigation brought
42 by the attorney under K.S.A. 60-4118, and amendments thereto, the
43 district court for the county in which the deposition, hearing, trial, or

1 investigation is or may be held, upon certification in writing of a request of
2 the county or district attorney for the county, or the attorney general, shall
3 issue an order, ex parte or after a hearing, requiring the person to produce
4 evidence, notwithstanding that person's refusal to do so on the basis of the
5 privilege against self-incrimination.

6 (b) The county or district attorney, or the attorney general, may
7 certify in writing a request for an ex parte order under this section if in
8 such attorney's judgment:

9 (1) The production of the evidence may be necessary to the public
10 interest; and

11 (2) the person has refused or is likely to refuse to produce evidence
12 on the basis of such person's privilege against self-incrimination.

13 (c) If a person refuses, on the basis of such person's privilege against
14 self-incrimination, to produce evidence in any proceeding described in this
15 act, and the presiding officer informs the person of an order issued under
16 this section, the person may not refuse to comply with the order. The
17 person may be compelled or punished by the district court issuing an order
18 for civil or criminal contempt.

19 (d) The production of evidence compelled by order issued under this
20 section, and any information directly or indirectly derived from such
21 evidence, may not be used against the person in a subsequent criminal
22 case, except in a prosecution for perjury, ~~K.S.A. 21-3805~~*section 128 of*
23 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
24 making false writing, ~~K.S.A. 21-3711~~*section 110 of chapter 136 of the*
25 *2010 Session Laws of Kansas*, and amendments thereto, or an offense
26 otherwise involving a failure to comply with the order. Nothing in this
27 subsection shall be interpreted as preventing the use in a criminal action
28 any evidence lawfully obtained independently of these procedures.

29 Sec. 228. K.S.A. 60-4402 is hereby amended to read as follows: 60-
30 4402. As used in *section 42 of chapter 136 of the 2010 Session Laws of*
31 *Kansas*, ~~K.S.A. 21-3406~~, 60-4401 through 60-4407, 65-1120, 65-1436,
32 65-1627i, 65-2006 and 65-2836, *and amendments thereto*:

33 (a) "Licensed health care professional" means a person licensed to
34 practice medicine and surgery, licensed podiatrist, licensed physician
35 assistant, licensed nurse, dentist or licensed pharmacist.

36 (b) "Suicide" means the act or instance of taking one's own life
37 voluntarily and intentionally.

38 Sec. 229. K.S.A. 2010 Supp. 60-4403 is hereby amended to read as
39 follows: 60-4403. (a) A licensed health care professional who administers,
40 prescribes or dispenses medications or procedures to relieve another
41 person's pain or discomfort does not violate ~~K.S.A. 21-3406~~*section 42 of*
42 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto
43 unless the medications or procedures are knowingly administered,

1 prescribed or dispensed with the intent to cause death. A mid-level
2 practitioner as defined in K.S.A. 65-1626, and amendments thereto, who
3 prescribes medications or procedures to relieve another person's pain or
4 discomfort does not violate ~~K.S.A. 21-3406~~ *section 42 of chapter 136 of*
5 *the 2010 Session Laws of Kansas*, and amendments thereto unless the
6 medications or procedures are knowingly prescribed with the intent to
7 cause death.

8 (b) A licensed health care professional, family member or other
9 legally authorized person who participates in the act of, or the decision
10 making process which results in the withholding or withdrawal of a life-
11 sustaining procedure does not violate ~~K.S.A. 21-3406~~ *section 42 of chapter*
12 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

13 (c) Providing spiritual treatment through prayer alone, in lieu of
14 medical treatment, does not violate ~~K.S.A. 21-3406~~ *section 42 of chapter*
15 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

16 Sec. 230. K.S.A. 60-4404 is hereby amended to read as follows: 60-
17 4404. (a) A cause of action for injunctive relief may be maintained against
18 any person who is reasonably believed to be about to violate or who is in
19 the course of violating ~~K.S.A. 21-3406~~ *section 42 of chapter 136 of the*
20 *2010 Session Laws of Kansas*, and amendments thereto, by any person
21 who is:

22 (1) The spouse, parent, child or sibling of the person who would
23 commit suicide.

24 (2) Entitled to inherit from the person who would commit suicide.

25 (3) A health care provider of the person who would commit suicide.

26 (4) A public official with appropriate jurisdiction to prosecute or
27 enforce the laws of this state.

28 Sec. 231. K.S.A. 60-4405 is hereby amended to read as follows: 60-
29 4405. A cause of action for civil damages may be maintained against any
30 person who violates or who attempts to violate ~~K.S.A. 21-3406~~ *section 42*
31 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
32 thereto, by any person who is the spouse, parent, child, sibling, or entitled
33 to inherit from the person or who is the personal representative of the
34 person who did or would commit suicide for compensatory damages and
35 exemplary damages, whether or not the plaintiff consented to or had prior
36 knowledge of the violation or attempt.

37 Sec. 232. K.S.A. 2010 Supp. 60-5001 is hereby amended to read as
38 follows: 60-5001. (a) Any person who, while under the age of 18, was a
39 victim of an offense described in article 35 of chapter 21 of the Kansas
40 Statutes Annotated, *prior to their repeal, or sections 65 through 77 or 229*
41 *through 231 of chapter 136 of the 2010 Session Laws of Kansas*, and
42 amendments thereto, incest as defined in K.S.A. 21-3602, *prior to its*
43 *repeal, or subsection (a) of section 81 of chapter 136 of the 2010 Session*

1 *Laws of Kansas*, and amendments thereto, or aggravated incest as defined
2 in subsection (a)(2) of K.S.A. 21-3603, *prior to its repeal, or subsection*
3 *(b)(2) of section 81 of chapter 136 of the 2010 Session Laws of Kansas*,
4 and amendments thereto, where such offense resulted in a conviction and
5 any portion of such offense was used in the production of child
6 pornography, and who suffers personal or psychological injury as a result
7 of the production, promotion, or possession of such child pornography,
8 may bring an action in an appropriate state court against the producer,
9 promoter or intentional possessor of such child pornography, regardless of
10 whether the victim is now an adult.

11 (b) In any action brought under this section, a prevailing plaintiff
12 shall recover the actual damages such person sustained and the cost of the
13 suit, including reasonable attorney's fees. Any victim who is awarded
14 damages under this section shall be deemed to have sustained damages of
15 at least \$150,000.

16 (c) Notwithstanding any other provision of law, any action
17 commenced under this section shall be filed within three years after the
18 later of:

19 (1) The conclusion of a related criminal case;

20 (2) the notification to the victim by a member of a law enforcement
21 agency of the creation, possession, or promotion of the child pornography;
22 or

23 (3) in the case of a victim younger than 18, within three years after
24 the person reaches the age of 18.

25 (d) It is not a defense to a civil cause of action under this section that
26 the respondent did not know the victim or commit the abuse depicted in
27 the child pornography.

28 (e) At the victim's request, the attorney general may pursue cases on
29 behalf of any Kansas victim under this section. All damages obtained shall
30 go to the victim, and the attorney general may seek reasonable attorney's
31 fees and costs.

32 (f) Any action brought under this section shall be subject to the
33 provisions of K.S.A. 74-7312, and amendments thereto.

34 (g) As used in this section, "child pornography" includes, but is not
35 limited to, any visual depiction, as described in subsection (a) of K.S.A.
36 21-3516, *prior to its repeal, or subsection (a) of section 74 of chapter 136*
37 *of the 2010 Session Laws of Kansas*, and amendments thereto, and any
38 performance, as defined in subsection (b) of K.S.A. 21-3516, *prior to its*
39 *repeal, or subsection (c) of section 74 of chapter 136 of the 2010 Session*
40 *Laws of Kansas*, and amendments thereto.

41 (h) This section shall not apply to acts done in the performance of
42 duty by any: (1) Law enforcement officer of the state of Kansas or any
43 political subdivision thereof; (2) forensic examiner; (3) any prosecuting

1 attorney, as defined in K.S.A. 22-2202, and amendments thereto; or (4)
2 any bona fide child advocacy organization, including, but not limited to,
3 the national center for missing and exploited children.

4 Sec. 233. K.S.A. 65-444 is hereby amended to read as follows: 65-
5 444. No hospital, hospital administrator or governing board shall be
6 required to permit the termination of human pregnancies within its
7 institution and the refusal to permit such procedures shall not be grounds
8 for civil liability to any person. A hospital may establish criteria and
9 procedures under which pregnancies may be terminated within its
10 institution, in addition to those which may be prescribed by licensing,
11 regulating or accrediting agencies: ~~Provided, No pregnancy shall be~~
12 ~~purposely terminated until the opinions of three (3) duly licensed~~
13 ~~physicians attesting to the necessity of such termination have been~~
14 ~~recorded in writing in the permanent records of the hospital, except in an~~
15 ~~emergency as defined in section 21-3407 (2) (b) of the Kansas criminal~~
16 ~~code.~~

17 Sec. 234. K.S.A. 2010 Supp. 65-448 is hereby amended to read as
18 follows: 65-448. (a) Upon the request of any law enforcement officer and
19 with the written consent of the reported victim, or upon the request of the
20 victim, any physician, a licensed physician assistant, who has been
21 specially trained in performing sexual assault evidence collection, or a
22 registered professional nurse, who has been specially trained in performing
23 sexual assault evidence collection, on call or on duty at a medical care
24 facility of this state, as defined by subsection (h) of K.S.A. 65-425, and
25 amendments thereto, shall examine persons who may be victims of sexual
26 offenses cognizable as violations of ~~K.S.A. 21-3502, 21-3503, 21-3504,~~
27 ~~21-3505, 21-3506, 21-3602 or 21-3603~~ *section 67, 68, 70 or 81 of chapter*
28 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, using
29 Kansas bureau of investigation sexual assault evidence collection kits or
30 similar kits approved by the Kansas bureau of investigation, for the
31 purposes of gathering evidence of any such crime. If an examination has
32 taken place solely upon the request of the victim, the medical care facility
33 shall not notify any law enforcement agency without the written consent of
34 the victim, unless otherwise required by law. If the physician, licensed
35 physician assistant or registered professional nurse refuses to perform such
36 physical examination the prosecuting attorney is hereby empowered to
37 seek a mandatory injunction against such physician, licensed physician
38 assistant or registered professional nurse to enforce the provisions of this
39 act. Any refusal by a physician, licensed physician assistant or registered
40 professional nurse to perform an examination which has been requested
41 pursuant to this section shall be reported by the county or district attorney
42 to the state board of healing arts or the board of nursing, whichever is
43 applicable, for appropriate disciplinary action. The department of health

1 and environment, in cooperation with the Kansas bureau of investigation,
2 shall establish procedures for gathering evidence pursuant to this section.
3 A minor may consent to examination under this section. Such consent is
4 not subject to disaffirmance because of minority, and consent of parent or
5 guardian of the minor is not required for such examination. The hospital or
6 medical facility shall give written notice to the parent or guardian of a
7 minor that such an examination has taken place.

8 (b) All sexual assault kits collected that are not released to law
9 enforcement shall be sealed by either the sexual assault nurse examiner
10 program or the facility that provided the examination and kept for five
11 years in the evidence storage facilities of the Kansas bureau of
12 investigation. After five years, such kits shall be destroyed by the Kansas
13 bureau of investigation.

14 (c) The fee chargeable for conducting an examination of a victim as
15 herein provided shall be established by the department of health and
16 environment. Such fee, including the cost of the sexual assault evidence
17 collection kit shall be charged to and paid by the county where the alleged
18 offense was committed, and refusal of the victim to report the alleged
19 offense to law enforcement shall not excuse or exempt the county from
20 paying such fee. The fee for conducting an examination of a victim as
21 herein provided shall not be charged or billed to the victim or to the
22 victim's insurance carrier. Such county shall be reimbursed such fee upon
23 the costs being paid by the defendant as court costs assessed pursuant to
24 K.S.A. 28-172a, and amendments thereto.

25 (d) No medical care facility shall incur any civil, administrative or
26 criminal liability as a result of notifying or failing to notify any law
27 enforcement agency if an examination has taken place solely upon the
28 request of the victim and such notification is not otherwise required by
29 law.

30 (e) The Kansas bureau of investigation may adopt rules and
31 regulations as deemed necessary to implement the provisions of this
32 section.

33 Sec. 235. K.S.A. 2010 Supp. 65-516 is hereby amended to read as
34 follows: 65-516. (a) No person shall knowingly maintain a child care
35 facility ~~or maintain a family day care home if, in the child care facility or~~
36 ~~family day care home~~, there resides, works or regularly volunteers any
37 person who in this state or in other states or the federal government:

38 (1) (A) Has a felony conviction for a crime against persons, (B) has a
39 felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
40 and amendments thereto, or any felony violation of any provision of the
41 uniform controlled substances act prior to July 1, 2009, (C) has a
42 conviction of any act which is described in articles 34, 35 or 36 of chapter
43 21 of the Kansas Statutes Annotated, *prior to their repeal, or sections 36*

1 *through 86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010*
2 *Session Laws of Kansas, and amendments thereto, or a conviction of an*
3 *attempt under K.S.A. 21-3301, prior to its repeal, or section 33 of chapter*
4 *136 of the 2010 Session Laws of Kansas, and amendments thereto, to*
5 *commit any such act or a conviction of conspiracy under K.S.A. 21-3302,*
6 *prior to its repeal, or section 34 of chapter 136 of the 2010 Session Laws*
7 *of Kansas, and amendments thereto, to commit such act, or similar statutes*
8 *of other states or the federal government, or (D) has been convicted of any*
9 *act which is described in K.S.A. 21-4301 or 21-4301a, prior to their*
10 *repeal, or section 212 of chapter 136 of the 2010 Session Laws of Kansas,*
11 *and amendments thereto, or similar statutes of other states or the federal*
12 *government;*

13 (2) has been adjudicated a juvenile offender because of having
14 committed an act which if done by an adult would constitute the
15 commission of a felony and which is a crime against persons, is any act
16 described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes
17 Annotated, *prior to their repeal, or sections 36 through 86, 174, 210, 211*
18 *or 229 through 231 of chapter 136 of the 2010 Session Laws of Kansas,*
19 *and amendments thereto, or similar statutes of other states or the federal*
20 *government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior*
21 *to their repeal, or section 212 of chapter 136 of the 2010 Session Laws of*
22 *Kansas, and amendments thereto, or similar statutes of other states or the*
23 *federal government;*

24 (3) has committed an act of physical, mental or emotional abuse or
25 neglect or sexual abuse and who is listed in the child abuse and neglect
26 registry maintained by the department of social and rehabilitation services
27 pursuant to K.S.A. 2010 Supp. 38-2226, and amendments thereto, and (A)
28 the person has failed to successfully complete a corrective action plan
29 which had been deemed appropriate and approved by the department of
30 social and rehabilitation services, or (B) the record has not been expunged
31 pursuant to rules and regulations adopted by the secretary of social and
32 rehabilitation services;

33 (4) has had a child removed from home based on a court order
34 pursuant to K.S.A. 2010 Supp. 38-2251, and amendments thereto, in this
35 state, or a court order in any other state based upon a similar statute that
36 finds the child to be deprived or a child in need of care based on a finding
37 of physical, mental or emotional abuse or neglect or sexual abuse and the
38 child has not been returned to the home or the child reaches majority
39 before being returned to the home and the person has failed to
40 satisfactorily complete a corrective action plan approved by the
41 department of health and environment;

42 (5) has had parental rights terminated pursuant to the Kansas juvenile
43 code or K.S.A. 2010 Supp. 38-2266 through 38-2270, and amendments

1 thereto, or a similar statute of other states;

2 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et
3 seq., and amendments thereto, or an immediate intervention agreement
4 pursuant to K.S.A. 2010 Supp. 38-2346, and amendments thereto,
5 involving a charge of child abuse or a sexual offense; or

6 (7) has an infectious or contagious disease.

7 (b) No person shall maintain a child care facility ~~or a family day care~~
8 ~~home~~ if such person has been found to be a person in need of a guardian or
9 a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095,
10 and amendments thereto.

11 (c) Any person who resides in a child care facility ~~or family day care~~
12 ~~home~~ and who has been found to be in need of a guardian or a conservator,
13 or both, shall be counted in the total number of children allowed in care.

14 (d) In accordance with the provisions of this subsection, the secretary
15 of health and environment shall have access to any court orders or
16 adjudications of any court of record, any records of such orders or
17 adjudications, criminal history record information including, but not
18 limited to, diversion agreements, in the possession of the Kansas bureau of
19 investigation and any report of investigations as authorized by K.S.A.
20 2010 Supp. 38-2226, and amendments thereto, in the possession of the
21 department of social and rehabilitation services or court of this state
22 concerning persons working, regularly volunteering or residing in a child
23 care facility ~~or a family day care home~~. The secretary shall have access to
24 these records for the purpose of determining whether or not the home
25 meets the requirements of K.S.A. 59-2132, 65-503, 65-508; ~~and 65-516~~
26 ~~and 65-519~~, and amendments thereto.

27 (e) In accordance with the provisions of this subsection, the secretary
28 is authorized to conduct national criminal history record checks to
29 determine criminal history on persons residing, working or regularly
30 volunteering in a child care facility ~~or family day care home~~. In order to
31 conduct a national criminal history check the secretary shall require
32 fingerprinting for identification and determination of criminal history. The
33 secretary shall submit the fingerprints to the Kansas bureau of
34 investigation and to the federal bureau of investigation and receive a reply
35 to enable the secretary to verify the identity of such person and whether
36 such person has been convicted of any crime that would prohibit such
37 person from residing, working or regularly volunteering in a child care
38 facility ~~or family day care home~~. The secretary is authorized to use
39 information obtained from the national criminal history record check to
40 determine such person's fitness to reside, work or regularly volunteer in a
41 child care facility ~~or family day care home~~.

42 (f) The secretary shall notify the child care applicant, ~~or licensee or~~
43 ~~registrant~~, within seven days by certified mail with return receipt

1 requested, when the result of the national criminal history record check or
2 other appropriate review reveals unfitness specified in subsection (a)(1)
3 through (7) with regard to the person who is the subject of the review.

4 (g) No child care facility ~~or family day care home~~ or the employees
5 thereof, shall be liable for civil damages to any person refused
6 employment or discharged from employment by reason of such facility's
7 or home's compliance with the provisions of this section if such home acts
8 in good faith to comply with this section.

9 (h) For the purpose of subsection (a)(3), a person listed in the child
10 abuse and neglect central registry shall not be prohibited from residing,
11 working or volunteering in a child care facility ~~or family day care home~~
12 unless such person has: (1) Had an opportunity to be interviewed and
13 present information during the investigation of the alleged act of abuse or
14 neglect; and (2) been given notice of the agency decision and an
15 opportunity to appeal such decision to the secretary and to the courts
16 pursuant to the Kansas judicial review act.

17 (i) In regard to Kansas issued criminal history records:

18 (1) The secretary of health and environment shall provide in writing
19 information available to the secretary to each child placement agency
20 requesting information under this section, including the information
21 provided by the Kansas bureau of investigation pursuant to this section, for
22 the purpose of assessing the fitness of persons living, working or regularly
23 volunteering in a family foster home under the child placement agency's
24 sponsorship.

25 (2) The child placement agency is considered to be a governmental
26 entity and the designee of the secretary of health and environment for the
27 purposes of obtaining, using and disseminating information obtained under
28 this section.

29 (3) The information shall be provided to the child placement agency
30 regardless of whether the information discloses that the subject of the
31 request has been convicted of any offense.

32 (4) Whenever the information available to the secretary reveals that
33 the subject of the request has no criminal history on record, the secretary
34 shall provide notice thereof in writing to each child placement agency
35 requesting information under this section.

36 (5) Any staff person of a child placement agency who receives
37 information under this subsection shall keep such information confidential,
38 except that the staff person may disclose such information on a need-to-
39 know basis to: (A) The person who is the subject of the request for
40 information, (B) the applicant or operator of the family foster home in
41 which the person lives, works or regularly volunteers, (C) the department
42 of health and environment, (D) the department of social and rehabilitation
43 services, (E) the juvenile justice authority, and (F) the courts.

1 (6) A violation of the provisions of subsection (i)(5) shall be an
2 unclassified misdemeanor punishable by a fine of \$100 for each violation.

3 (j) *Except as provided in this subsection, no person shall maintain a*
4 *child care facility unless such person is a high school graduate or the*
5 *equivalent thereof. The provisions of this subsection shall not apply to any*
6 *person who was maintaining a child care facility on the day immediately*
7 *prior to July 1, 2010 or who has an application for an initial license or the*
8 *renewal of an existing license pending on July 1, 2010.*

9 Sec. 236. K.S.A. 65-1120 is hereby amended to read as follows: 65-
10 1120. (a) *Grounds for disciplinary actions.* The board may deny, revoke,
11 limit or suspend any license, certificate of qualification or authorization to
12 practice nursing as a registered professional nurse, as a licensed practical
13 nurse, as an advanced registered nurse practitioner or as a registered nurse
14 anesthetist that is issued by the board or applied for under this act or may
15 publicly or privately censure a licensee or holder of a certificate of
16 qualification or authorization, if the applicant, licensee or holder of a
17 certificate of qualification or authorization is found after hearing:

18 (1) To be guilty of fraud or deceit in practicing nursing or in
19 procuring or attempting to procure a license to practice nursing;

20 (2) to have been guilty of a felony or to have been guilty of a
21 misdemeanor involving an illegal drug offense unless the applicant or
22 licensee establishes sufficient rehabilitation to warrant the public trust,
23 except that notwithstanding K.S.A. 74-120, *and amendments thereto*, no
24 license, certificate of qualification or authorization to practice nursing as a
25 licensed professional nurse, as a licensed practical nurse, as an advanced
26 registered nurse practitioner or registered nurse anesthetist shall be granted
27 to a person with a felony conviction for a crime against persons as
28 specified in article 34 of chapter 21 of the Kansas Statutes Annotated ~~and~~
29 ~~acts amendatory thereof or supplemental thereto~~, *prior to their repeal, or*
30 *sections 36 through 64, 174, 210 or 211 of chapter 136 of the 2010 Session*
31 *Laws of Kansas, and amendments thereto;*

32 (3) to have committed an act of professional incompetency as defined
33 in subsection (e);

34 (4) to be unable to practice with skill and safety due to current abuse
35 of drugs or alcohol;

36 (5) to be a person who has been adjudged in need of a guardian or
37 conservator, or both, under the act for obtaining a guardian or conservator,
38 or both, and who has not been restored to capacity under that act;

39 (6) to be guilty of unprofessional conduct as defined by rules and
40 regulations of the board;

41 (7) to have willfully or repeatedly violated the provisions of the
42 Kansas nurse practice act or any rules and regulations adopted pursuant to
43 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

1 (8) to have a license to practice nursing as a registered nurse or as a
2 practical nurse denied, revoked, limited or suspended, or to be publicly or
3 privately censured, by a licensing authority of another state, agency of the
4 United States government, territory of the United States or country or to
5 have other disciplinary action taken against the applicant or licensee by a
6 licensing authority of another state, agency of the United States
7 government, territory of the United States or country. A certified copy of
8 the record or order of public or private censure, denial, suspension,
9 limitation, revocation or other disciplinary action of the licensing authority
10 of another state, agency of the United States government, territory of the
11 United States or country shall constitute prima facie evidence of such a
12 fact for purposes of this paragraph (8); or

13 (9) to have assisted suicide in violation of K.S.A. 21-3406, *prior to*
14 *its repeal, or section 42 of chapter 136 of the 2010 Session Laws of*
15 *Kansas*, and amendments thereto as established by any of the following:

16 (A) A copy of the record of criminal conviction or plea of guilty for a
17 felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42 of*
18 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

19 (B) A copy of the record of a judgment of contempt of court for
20 violating an injunction issued under K.S.A. ~~2002~~ Supp. 60-4404 and
21 amendments thereto.

22 (C) A copy of the record of a judgment assessing damages under
23 K.S.A. ~~2002~~ Supp. 60-4405 and amendments thereto.

24 (b) *Proceedings.* Upon filing of a sworn complaint with the board
25 charging a person with having been guilty of any of the unlawful practices
26 specified in subsection (a), two or more members of the board shall
27 investigate the charges, or the board may designate and authorize an
28 employee or employees of the board to conduct an investigation. After
29 investigation, the board may institute charges. If an investigation, in the
30 opinion of the board, reveals reasonable grounds for believing the
31 applicant or licensee is guilty of the charges, the board shall fix a time and
32 place for proceedings, which shall be conducted in accordance with the
33 provisions of the Kansas administrative procedure act.

34 (c) *Witnesses.* No person shall be excused from testifying in any
35 proceedings before the board under this act or in any civil proceedings
36 under this act before a court of competent jurisdiction on the ground that
37 such testimony may incriminate the person testifying, but such testimony
38 shall not be used against the person for the prosecution of any crime under
39 the laws of this state except the crime of perjury as defined in ~~K.S.A. 21-~~
40 ~~3805~~*section 128 of chapter 136 of the 2010 Session Laws of Kansas*, and
41 amendments thereto.

42 (d) *Costs.* If final agency action of the board in a proceeding under
43 this section is adverse to the applicant or licensee, the costs of the board's

1 proceedings shall be charged to the applicant or licensee as in ordinary
2 civil actions in the district court, but if the board is the unsuccessful party,
3 the costs shall be paid by the board. Witness fees and costs may be taxed
4 by the board according to the statutes relating to procedure in the district
5 court. All costs accrued by the board, when it is the successful party, and
6 which the attorney general certifies cannot be collected from the applicant
7 or licensee shall be paid from the board of nursing fee fund. All moneys
8 collected following board proceedings shall be credited in full to the board
9 of nursing fee fund.

10 (e) *Professional incompetency defined.* As used in this section,
11 "professional incompetency" means:

12 (1) One or more instances involving failure to adhere to the
13 applicable standard of care to a degree which constitutes gross negligence,
14 as determined by the board;

15 (2) repeated instances involving failure to adhere to the applicable
16 standard of care to a degree which constitutes ordinary negligence, as
17 determined by the board; or

18 (3) a pattern of practice or other behavior which demonstrates a
19 manifest incapacity or incompetence to practice nursing.

20 (f) *Criminal justice information.* The board upon request shall receive
21 from the Kansas bureau of investigation such criminal history record
22 information relating to arrests and criminal convictions as necessary for
23 the purpose of determining initial and continuing qualifications of
24 licensees of and applicants for licensure by the board.

25 Sec. 237. K.S.A. 2010 Supp. 65-1436 is hereby amended to read as
26 follows: 65-1436. (a) The Kansas dental board may refuse to issue the
27 license provided for in this act, or may take any of the actions with respect
28 to any dental or dental hygiene license as set forth in subsection (b),
29 whenever it is established, after notice and opportunity for hearing in
30 accordance with the provisions of the Kansas administrative procedure act,
31 that any applicant for a dental or dental hygiene license or any licensed
32 dentist or dental hygienist practicing in the state of Kansas has:

33 (1) Committed fraud, deceit or misrepresentation in obtaining any
34 license, money or other thing of value;

35 (2) habitually used intoxicants or drugs which have rendered such
36 person unfit for the practice of dentistry or dental hygiene;

37 (3) been determined by the board to be professionally incompetent;

38 (4) committed gross, wanton or willful negligence in the practice of
39 dentistry or dental hygiene;

40 (5) employed, allowed or permitted any unlicensed person or persons
41 to perform any work in the licensee's office which constitutes the practice
42 of dentistry or dental hygiene under the provisions of this act;

43 (6) willfully violated the laws of this state relating to the practice of

1 dentistry or dental hygiene or the rules and regulations of the secretary of
2 health and environment or of the board regarding sanitation;

3 (7) engaged in the division of fees, or agreed to split or divide the fee
4 received for dental service with any person for bringing or referring a
5 patient without the knowledge of the patient or the patient's legal
6 representative, except the division of fees between dentists practicing in a
7 partnership and sharing professional fees, or in case of one licensed dentist
8 employing another;

9 (8) committed complicity in association with or allowed the use of
10 the licensed dentist's name in conjunction with any person who is engaged
11 in the illegal practice of dentistry;

12 (9) been convicted of a felony or a misdemeanor involving moral
13 turpitude in any jurisdiction and the licensee fails to show that the licensee
14 has been sufficiently rehabilitated to warrant the public trust;

15 (10) prescribed, dispensed, administered or distributed a prescription
16 drug or substance, including a controlled substance, in an excessive,
17 improper or inappropriate manner or quantity outside the scope of practice
18 of dentistry or in a manner that impairs the health and safety of an
19 individual;

20 (11) prescribed, purchased, administered, sold or given away
21 prescription drugs, including a controlled substance, for other than legal
22 and legitimate purposes;

23 (12) violated or been convicted of any federal or state law regulating
24 possession, distribution or use of any controlled substance;

25 (13) failed to pay license fees;

26 (14) used the name "clinic," "institute" or other title that may suggest
27 a public or semipublic activity except that the name "clinic" may be used
28 as authorized in K.S.A. 65-1435, and amendments thereto;

29 (15) committed, after becoming a licensee, any conduct which is
30 detrimental to the public health, safety or welfare as defined by rules and
31 regulations of the board;

32 (16) engaged in a misleading, deceptive, untrue or fraudulent
33 misrepresentation in the practice of dentistry or on any document
34 connected with the practice of dentistry by knowingly submitting any
35 misleading, deceptive, untrue or fraudulent misrepresentation on a claim
36 form, bill or statement, including the systematic waiver of patient co-
37 payment or co-insurance;

38 (17) failed to keep adequate records;

39 (18) the licensee has had a license to practice dentistry revoked,
40 suspended or limited, has been censured or has had other disciplinary
41 action taken, an application for license denied, or voluntarily surrendered
42 the license after formal proceedings have been commenced by the proper
43 licensing authority or another state, territory or the District of Columbia or

1 other country, a certified copy of the record of the action of the other
2 jurisdiction being conclusive evidence thereof;

3 (19) failed to furnish the board, or its investigators or representatives
4 any information legally requested by the board; or

5 (20) assisted suicide in violation of K.S.A. 21-3406, *prior to its*
6 *repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas,*
7 and amendments thereto, as established by any of the following:

8 (A) A copy of the record of criminal conviction or plea of guilty for a
9 felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42 of*
10 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments thereto.

11 (B) A copy of the record of a judgment of contempt of court for
12 violating an injunction issued under K.S.A. 60-4404, and amendments
13 thereto.

14 (C) A copy of the record of a judgment assessing damages under
15 K.S.A. 60-4405, and amendments thereto.

16 (b) Whenever it is established, after notice and opportunity for
17 hearing in accordance with the provisions of the Kansas administrative
18 procedure act, that a licensee is in any of the circumstances or has
19 committed any of the acts described in subsection (a), the Kansas dental
20 board may take one or any combination of the following actions with
21 respect to the license of the licensee:

22 (1) Revoke the license.

23 (2) Suspend the license for such period of time as may be determined
24 by the board.

25 (3) Restrict the right of the licensee to practice by imposing
26 limitations upon dental or dental hygiene procedures which may be
27 performed, categories of dental disease which may be treated or types of
28 patients which may be treated by the dentist or dental hygienist. Such
29 restrictions shall continue for such period of time as may be determined by
30 the board, and the board may require the licensee to provide additional
31 evidence at hearing before lifting such restrictions.

32 (4) Grant a period of probation during which the imposition of one or
33 more of the actions described in subsections (b)(1) through (b)(3) will be
34 stayed subject to such conditions as may be imposed by the board
35 including a requirement that the dentist or dental hygienist refrain from
36 any course of conduct which may result in further violation of the dental
37 practice act or the dentist or dental hygienist complete additional or
38 remedial instruction. The violation of any provision of the dental practice
39 act or failure to meet any condition imposed by the board as set forth in the
40 order of the board will result in immediate termination of the period of
41 probation and imposition of such other action as has been taken by the
42 board.

43 (c) As used in this section, "professionally incompetent" means:

1 (1) One or more instances involving failure to adhere to the
2 applicable standard of dental or dental hygienist care to a degree which
3 constitutes gross negligence, as determined by the board;

4 (2) repeated instances involving failure to adhere to the applicable
5 standard of dental or dental hygienist care to a degree which constitutes
6 ordinary negligence, as determined by the board; or

7 (3) a pattern of dental or dental hygienist practice or other behavior
8 which demonstrates a manifest incapacity or incompetence to practice
9 dentistry.

10 (d) In addition to or in lieu of one or more of the actions described in
11 subsections (b)(1) through (b)(4) or in subsection (c) of K.S.A. 65-1444,
12 and amendments thereto, the board may assess a fine not in excess of
13 \$10,000 against a licensee. All fines collected pursuant to this subsection
14 shall be remitted to the state treasurer in accordance with the provisions of
15 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
16 remittance, the state treasurer shall deposit the entire amount in the state
17 treasury and of the amount so remitted, an amount equal to the board's
18 actual costs related to fine assessment and enforcement under this
19 subsection, as certified by the president of the board to the state treasurer,
20 shall be credited to the dental board fee fund and the balance shall be
21 credited to the state general fund.

22 (e) The board, upon its own motion or upon the request of any
23 licensee who is a party to a licensure action, may require a physical or
24 mental examination, or both, of such licensee either prior to a hearing to be
25 held as a part of a licensure action or prior to the termination of any period
26 of suspension or the termination of any restrictions imposed upon the
27 licensee as provided in subsection (b).

28 Sec. 238. K.S.A. 2010 Supp. 65-1627 is hereby amended to read as
29 follows: 65-1627. (a) The board may revoke, suspend, place in a
30 probationary status or deny a renewal of any license of any pharmacist
31 upon a finding that:

32 (1) The license was obtained by fraudulent means;

33 (2) the licensee has been convicted of a felony and the licensee fails
34 to show that the licensee has been sufficiently rehabilitated to warrant the
35 public trust;

36 (3) the licensee is found by the board to be guilty of unprofessional
37 conduct or professional incompetency;

38 (4) the licensee is addicted to the liquor or drug habit to such a degree
39 as to render the licensee unfit to practice the profession of pharmacy;

40 (5) the licensee has violated a provision of the federal or state food,
41 drug and cosmetic act, the uniform controlled substances act of the state of
42 Kansas, or any rule and regulation adopted under any such act;

43 (6) the licensee is found by the board to have filled a prescription not

- 1 in strict accordance with the directions of the practitioner or a mid-level
2 practitioner;
- 3 (7) the licensee is found to be mentally or physically incapacitated to
4 such a degree as to render the licensee unfit to practice the profession of
5 pharmacy;
- 6 (8) the licensee has violated any of the provisions of the pharmacy act
7 of the state of Kansas or any rule and regulation adopted by the board
8 pursuant to the provisions of such pharmacy act;
- 9 (9) the licensee has failed to comply with the requirements of the
10 board relating to the continuing education of pharmacists;
- 11 (10) the licensee as a pharmacist in charge or consultant pharmacist
12 under the provisions of subsection (c) or (d) of K.S.A. 65-1648, and
13 amendments, thereto has failed to comply with the requirements of
14 subsection (c) or (d) of K.S.A. 65-1648, and amendments thereto;
- 15 (11) the licensee has knowingly submitted a misleading, deceptive,
16 untrue or fraudulent misrepresentation on a claim form, bill or statement;
- 17 (12) the licensee has had a license to practice pharmacy revoked,
18 suspended or limited, has been censured or has had other disciplinary
19 action taken, or voluntarily surrendered the license after formal
20 proceedings have been commenced, or has had an application for license
21 denied, by the proper licensing authority of another state, territory, District
22 of Columbia or other country, a certified copy of the record of the action of
23 the other jurisdiction being conclusive evidence thereof;
- 24 (13) the licensee has self-administered any controlled substance
25 without a practitioner's prescription order or a mid-level practitioner's
26 prescription order; or
- 27 (14) the licensee has assisted suicide in violation of K.S.A. 21-3406,
28 *prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws*
29 *of Kansas*, and amendments thereto as established by any of the following:
- 30 (A) A copy of the record of criminal conviction or plea of guilty for a
31 felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42 of*
32 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.
- 33 (B) A copy of the record of a judgment of contempt of court for
34 violating an injunction issued under K.S.A. 60-4404, and amendments
35 thereto.
- 36 (C) A copy of the record of a judgment assessing damages under
37 K.S.A. 60-4405, and amendments thereto; or
- 38 (15) the licensee has failed to furnish the board, its investigators or its
39 representatives any information legally requested by the board.
- 40 (b) In determining whether or not the licensee has violated subsection
41 (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion of
42 such violation has authority to compel a licensee to submit to mental or
43 physical examination or drug screen, or any combination thereof, by such

1 persons as the board may designate. To determine whether reasonable
2 suspicion of such violation exists, the investigative information shall be
3 presented to the board as a whole. Information submitted to the board as a
4 whole and all reports, findings and other records shall be confidential and
5 not subject to discovery by or release to any person or entity. The licensee
6 shall submit to the board a release of information authorizing the board to
7 obtain a report of such examination or drug screen, or both. A person
8 affected by this subsection shall be offered, at reasonable intervals, an
9 opportunity to demonstrate that such person can resume the competent
10 practice of pharmacy with reasonable skill and safety to patients. For the
11 purpose of this subsection, every person licensed to practice pharmacy and
12 who shall accept the privilege to practice pharmacy in this state by so
13 practicing or by the making and filing of a renewal application to practice
14 pharmacy in this state shall be deemed to have consented to submit to a
15 mental or physical examination or a drug screen, or any combination
16 thereof, when directed in writing by the board and further to have waived
17 all objections to the admissibility of the testimony, drug screen or
18 examination report of the person conducting such examination or drug
19 screen, or both, at any proceeding or hearing before the board on the
20 ground that such testimony or examination or drug screen report
21 constitutes a privileged communication. In any proceeding by the board
22 pursuant to the provisions of this subsection, the record of such board
23 proceedings involving the mental and physical examination or drug screen,
24 or any combination thereof, shall not be used in any other administrative
25 or judicial proceeding.

26 (c) The board may temporarily suspend or temporarily limit the
27 license of any licensee in accordance with the emergency adjudicative
28 proceedings under the Kansas administrative procedure act if the board
29 determines that there is cause to believe that grounds exist for disciplinary
30 action under subsection (a) against the licensee and that the licensee's
31 continuation in practice would constitute an imminent danger to the public
32 health and safety.

33 (d) The board may suspend, revoke, place in a probationary status or
34 deny a renewal of any retail dealer's permit issued by the board when
35 information in possession of the board discloses that such operations for
36 which the permit was issued are not being conducted according to law or
37 the rules and regulations of the board. When the board determines that
38 action under this subsection requires the immediate protection of the
39 public interest, the board shall conduct an emergency proceeding in
40 accordance with K.S.A. 77-536, and amendments thereto, under the
41 Kansas administrative procedure act.

42 (e) The board may revoke, suspend, place in a probationary status or
43 deny a renewal of the registration of a pharmacy upon a finding that: (1)

1 Such pharmacy has been operated in such manner that violations of the
2 provisions of the pharmacy act of the state of Kansas or of the rules and
3 regulations of the board have occurred in connection therewith; (2) the
4 owner or any pharmacist employed at such pharmacy is convicted,
5 subsequent to such owner's acquisition of or such employee's employment
6 at such pharmacy, of a violation of the pharmacy act or uniform controlled
7 substances act of the state of Kansas, or the federal or state food, drug and
8 cosmetic act; (3) the owner or any pharmacist employed by such pharmacy
9 has fraudulently claimed money for pharmaceutical services; or (4) the
10 registrant has had a registration revoked, suspended or limited, has been
11 censured or has had other disciplinary action taken, or an application for
12 registration denied, by the proper registering authority of another state,
13 territory, District of Columbia or other country, a certified copy of the
14 record of the action of the other jurisdiction being conclusive evidence
15 thereof. When the board determines that action under this subsection
16 requires the immediate protection of the public interest, the board shall
17 conduct an emergency proceeding in accordance with K.S.A. 77-536, and
18 amendments thereto, under the Kansas administrative procedure act.

19 (f) A registration to manufacture drugs, to distribute at wholesale a
20 drug, to sell durable medical equipment or a registration for the place of
21 business where any such operation is conducted may be suspended,
22 revoked, placed in a probationary status or the renewal of such registration
23 may be denied by the board upon a finding that the registrant or the
24 registrant's agent: (1) Has materially falsified any application filed
25 pursuant to or required by the pharmacy act of the state of Kansas; (2) has
26 been convicted of a felony under any federal or state law relating to the
27 manufacture or distribution of drugs; (3) has had any federal registration
28 for the manufacture or distribution of drugs suspended or revoked; (4) has
29 refused to permit the board or its duly authorized agents to inspect the
30 registrant's establishment in accordance with the provisions of K.S.A. 65-
31 1629, and amendments thereto; (5) has failed to keep, or has failed to file
32 with the board or has falsified records required to be kept or filed by the
33 provisions of the pharmacy act of the state of Kansas or by the board's
34 rules and regulations; or (6) has violated the pharmacy act of the state of
35 Kansas or rules and regulations adopted by the state board of pharmacy
36 under the pharmacy act of the state of Kansas or has violated the uniform
37 controlled substances act or rules and regulations adopted by the state
38 board of pharmacy under the uniform controlled substances act. When the
39 board determines that action under this subsection requires the immediate
40 protection of the public interest, the board shall conduct an emergency
41 proceeding in accordance with K.S.A. 77-536, and amendments thereto,
42 under the Kansas administrative procedure act.

43 (g) Orders under this section, and proceedings thereon, shall be

1 subject to the provisions of the Kansas administrative procedure act.

2 Sec. 239. K.S.A. 65-2006 is hereby amended to read as follows: 65-
3 2006. (a) The board, upon hearing, may revoke, suspend or limit any
4 license or permit to practice podiatry, may deny issuance or renewal of any
5 such license or permit, or may publicly or privately censure a licensee or
6 permittee, if the person holding or applying for such license or permit is
7 found by the board to:

8 (1) Have committed fraud in securing the license or permit;

9 (2) have engaged in unprofessional or dishonorable conduct or
10 professional incompetency;

11 (3) have been convicted of a felony if the board determines, after
12 investigation, that such person has not been sufficiently rehabilitated to
13 warrant the public trust;

14 (4) have used untruthful or improbable statements or flamboyant,
15 exaggerated or extravagant claims in advertisements concerning the
16 licensee's or permit holder's professional excellence or abilities;

17 (5) be addicted to or have distributed intoxicating liquors or drugs for
18 any other than lawful purposes;

19 (6) have willfully or repeatedly violated the podiatry act, the
20 pharmacy act or the uniform controlled substances act, or any rules and
21 regulations adopted thereunder, or any rules and regulations of the
22 secretary of health and environment which are relevant to the practice of
23 podiatry;

24 (7) have unlawfully invaded the field of practice of any branch of the
25 healing arts;

26 (8) have failed to submit proof of completion of a continuing
27 education course required pursuant to the podiatry act;

28 (9) have engaged in the practice of podiatry under a false or assumed
29 name or impersonated another podiatrist, but practice by a licensee or
30 permit holder under a professional corporation or other legal entity duly
31 authorized to provide podiatry services in the state shall not be considered
32 to be practice under an assumed name;

33 (10) be unable to practice podiatry with reasonable skill and safety to
34 patients by reason of any mental or physical condition, illness, alcoholism
35 or excessive use of drugs, controlled substances or chemical or any other
36 type of material;

37 (11) have had the person's license or permit to practice podiatry
38 revoked, suspended or limited, or have had other disciplinary actions taken
39 or an application for a license or permit denied, by the proper licensing
40 authority of any state, territory or country or the District of Columbia;

41 (12) have violated any rules and regulations of the board or any
42 lawful order or directive of the board;

43 (13) have knowingly submitted a misleading, deceptive, untrue or

1 fraudulent misrepresentation on a claim form, bill or statement; or
2 (14) have assisted suicide in violation of K.S.A. 21-3406, *prior to its*
3 *repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas,*
4 and amendments thereto as established by any of the following:

5 (A) A copy of the record of criminal conviction or plea of guilty for a
6 felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42 of*
7 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments thereto.

8 (B) A copy of the record of a judgment of contempt of court for
9 violating an injunction issued under K.S.A. ~~2002-Supp.~~ 60-4404 and
10 amendments thereto.

11 (C) A copy of the record of a judgment assessing damages under
12 K.S.A. ~~2002-Supp.~~ 60-4405 and amendments thereto.

13 (b) In determining whether or not a licensee or permit holder is
14 unable to practice podiatry with reasonable skill and safety to patients as
15 provided in subsection (a)(10), the board, upon probable cause, shall have
16 authority to compel a licensee or permit holder to submit to mental or
17 physical examination by such persons as the board may designate. Failure
18 of a licensee or permit holder to submit to such examination when directed
19 shall constitute an admission of the allegations against the licensee or
20 permit holder, unless the failure was due to circumstances beyond the
21 licensee's or permit holder's control. A person affected by this subsection
22 shall be offered, at reasonable intervals, an opportunity to demonstrate that
23 such person can resume the competent practice of podiatry with reasonable
24 skill and safety to patients. Each licensee or permit holder accepting the
25 privilege to practice podiatry in this state, by practicing podiatry in this
26 state or by making and filing an application for a license or permit, or
27 renewal of a license or permit, to practice podiatry in this state, shall be
28 deemed to have consented to submit to a mental or physical examination
29 when directed in writing by the board pursuant to this subsection and to
30 have waived all objections to the admissibility of the testimony or
31 examination report of the person conducting such examination at any
32 proceeding or hearing before the board on the ground that such testimony
33 or examination report constitutes a privileged communication. The record
34 of any board proceedings involving a mental or physical examination
35 pursuant to this subsection shall not be used in any other administrative or
36 judicial proceeding.

37 Whenever the board directs that a licensee or permit holder submit to
38 an examination pursuant to this subsection, the time from the date of the
39 board's directive until the submission to the board of the report of the
40 examination shall not be included in the computation of the time limit for
41 hearing prescribed by the Kansas administrative procedure act.

42 (c) As used in this section, "professional incompetency" and
43 "unprofessional conduct" shall have the meanings ascribed thereto by

1 K.S.A. 65-2837, and amendments thereto.

2 (d) The procedure for revocation, suspension, limitation, temporary
3 suspension, temporary limitation, or for denial of issuance or renewal
4 pursuant to this section, of any license or permit to practice podiatry shall
5 be in accordance with the provisions of the Kansas administrative
6 procedure act.

7 Sec. 240. K.S.A. 2010 Supp. 65-2434 is hereby amended to read as
8 follows: 65-2434. (a) Vital records identity fraud related to birth, death,
9 marriage and divorce certificates shall be prosecuted pursuant to ~~K.S.A.~~
10 ~~21-3830~~ *section 143 of chapter 136 of the 2010 Session Laws of Kansas*,
11 and amendments thereto.

12 (b) Any person who knowingly transports or accepts for
13 transportation, a dead body located in this state to a location outside the
14 boundaries of this state without an accompanying permit issued in
15 accordance with the provisions of K.S.A. 65-2428a, and amendments
16 thereto, shall be guilty of a class C misdemeanor.

17 (c) Except where a different penalty is provided in this section, any
18 person who violates any of the provisions of this act or neglects or refuses
19 to perform any of the duties imposed upon such person by this act, shall be
20 fined not more than \$200.

21 Sec. 241. K.S.A. 2010 Supp. 65-2836 is hereby amended to read as
22 follows: 65-2836. A licensee's license may be revoked, suspended or
23 limited, or the licensee may be publicly or privately censured or placed
24 under probationary conditions, or an application for a license or for
25 reinstatement of a license may be denied upon a finding of the existence of
26 any of the following grounds:

27 (a) The licensee has committed fraud or misrepresentation in
28 applying for or securing an original, renewal or reinstated license.

29 (b) The licensee has committed an act of unprofessional or
30 dishonorable conduct or professional incompetency, except that the board
31 may take appropriate disciplinary action or enter into a non-disciplinary
32 resolution when a licensee has engaged in any conduct or professional
33 practice on a single occasion that, if continued, would reasonably be
34 expected to constitute an inability to practice the healing arts with
35 reasonable skill and safety to patients or unprofessional conduct as defined
36 in K.S.A. 65-2837, and amendments thereto.

37 (c) The licensee has been convicted of a felony or class A
38 misdemeanor, whether or not related to the practice of the healing arts. The
39 board shall revoke a licensee's license following conviction of a felony
40 occurring after July 1, 2000, unless a ²/₃ majority of the board members
41 present and voting determine by clear and convincing evidence that such
42 licensee will not pose a threat to the public in such person's capacity as a
43 licensee and that such person has been sufficiently rehabilitated to warrant

1 the public trust. In the case of a person who has been convicted of a felony
2 and who applies for an original license or to reinstate a canceled license,
3 the application for a license shall be denied unless a $\frac{2}{3}$ majority of the
4 board members present and voting on such application determine by clear
5 and convincing evidence that such person will not pose a threat to the
6 public in such person's capacity as a licensee and that such person has been
7 sufficiently rehabilitated to warrant the public trust.

8 (d) The licensee has used fraudulent or false advertisements.

9 (e) The licensee is addicted to or has distributed intoxicating liquors
10 or drugs for any other than lawful purposes.

11 (f) The licensee has willfully or repeatedly violated this act, the
12 pharmacy act of the state of Kansas or the uniform controlled substances
13 act, or any rules and regulations adopted pursuant thereto, or any rules and
14 regulations of the secretary of health and environment which are relevant
15 to the practice of the healing arts.

16 (g) The licensee has unlawfully invaded the field of practice of any
17 branch of the healing arts in which the licensee is not licensed to practice.

18 (h) The licensee has engaged in the practice of the healing arts under
19 a false or assumed name, or the impersonation of another practitioner. The
20 provisions of this subsection relating to an assumed name shall not apply
21 to licensees practicing under a professional corporation or other legal
22 entity duly authorized to provide such professional services in the state of
23 Kansas.

24 (i) The licensee has the inability to practice the healing arts with
25 reasonable skill and safety to patients by reason of physical or mental
26 illness, or condition or use of alcohol, drugs or controlled substances. In
27 determining whether or not such inability exists, the board, upon
28 reasonable suspicion of such inability, shall have authority to compel a
29 licensee to submit to mental or physical examination or drug screen, or any
30 combination thereof, by such persons as the board may designate either in
31 the course of an investigation or a disciplinary proceeding. To determine
32 whether reasonable suspicion of such inability exists, the investigative
33 information shall be presented to the board as a whole, to a review
34 committee of professional peers of the licensee established pursuant to
35 K.S.A. 65-2840c, and amendments thereto, or to a committee consisting of
36 the officers of the board elected pursuant to K.S.A. 65-2818, and
37 amendments thereto, and the executive director appointed pursuant to
38 K.S.A. 65-2878, and amendments thereto, or to a presiding officer
39 authorized pursuant to K.S.A. 77-514, and amendments thereto. The
40 determination shall be made by a majority vote of the entity which
41 reviewed the investigative information. Information submitted to the board
42 as a whole or a review committee of peers or a committee of the officers
43 and executive director of the board and all reports, findings and other

1 records shall be confidential and not subject to discovery by or release to
2 any person or entity. The licensee shall submit to the board a release of
3 information authorizing the board to obtain a report of such examination or
4 drug screen, or both. A person affected by this subsection shall be offered,
5 at reasonable intervals, an opportunity to demonstrate that such person can
6 resume the competent practice of the healing arts with reasonable skill and
7 safety to patients. For the purpose of this subsection, every person licensed
8 to practice the healing arts and who shall accept the privilege to practice
9 the healing arts in this state by so practicing or by the making and filing of
10 a renewal to practice the healing arts in this state shall be deemed to have
11 consented to submit to a mental or physical examination or a drug screen,
12 or any combination thereof, when directed in writing by the board and
13 further to have waived all objections to the admissibility of the testimony,
14 drug screen or examination report of the person conducting such
15 examination or drug screen, or both, at any proceeding or hearing before
16 the board on the ground that such testimony or examination or drug screen
17 report constitutes a privileged communication. In any proceeding by the
18 board pursuant to the provisions of this subsection, the record of such
19 board proceedings involving the mental and physical examination or drug
20 screen, or any combination thereof, shall not be used in any other
21 administrative or judicial proceeding.

22 (j) The licensee has had a license to practice the healing arts revoked,
23 suspended or limited, has been censured or has had other disciplinary
24 action taken, or an application for a license denied, by the proper licensing
25 authority of another state, territory, District of Columbia, or other country,
26 a certified copy of the record of the action of the other jurisdiction being
27 conclusive evidence thereof.

28 (k) The licensee has violated any lawful rule and regulation
29 promulgated by the board or violated any lawful order or directive of the
30 board previously entered by the board.

31 (l) The licensee has failed to report or reveal the knowledge required
32 to be reported or revealed under K.S.A. 65-28,122, and amendments
33 thereto.

34 (m) The licensee, if licensed to practice medicine and surgery, has
35 failed to inform in writing a patient suffering from any form of
36 abnormality of the breast tissue for which surgery is a recommended form
37 of treatment, of alternative methods of treatment recognized by licensees
38 of the same profession in the same or similar communities as being
39 acceptable under like conditions and circumstances.

40 (n) The licensee has cheated on or attempted to subvert the validity of
41 the examination for a license.

42 (o) The licensee has been found to be mentally ill, disabled, not guilty
43 by reason of insanity, not guilty because the licensee suffers from a mental

1 disease or defect or incompetent to stand trial by a court of competent
2 jurisdiction.

3 (p) The licensee has prescribed, sold, administered, distributed or
4 given a controlled substance to any person for other than medically
5 accepted or lawful purposes.

6 (q) The licensee has violated a federal law or regulation relating to
7 controlled substances.

8 (r) The licensee has failed to furnish the board, or its investigators or
9 representatives, any information legally requested by the board.

10 (s) Sanctions or disciplinary actions have been taken against the
11 licensee by a peer review committee, health care facility, a governmental
12 agency or department or a professional association or society for acts or
13 conduct similar to acts or conduct which would constitute grounds for
14 disciplinary action under this section.

15 (t) The licensee has failed to report to the board any adverse action
16 taken against the licensee by another state or licensing jurisdiction, a peer
17 review body, a health care facility, a professional association or society, a
18 governmental agency, by a law enforcement agency or a court for acts or
19 conduct similar to acts or conduct which would constitute grounds for
20 disciplinary action under this section.

21 (u) The licensee has surrendered a license or authorization to practice
22 the healing arts in another state or jurisdiction, has surrendered the
23 authority to utilize controlled substances issued by any state or federal
24 agency, has agreed to a limitation to or restriction of privileges at any
25 medical care facility or has surrendered the licensee's membership on any
26 professional staff or in any professional association or society while under
27 investigation for acts or conduct similar to acts or conduct which would
28 constitute grounds for disciplinary action under this section.

29 (v) The licensee has failed to report to the board surrender of the
30 licensee's license or authorization to practice the healing arts in another
31 state or jurisdiction or surrender of the licensee's membership on any
32 professional staff or in any professional association or society while under
33 investigation for acts or conduct similar to acts or conduct which would
34 constitute grounds for disciplinary action under this section.

35 (w) The licensee has an adverse judgment, award or settlement
36 against the licensee resulting from a medical liability claim related to acts
37 or conduct similar to acts or conduct which would constitute grounds for
38 disciplinary action under this section.

39 (x) The licensee has failed to report to the board any adverse
40 judgment, settlement or award against the licensee resulting from a
41 medical malpractice liability claim related to acts or conduct similar to acts
42 or conduct which would constitute grounds for disciplinary action under
43 this section.

1 (y) The licensee has failed to maintain a policy of professional
2 liability insurance as required by K.S.A. 40-3402 or 40-3403a, and
3 amendments thereto.

4 (z) The licensee has failed to pay the premium surcharges as required
5 by K.S.A. 40-3404, and amendments thereto.

6 (aa) The licensee has knowingly submitted any misleading, deceptive,
7 untrue or fraudulent representation on a claim form, bill or statement.

8 (bb) The licensee as the responsible physician for a physician
9 assistant has failed to adequately direct and supervise the physician
10 assistant in accordance with the physician assistant licensure act or rules
11 and regulations adopted under such act.

12 (cc) The licensee has assisted suicide in violation of K.S.A. 21-3406,
13 *prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws*
14 *of Kansas*, and amendments thereto, as established by any of the
15 following:

16 (A) A copy of the record of criminal conviction or plea of guilty for a
17 felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42 of*
18 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

19 (B) A copy of the record of a judgment of contempt of court for
20 violating an injunction issued under K.S.A. 60-4404, and amendments
21 thereto.

22 (C) A copy of the record of a judgment assessing damages under
23 K.S.A. 60-4405, and amendments thereto.

24 Sec. 242. K.S.A. 65-2859 is hereby amended to read as follows: 65-
25 2859. Any person who shall file or attempt to file with the board any false
26 or forged diploma, certificate, affidavit or identification or qualification, or
27 any other written or printed instrument, shall be guilty of forgery as
28 ~~provided by K.S.A. 21-3710 and a severity level 8, nonperson-~~
29 ~~felony defined in section 109 of chapter 136 of the 2010 Session Laws of~~
30 ~~Kansas, and amendments thereto.~~

31 Sec. 243. K.S.A. 65-28,108 is hereby amended to read as follows: 65-
32 28,108. (a) The withholding or withdrawal of life-sustaining procedures
33 from a qualified patient in accordance with the provisions of this act shall
34 not, for any purpose, constitute a suicide and shall not constitute the crime
35 of assisting suicide as defined by ~~K.S.A. 21-3406~~ *in section 42 of chapter*
36 *136 of the 2010 Session Laws of Kansas, and amendments thereto.*

37 (b) The making of a declaration pursuant to K.S.A. 65-28,103, *and*
38 *amendments thereto*, shall not affect in any manner the sale, procurement,
39 or issuance of any policy of life insurance, nor shall it be deemed to
40 modify the terms of an existing policy of life insurance. No policy of life
41 insurance shall be legally impaired or invalidated in any manner by the
42 withholding or withdrawal of life-sustaining procedures from an insured
43 qualified patient, notwithstanding any term of the policy to the contrary.

1 (c) No physician, medical care facility, or other health care provider,
2 and no health care service plan, health maintenance organization, insurer
3 issuing disability insurance, self-insured employee welfare benefit plan or
4 nonprofit medical and hospital service corporation shall require any person
5 to execute a declaration as a condition for being insured for, or receiving,
6 health care services.

7 (d) Nothing in this act shall impair or supersede any legal right or
8 legal responsibility which any person may have to effect the withholding
9 or withdrawal of life-sustaining procedures in any lawful manner. In such
10 respect the provisions of this act are cumulative.

11 (e) This act shall create no presumption concerning the intention of
12 an individual who has not executed a declaration to consent to the use or
13 withholding of life-sustaining procedures in the event of a terminal
14 condition.

15 Sec. 244. K.S.A. 65-28a05 is hereby amended to read as follows: 65-
16 28a05. A licensee's license may be revoked, suspended or limited, or the
17 licensee may be publicly or privately censured, or an application for a
18 license or for reinstatement of a license may be denied upon a finding of
19 the existence of any of the following grounds:

20 (a) The licensee has committed an act of unprofessional conduct as
21 defined by rules and regulations adopted by the board;

22 (b) the licensee has obtained a license by means of fraud,
23 misrepresentations or concealment of material facts;

24 (c) the licensee has committed an act of professional incompetency as
25 defined by rules and regulations adopted by the board;

26 (d) the licensee has been convicted of a felony;

27 (e) the licensee has violated any provision of this act and amendments
28 thereto;

29 (f) the licensee has violated any lawful order or rule and regulation of
30 the board;

31 (g) the licensee has exceeded or has acted outside the scope of
32 authority given the physician assistant by the responsible physician or by
33 this act;

34 (h) the licensee has assisted suicide in violation of K.S.A. 21-3406,
35 *prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws*
36 *of Kansas*, and amendments thereto, as established by any of the
37 following:

38 (1) A copy of the record of criminal conviction or plea of guilty for a
39 felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42 of*
40 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

41 (2) A copy of the record of a judgment of contempt of court for
42 violating an injunction issued under K.S.A. ~~2002-Supp.~~ 60-4404 and
43 amendments thereto.

1 (3) A copy of the record of a judgment assessing damages under
2 K.S.A. 2002 Supp. 60-4405, and amendments thereto.

3 Sec. 245. K.S.A. 65-4209 is hereby amended to read as follows: 65-
4 4209. (a) The board may deny, revoke, limit or suspend any license to
5 practice as a mental health technician issued or applied for in accordance
6 with the provisions of this act, may publicly or privately censure a licensee
7 or may otherwise discipline a licensee upon proof that the licensee:

8 (1) Is guilty of fraud or deceit in procuring or attempting to procure a
9 license to practice mental health technology;

10 (2) is unable to practice with reasonable skill and safety due to
11 current abuse of drugs or alcohol;

12 (3) to be a person who has been adjudged in need of a guardian or
13 conservator, or both, under the act for obtaining a guardian or conservator,
14 or both, and who has not been restored to capacity under that act;

15 (4) is incompetent or grossly negligent in carrying out the functions
16 of a mental health technician;

17 (5) has committed unprofessional conduct as defined by rules and
18 regulations of the board;

19 (6) has been convicted of a felony or has been convicted of a
20 misdemeanor involving an illegal drug offense, unless the applicant or
21 licensee establishes sufficient rehabilitation to warrant the public trust,
22 except that notwithstanding K.S.A. 74-120, *and amendments thereto*, no
23 license, certificate of qualification or authorization to practice as a licensed
24 mental health technician shall be granted to a person with a felony
25 conviction for a crime against persons as specified in article 34 of chapter
26 21 of the Kansas Statutes Annotated ~~and acts amendatory thereof or~~
27 ~~supplemental thereto~~, *prior to their repeal, or sections 36 through 64, 174,*
28 *210 or 211 of chapter 136 of the 2010 Session Laws of Kansas, and*
29 *amendments thereto*;

30 (7) has committed an act of professional incompetency as defined in
31 subsection (e);

32 (8) to have willfully or repeatedly violated the provisions of the
33 mental health technician's licensure act or rules and regulations adopted
34 under that act and amendments thereto; or

35 (9) to have a license to practice mental health technology denied,
36 revoked, limited or suspended, or to be publicly or privately censured, by a
37 licensing authority of another state, agency of the United States
38 government, territory of the United States or country or to have other
39 disciplinary action taken against the applicant or licensee by a licensing
40 authority of another state, agency of the United States government,
41 territory of the United States or country. A certified copy of the record or
42 order of public or private censure, denial, suspension, limitation,
43 revocation or other disciplinary action of the licensing authority of another

1 state, agency of the United States government, territory of the United
2 States or country shall constitute prima facie evidence of such a fact for
3 purposes of this paragraph (9).

4 (b) Upon filing a sworn complaint with the board charging a person
5 with having been guilty of any of the unlawful practices specified in
6 subsection (a), two or more members of the board shall investigate the
7 charges, or the board may designate and authorize an employee or
8 employees of the board to conduct an investigation. After investigation,
9 the board may institute charges. If an investigation, in the opinion of the
10 board, reveals reasonable grounds to believe the applicant or licensee is
11 guilty of the charges, the board shall fix a time and place for proceedings,
12 which shall be conducted in accordance with the Kansas administrative
13 procedure act.

14 (c) No person shall be excused from testifying in any proceedings
15 before the board under the mental health technician's licensure act or in
16 any civil proceedings under such act before a court of competent
17 jurisdiction on the ground that the testimony may incriminate the person
18 testifying, but such testimony shall not be used against the person for the
19 prosecution of any crime under the laws of this state except the crime of
20 perjury as defined in ~~K.S.A. 21-3805~~ *section 128 of chapter 136 of the*
21 *2010 Session Laws of Kansas*, and amendments thereto.

22 (d) If final agency action of the board in a proceeding under this
23 section is adverse to the applicant or licensee, the costs of the board's
24 proceedings shall be charged to the applicant or licensee as in ordinary
25 civil actions in the district court, but if the board is the unsuccessful party,
26 the costs shall be paid by the board. Witness fees and costs may be taxed
27 by the board according to the statutes relating to procedure in the district
28 court. All costs accrued by the board, when it is the successful party, and
29 which the attorney general certifies cannot be collected from the applicant
30 or licensee shall be paid from the board of nursing fee fund. All moneys
31 collected following board proceedings shall be credited in full to the board
32 of nursing fee fund.

33 (e) As used in this section, "professional incompetency" means:

34 (1) One or more instances involving failure to adhere to the
35 applicable standard of care to a degree which constitutes gross negligence,
36 as determined by the board;

37 (2) repeated instances involving failure to adhere to the applicable
38 standard of care to a degree which constitutes ordinary negligence, as
39 determined by the board; or

40 (3) a pattern of practice or other behavior which demonstrates a
41 manifest incapacity or incompetence to practice mental health technology.

42 (f) The board upon request shall receive from the Kansas bureau of
43 investigation such criminal history record information relating to criminal

1 convictions as necessary for the purpose of determining initial and
2 continuing qualifications of licensees of and applicants for licensure by the
3 board.

4 (g) All proceedings under this section shall be conducted in
5 accordance with the provisions of the Kansas administrative procedure act.

6 Sec. 246. K.S.A. 2010 Supp. 65-5117 is hereby amended to read as
7 follows: 65-5117. (a) (1) No person shall knowingly operate a home health
8 agency if, for the home health agency, there works any person who has
9 been convicted of or has been adjudicated a juvenile offender because of
10 having committed an act which if done by an adult would constitute the
11 commission of capital murder, pursuant to K.S.A. 21-3439, *prior to its*
12 *repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas,*
13 *and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401,*
14 *prior to its repeal, or section 37 of chapter 136 of the 2010 Session Laws*
15 *of Kansas, and amendments thereto, second degree murder, pursuant to*
16 *subsection (a) of K.S.A. 21-3402, prior to its repeal, or subsection (a) of*
17 *section 38 of chapter 136 of the 2010 Session Laws of Kansas, and*
18 *amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403,*
19 *prior to its repeal, or section 39 of chapter 136 of the 2010 Session Laws*
20 *of Kansas, and amendments thereto, assisting suicide, pursuant to K.S.A.*
21 *21-3406, prior to its repeal, or section 42 of chapter 136 of the 2010*
22 *Session Laws of Kansas, and amendments thereto, mistreatment of a*
23 *dependent adult, pursuant to K.S.A. 21-3437, prior to its repeal, or section*
24 *52 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
25 *thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or section*
26 *67 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
27 *thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior*
28 *to its repeal, or subsection (a) of section 70 of chapter 136 of the 2010*
29 *Session Laws of Kansas, and amendments thereto, aggravated indecent*
30 *liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or*
31 *subsection (b) of section 70 of chapter 136 of the 2010 Session Laws of*
32 *Kansas, and amendments thereto, aggravated criminal sodomy, pursuant to*
33 *K.S.A. 21-3506, prior to its repeal, or subsection (b) of section 68 of*
34 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*
35 *indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its*
36 *repeal, or subsection (a) of section 72 of chapter 136 of the 2010 Session*
37 *Laws of Kansas, and amendments thereto, aggravated indecent solicitation*
38 *of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or subsection*
39 *(b) of section 72 of chapter 136 of the 2010 Session Laws of Kansas, and*
40 *amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-*
41 *3516, prior to its repeal, or section 74 of chapter 136 of the 2010 Session*
42 *Laws of Kansas, and amendments thereto, sexual battery, pursuant to*
43 *K.S.A. 21-3517, prior to its repeal, or subsection (a) of section 69 of*

1 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
 2 or aggravated sexual battery, pursuant to K.S.A. 21-3518, *prior to its*
 3 *repeal, or subsection (b) of section 69 of chapter 136 of the 2010 Session*
 4 *Laws of Kansas*, and amendments thereto, an attempt to commit any of the
 5 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, *prior to*
 6 *its repeal, or section 33 of chapter 136 of the 2010 Session Laws of*
 7 *Kansas*, and amendments thereto, a conspiracy to commit any of the
 8 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3302, *prior to*
 9 *its repeal, or section 34 of chapter 136 of the 2010 Session Laws of*
 10 *Kansas*, and amendments thereto, or criminal solicitation of any of the
 11 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, *prior to*
 12 *its repeal, or section 35 of chapter 136 of the 2010 Session Laws of*
 13 *Kansas*, and amendments thereto, or similar statutes of other states or the
 14 federal government. The provisions of subsection (a)(2)(C) shall not apply
 15 to any person who is employed by a home health agency on ~~the effective~~
 16 ~~date of this act~~ *July 1, 2010* and while continuously employed by the same
 17 home health agency.

18 (2) A person operating a home health agency may employ an
 19 applicant who has been convicted of any of the following if five or more
 20 years have elapsed since the applicant satisfied the sentence imposed or
 21 was discharged from probation, a community correctional services
 22 program, parole, postrelease supervision, conditional release or a
 23 suspended sentence; or if five or more years have elapsed since the
 24 applicant has been finally discharged from the custody of the
 25 commissioner of juvenile justice or from probation or has been adjudicated
 26 a juvenile offender, whichever time is longer: A felony conviction for a
 27 crime which is described in: (A) Article 34 of chapter 21 of the Kansas
 28 Statutes Annotated, *prior to their repeal, or sections 36 through 64, 174,*
 29 *210 or 211 of chapter 136 of the 2010 Session Laws of Kansas*, and
 30 amendments thereto, except those crimes listed in subsection (a)(1); (B)
 31 articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, *prior to*
 32 *their repeal, or sections 65 through 86 or 229 through 231 of chapter 136*
 33 *of the 2010 Session Laws of Kansas*, and amendments thereto, except those
 34 crimes listed in subsection (a)(1) and K.S.A. 21-3605, *prior to its repeal,*
 35 *or section 83 of chapter 136 of the 2010 Session Laws of Kansas*, and
 36 amendments thereto; (C) K.S.A. 21-3701, *prior to its repeal, or section 87*
 37 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
 38 thereto; (D) an attempt to commit any of the crimes listed in this
 39 subsection (a)(2) pursuant to K.S.A. 21-3301, *prior to its repeal, or*
 40 *section 33 of chapter 136 of the 2010 Session Laws of Kansas*, and
 41 amendments thereto; (E) a conspiracy to commit any of the crimes listed
 42 in subsection (a)(2) pursuant to K.S.A. 21-3302, *prior to its repeal, or*
 43 *section 34 of chapter 136 of the 2010 Session Laws of Kansas*, and

1 amendments thereto; (F) criminal solicitation of any of the crimes listed in
2 subsection (a)(2) pursuant to K.S.A. 21-3303, *prior to its repeal, or*
3 *section 35 of chapter 136 of the 2010 Session Laws of Kansas*, and
4 amendments thereto; or (G) similar statutes of other states or the federal
5 government.

6 (b) No person shall operate a home health agency if such person has
7 been found to be a person in need of a guardian or a conservator, or both,
8 as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.
9 The provisions of this subsection shall not apply to a minor found to be in
10 need of a guardian or conservator for reasons other than impairment.

11 (c) The secretary of health and environment shall have access to any
12 criminal history record information in the possession of the Kansas bureau
13 of investigation regarding any criminal history information, convictions
14 under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their repeal, or*
15 *section 52, subsection (a) of section 69 and section 87 of chapter 136 of*
16 *the 2010 Session Laws of Kansas*, and amendments thereto, adjudications
17 of a juvenile offender which if committed by an adult would have been a
18 felony conviction, and adjudications of a juvenile offender for an offense
19 described in K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their repeal,*
20 *or section 52, subsection (a) of section 69 and section 87 of chapter 136 of*
21 *the 2010 Session Laws of Kansas*, and amendments thereto, concerning
22 persons working for a home health agency. The secretary shall have access
23 to these records for the purpose of determining whether or not the home
24 health agency meets the requirements of this section. The Kansas bureau
25 of investigation may charge to the department of health and environment a
26 reasonable fee for providing criminal history record information under this
27 subsection.

28 (d) For the purpose of complying with this section, the operator of a
29 home health agency shall request from the department of health and
30 environment information regarding any criminal history information,
31 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their*
32 *repeal, or section 52, subsection (a) of section 69 and section 87 of*
33 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
34 adjudications of a juvenile offender which if committed by an adult would
35 have been a felony conviction, and adjudications of a juvenile offender for
36 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, *prior to*
37 *their repeal, or section 52, subsection (a) of section 69 and section 87 of*
38 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
39 and which relates to a person who works for the home health agency or is
40 being considered for employment by the home health agency, for the
41 purpose of determining whether such person is subject to the provisions of
42 this section. For the purpose of complying with this section, information
43 relating to convictions and adjudications by the federal government or to

1 convictions and adjudications in states other than Kansas shall not be
 2 required until such time as the secretary of health and environment
 3 determines the search for such information could reasonably be performed
 4 and the information obtained within a two-week period. For the purpose of
 5 complying with this section, the operator of a home health agency shall
 6 receive from any employment agency which provides employees to work
 7 for the home health agency written certification that such employees are
 8 not prohibited from working for the home health agency under this
 9 section. For the purpose of complying with this section, a person who
 10 operates a home health agency may hire an applicant for employment on a
 11 conditional basis pending the results from the department of health and
 12 environment of a request for information under this subsection. No home
 13 health agency, the operator or employees of a home health agency or an
 14 employment agency, or the operator or employees of an employment
 15 agency, which provides employees to work for the home health agency
 16 shall be liable for civil damages resulting from any decision to employ, to
 17 refuse to employ or to discharge from employment any person based on
 18 such home health agency's compliance with the provisions of this section
 19 if such home health agency or employment agency acts in good faith to
 20 comply with this section.

21 (e) The secretary of health and environment shall charge each person
 22 requesting information under this section a fee equal to cost, not to exceed
 23 \$10, for each name about which an information request has been submitted
 24 under this section.

25 (f) (1) The secretary of health and environment shall provide each
 26 operator requesting information under this section with the criminal
 27 history record information concerning any criminal history information
 28 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to*
 29 *their repeal, or section 52, subsection (a) of section 69 and section 87 of*
 30 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
 31 in writing and within three working days of receipt of such information
 32 from the Kansas bureau of investigation. The criminal history record
 33 information shall be provided regardless of whether the information
 34 discloses that the subject of the request has been convicted of an offense
 35 enumerated in subsection (a).

36 (2) When an offense enumerated in subsection (a) exists in the
 37 criminal history record information, and when further confirmation
 38 regarding criminal history record information is required from the
 39 appropriate court of jurisdiction or Kansas department of corrections, the
 40 secretary shall notify each operator that requests information under this
 41 section in writing and within three working days of receipt from the
 42 Kansas bureau of investigation that further confirmation is required. The
 43 secretary shall provide to the operator requesting information under this

1 section information in writing and within three working days of receipt of
2 such information from the appropriate court of jurisdiction or Kansas
3 department of corrections regarding confirmation regarding the criminal
4 history record information.

5 (3) Whenever the criminal history record information reveals that the
6 subject of the request has no criminal history on record, the secretary shall
7 provide notice to each operator requesting information under this section,
8 in writing and within three working days after receipt of such information
9 from the Kansas bureau of investigation.

10 (4) The secretary of health and environment shall not provide each
11 operator requesting information under this section with the juvenile
12 criminal history record information which relates to a person subject to a
13 background check as is provided by K.S.A. 2010 Supp. 38-2326, and
14 amendments thereto, except for adjudications of a juvenile offender for an
15 offense described in K.S.A. 21-3701, *prior to its repeal, or section 87 of*
16 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.
17 The secretary shall notify the operator that requested the information, in
18 writing and within three working days of receipt of such information from
19 the Kansas bureau of investigation, whether juvenile criminal history
20 record information received pursuant to this section reveals that the
21 operator would or would not be prohibited by this section from employing
22 the subject of the request for information and whether such information
23 contains adjudications of a juvenile offender for an offense described in
24 K.S.A. 21-3701, *prior to its repeal, or section 87 of chapter 136 of the*
25 *2010 Session Laws of Kansas*, and amendments thereto.

26 (5) An operator who receives criminal history record information
27 under this subsection (f) shall keep such information confidential, except
28 that the operator may disclose such information to the person who is the
29 subject of the request for information. A violation of this paragraph (5)
30 shall be an unclassified misdemeanor punishable by a fine of \$100.

31 (g) No person who works for a home health agency and who is
32 currently licensed or registered by an agency of this state to provide
33 professional services in this state and who provides such services as part of
34 the work which such person performs for the home health agency shall be
35 subject to the provisions of this section.

36 (h) A person who volunteers to assist a home health agency shall not
37 be subject to the provisions of this section because of such volunteer
38 activity.

39 (i) An operator may request from the department of health and
40 environment criminal history information on persons employed under
41 subsections (g) and (h).

42 (j) No person who has been employed by the same home health
43 agency since July 1, 1992, shall be subject to the requirements of this

1 section while employed by such home health agency.

2 (k) The operator of a home health agency shall not be required under
3 this section to conduct a background check on an applicant for
4 employment with the home health agency if the applicant has been the
5 subject of a background check under this act within one year prior to the
6 application for employment with the home health agency. The operator of
7 a home health agency where the applicant was the subject of such
8 background check may release a copy of such background check to the
9 operator of a home health agency where the applicant is currently
10 applying.

11 (l) For purposes of this section, the Kansas bureau of investigation
12 shall only report felony convictions, convictions under K.S.A. 21-3437,
13 21-3517 and 21-3701, *prior to their repeal, or section 52, subsection (a) of*
14 *section 69 and section 87 of chapter 136 of the 2010 Session Laws of*
15 *Kansas*, and amendments thereto, adjudications of a juvenile offender
16 which if committed by an adult would have been a felony conviction, and
17 adjudications of a juvenile offender for an offense described in K.S.A. 21-
18 3437, 21-3517 and 21-3701, *prior to their repeal, or section 52,*
19 *subsection (a) of section 69 and section 87 of chapter 136 of the 2010*
20 *Session Laws of Kansas*, and amendments thereto, to the secretary of
21 health and environment when a background check is requested.

22 (m) This section shall be part of and supplemental to the provisions
23 of article 51 of chapter 65 of the Kansas Statutes Annotated ~~and acts~~
24 ~~amendatory thereof or supplemental thereto, and amendments thereto.~~

25 Sec. 247. K.S.A. 65-6703 is hereby amended to read as follows: 65-
26 6703. (a) No person shall perform or induce an abortion when the fetus is
27 viable unless such person is a physician and has a documented referral
28 from another physician not legally or financially affiliated with the
29 physician performing or inducing the abortion and both physicians
30 determine that: (1) The abortion is necessary to preserve the life of the
31 pregnant woman; or (2) a continuation of the pregnancy will cause a
32 substantial and irreversible impairment of a major bodily function of the
33 pregnant woman.

34 (b) (1) Except in the case of a medical emergency, prior to performing
35 an abortion upon a woman, the physician shall determine the gestational
36 age of the fetus according to accepted obstetrical and neonatal practice and
37 standards applied by physicians in the same or similar circumstances. If
38 the physician determines the gestational age is less than 22 weeks, the
39 physician shall document as part of the medical records of the woman the
40 basis for the determination.

41 (2) If the physician determines the gestational age of the fetus is 22 or
42 more weeks, prior to performing an abortion upon the woman the
43 physician shall determine if the fetus is viable by using and exercising that

1 degree of care, skill and proficiency commonly exercised by the ordinary
2 skillful, careful and prudent physician in the same or similar
3 circumstances. In making this determination of viability, the physician
4 shall perform or cause to be performed such medical examinations and
5 tests as are necessary to make a finding of the gestational age of the fetus
6 and shall enter such findings and determinations of viability in the medical
7 record of the woman.

8 (3) If the physician determines the gestational age of a fetus is 22 or
9 more weeks, and determines that the fetus is not viable and performs an
10 abortion on the woman, the physician shall report such determinations and
11 the reasons for such determinations in writing to the medical care facility
12 in which the abortion is performed for inclusion in the report of the
13 medical care facility to the secretary of health and environment under
14 K.S.A. 65-445, and amendments thereto, or if the abortion is not
15 performed in a medical care facility, the physician shall report such
16 determinations and the reasons for such determinations in writing to the
17 secretary of health and environment as part of the written report made by
18 the physician to the secretary of health and environment under K.S.A. 65-
19 445, and amendments thereto.

20 (4) If the physician who is to perform the abortion determines the
21 gestational age of a fetus is 22 or more weeks, and determines that the
22 fetus is viable, both physicians under subsection (a) determine in
23 accordance with the provisions of subsection (a) that an abortion is
24 necessary to preserve the life of the pregnant woman or that a continuation
25 of the pregnancy will cause a substantial and irreversible impairment of a
26 major bodily function of the pregnant woman and the physician performs
27 an abortion on the woman, the physician who performs the abortion shall
28 report such determinations, the reasons for such determinations and the
29 basis for the determination that an abortion is necessary to preserve the life
30 of the pregnant woman or that a continuation of the pregnancy will cause a
31 substantial and irreversible impairment of a major bodily function of the
32 pregnant woman in writing to the medical care facility in which the
33 abortion is performed for inclusion in the report of the medical care
34 facility to the secretary of health and environment under K.S.A. 65-445,
35 and amendments thereto, or if the abortion is not performed in a medical
36 care facility, the physician who performs the abortion shall report such
37 determinations, the reasons for such determinations and the basis for the
38 determination that an abortion is necessary to preserve the life of the
39 pregnant woman or that a continuation of the pregnancy will cause a
40 substantial and irreversible impairment of a major bodily function of the
41 pregnant woman in writing to the secretary of health and environment as
42 part of the written report made by the physician to the secretary of health
43 and environment under K.S.A. 65-445, and amendments thereto.

1 (5) The physician shall retain the medical records required to be kept
2 under paragraphs (1) and (2) of this subsection (b) for not less than five
3 years and shall retain a copy of the written reports required under
4 paragraphs (3) and (4) of this subsection (b) for not less than five years.

5 (c) A woman upon whom an abortion is performed shall not be
6 prosecuted under this section for a conspiracy to violate this section
7 pursuant to ~~K.S.A. 21-3302~~ *section 34 of chapter 136 of the 2010 Session*
8 *Laws of Kansas*, and amendments thereto.

9 (d) Nothing in this section shall be construed to create a right to an
10 abortion. Notwithstanding any provision of this section, a person shall not
11 perform an abortion that is prohibited by law.

12 (e) As used in this section, "viable" means that stage of fetal
13 development when it is the physician's judgment according to accepted
14 obstetrical or neonatal standards of care and practice applied by physicians
15 in the same or similar circumstances that there is a reasonable probability
16 that the life of the child can be continued indefinitely outside the mother's
17 womb with natural or artificial life-supportive measures.

18 (f) If any provision of this section is held to be invalid or
19 unconstitutional, it shall be conclusively presumed that the legislature
20 would have enacted the remainder of this section without such invalid or
21 unconstitutional provision.

22 (g) Upon a first conviction of a violation of this section, a person
23 shall be guilty of a class A nonperson misdemeanor. Upon a second or
24 subsequent conviction of a violation of this section, a person shall be
25 guilty of a severity level 10, nonperson felony.

26 Sec. 248. K.S.A. 65-6721 is hereby amended to read as follows: 65-
27 6721. (a) No person shall perform or induce a partial birth abortion on a
28 viable fetus unless such person is a physician and has a documented
29 referral from another physician not legally or financially affiliated with the
30 physician performing or inducing the abortion and both physicians
31 determine: (1) The abortion is necessary to preserve the life of the
32 pregnant woman; or (2) a continuation of the pregnancy will cause a
33 substantial and irreversible impairment of a major physical or mental
34 function of the pregnant woman.

35 (b) As used in this section:

36 (1) "Partial birth abortion" means an abortion procedure which
37 includes the deliberate and intentional evacuation of all or a part of the
38 intracranial contents of a viable fetus prior to removal of such otherwise
39 intact fetus from the body of the pregnant woman.

40 (2) "Partial birth abortion" shall not include the: (A) Suction curettage
41 abortion procedure; (B) suction aspiration abortion procedure; or (C)
42 dilation and evacuation abortion procedure involving dismemberment of
43 the fetus prior to removal from the body of the pregnant woman.

1 (c) If a physician determines in accordance with the provisions of
2 subsection (a) that a partial birth abortion is necessary and performs a
3 partial birth abortion on the woman, the physician shall report such
4 determination and the reasons for such determination in writing to the
5 medical care facility in which the abortion is performed for inclusion in
6 the report of the medical care facility to the secretary of health and
7 environment under K.S.A. 65-445, and amendments thereto, or if the
8 abortion is not performed in a medical care facility, the physician shall
9 report the reasons for such determination in writing to the secretary of
10 health and environment as part of the written report made by the physician
11 to the secretary of health and environment under K.S.A. 65-445, and
12 amendments thereto. The physician shall retain a copy of the written
13 reports required under this subsection for not less than five years.

14 (d) A woman upon whom an abortion is performed shall not be
15 prosecuted under this section for a conspiracy to violate this section
16 pursuant to ~~K.S.A. 21-3302~~ *section 34 of chapter 136 of the 2010 Session*
17 *Laws of Kansas*, and amendments thereto.

18 (e) Nothing in this section shall be construed to create a right to an
19 abortion. Notwithstanding any provision of this section, a person shall not
20 perform an abortion that is prohibited by law.

21 (f) Upon conviction of a violation of this section, a person shall be
22 guilty of a severity level 10 person felony.

23 Sec. 249. K.S.A. 2010 Supp. 66-2304 is hereby amended to read as
24 follows: 66-2304. (a) An armed nuclear security guard is justified in using
25 physical force against another person at a nuclear generating facility or
26 structure or fenced yard of a nuclear generating facility if the armed
27 nuclear security guard reasonably believes that such force is necessary to
28 prevent or terminate the commission or attempted commission of criminal
29 damage to property ~~under K.S.A. 21-3720 (a)(1)~~ *as defined in subsection*
30 *(a)(1) of section 99 of chapter 136 of the 2010 Session Laws of Kansas,*
31 *and amendments thereto, criminal use of weapons under K.S.A. 21-*
32 *420* ~~as defined in subsections (a)(1) through (a)(6) of section 186 or~~
33 ~~subsection (a)(1) through (a)(5) of section 187 of chapter 136 of the 2010~~
34 *Session Laws of Kansas, and amendments thereto, or criminal trespass on*
35 *a nuclear generating facility under K.S.A. 2010 Supp. 66-2303, and*
36 *amendments thereto.*

37 (b) Notwithstanding the provisions of ~~K.S.A. 21-3211, 21-3212, 21-~~
38 ~~3213, 21-3215 and 21-3216~~ *sections 21, 22, 23, 25 and 26 of chapter 136*
39 *of the 2010 Session Laws of Kansas, and amendments thereto, an armed*
40 *nuclear security guard is justified in using physical force up to and*
41 *including deadly physical force against another person at a nuclear*
42 *generating facility or structure or fenced yard of a nuclear generating*
43 *facility if the armed nuclear security guard reasonably believes that such*

1 force is necessary to:

2 (1) Prevent the commission of manslaughter ~~under K.S.A. 21-3403 or~~
3 ~~21-3404~~ *as defined in section 39 or 40 of chapter 136 of the 2010 Session*
4 *Laws of Kansas*, and amendments thereto, murder in the first degree ~~under~~
5 ~~K.S.A. 21-3401~~ *as defined in section 37 of chapter 136 of the 2010 Session*
6 *Laws of Kansas*, and amendments thereto, murder in the second degree
7 ~~under K.S.A. 21-3402~~ *as defined in section 38 of chapter 136 of the 2010*
8 *Session Laws of Kansas*, and amendments thereto, aggravated assault
9 ~~under K.S.A. 21-3410~~ *as defined in subsection (b) of section 47 of chapter*
10 *136 of the 2010 Session Laws of Kansas*, and amendments thereto,
11 kidnapping ~~under K.S.A. 21-3420~~ *as defined in subsection (a) of section 44*
12 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
13 thereto, aggravated kidnapping ~~under K.S.A. 21-3421~~ *as defined in*
14 *subsection (b) of section 44 of chapter 136 of the 2010 Session Laws of*
15 *Kansas*, and amendments thereto, aggravated burglary ~~under K.S.A. 21-~~
16 ~~3716~~ *as defined in subsection (b) of section 93 of chapter 136 of the 2010*
17 *Session Laws of Kansas*, and amendments thereto, arson ~~under K.S.A. 21-~~
18 ~~3718~~ *as defined in subsection (a) of section 98 of chapter 136 of the 2010*
19 *Session Laws of Kansas*, and amendments thereto, aggravated arson ~~under~~
20 ~~K.S.A. 21-3719~~ *as defined in subsection (b) of section 98 of chapter 136 of*
21 *the 2010 Session Laws of Kansas*, and amendments thereto, aggravated
22 robbery ~~under K.S.A. 21-3427~~ *as defined in subsection (b) of section 55 of*
23 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;
24 or

25 (2) defend oneself or a third person from the use or imminent use of
26 deadly physical force.

27 (c) Notwithstanding any other provision of this act, an armed nuclear
28 security guard is justified in threatening to use physical or deadly physical
29 force if and to the extent a reasonable armed nuclear security guard
30 believes it necessary to protect oneself or others against another person's
31 potential use of physical force or deadly physical force.

32 (d) No armed nuclear security guard, employer of an armed nuclear
33 security guard or owner of a nuclear generating facility shall be subject to
34 civil liability for conduct of an armed nuclear security guard which is
35 justified pursuant to this act.

36 Sec. 250. K.S.A. 68-422a is hereby amended to read as follows: 68-
37 422a. The secretary of transportation, the board of county commissioners
38 of each county and the governing body of each incorporated city shall
39 cause signs to be erected at suitable intervals on public highways in their
40 respective areas of authority, including public parks, informing the public
41 that littering, as defined by ~~K.S.A. 21-3722~~ *in section 101 of chapter 136*
42 *of the 2010 Session Laws of Kansas, and amendments thereto*, is unlawful.

43 Sec. 251. K.S.A. 2010 Supp. 72-1397 is hereby amended to read as

1 follows: 72-1397. (a) The state board of education shall not knowingly
2 issue a license to or renew the license of any person who has been
3 convicted of:

4 (1) Rape, as defined in K.S.A. 21-3502, *prior to its repeal, or section*
5 *67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
6 thereto;

7 (2) indecent liberties with a child, as defined in K.S.A. 21-3503,
8 *prior to its repeal, or subsection (a) of section 70 of chapter 136 of the*
9 *2010 Session Laws of Kansas*, and amendments thereto;

10 (3) aggravated indecent liberties with a child, as defined in K.S.A.
11 21-3504, *prior to its repeal, or subsection (b) of section 70 of chapter 136*
12 *of the 2010 Session Laws of Kansas*, and amendments thereto;

13 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
14 K.S.A. 21-3505, *prior to its repeal, or subsection (a)(3) or (a)(4) of*
15 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
16 amendments thereto;

17 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, *prior*
18 *to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010*
19 *Session Laws of Kansas*, and amendments thereto;

20 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
21 *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the*
22 *2010 Session Laws of Kansas*, and amendments thereto;

23 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
24 21-3511, *prior to its repeal, or subsection (b) of section 72 of chapter 136*
25 *of the 2010 Session Laws of Kansas*, and amendments thereto;

26 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516,
27 *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws*
28 *of Kansas*, and amendments thereto;

29 (9) aggravated incest, as defined in K.S.A. 21-3603, *prior to its*
30 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
31 *Laws of Kansas*, and amendments thereto;

32 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
33 *prior to its repeal, or subsection (b) of section 78 of chapter 136 of the*
34 *2010 Session Laws of Kansas*, and amendments thereto;

35 (11) abuse of a child, as defined in K.S.A. 21-3609, *prior to its*
36 *repeal, or section 79 of chapter 136 of the 2010 Session Laws of Kansas*,
37 and amendments thereto;

38 (12) capital murder, as defined in K.S.A. 21-3439, *prior to its repeal,*
39 *or section 36 of chapter 136 of the 2010 Session Laws of Kansas*, and
40 amendments thereto;

41 (13) murder in the first degree, as defined in K.S.A. 21-3401, *prior to*
42 *its repeal, or section 37 of chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto;

1 (14) murder in the second degree, as defined in K.S.A. 21-3402,
2 *prior to its repeal, or section 38 of chapter 136 of the 2010 Session Laws*
3 *of Kansas*, and amendments thereto;

4 (15) voluntary manslaughter, as defined in K.S.A. 21-3403, *prior to*
5 *its repeal, or section 39 of chapter 136 of the 2010 Session Laws of*
6 *Kansas*, and amendments thereto;

7 (16) involuntary manslaughter, as defined in K.S.A. 21-3404, *prior to*
8 *its repeal, or section 40 of chapter 136 of the 2010 Session Laws of*
9 *Kansas*, and amendments thereto;

10 (17) involuntary manslaughter while driving under the influence of
11 alcohol or drugs, as defined in K.S.A. 21-3442, ~~and amendments~~
12 ~~thereto~~ *prior to its repeal*;

13 (18) sexual battery, as defined in K.S.A. 21-3517, *prior to its repeal,*
14 *or subsection (a) of section 69 of chapter 136 of the 2010 Session Laws of*
15 *Kansas*, and amendments thereto, when, at the time the crime was
16 committed, the victim was less than 18 years of age or a student of the
17 person committing such crime;

18 (19) aggravated sexual battery, as defined in K.S.A. 21-3518, *prior to*
19 *its repeal, or subsection (b) of section 69 of chapter 136 of the 2010*
20 *Session Laws of Kansas*, and amendments thereto;

21 (20) attempt under K.S.A. 21-3301, *prior to its repeal, or section 33*
22 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
23 thereto, to commit any act specified in this subsection;

24 (21) conspiracy under K.S.A. 21-3302, *prior to its repeal, or section*
25 *34 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
26 thereto, to commit any act specified in this subsection;

27 (22) an act in another state or by the federal government that is
28 comparable to any act described in this subsection; or

29 (23) an offense in effect at any time prior to the effective date of this
30 act that is comparable to an offense as provided in this subsection.

31 (b) Except as provided in subsection (c), the state board of education
32 shall not knowingly issue a license to or renew the license of any person
33 who has been convicted of, or has entered into a criminal diversion
34 agreement after having been charged with:

35 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
36 and amendments thereto, or any felony violation of any provision of the
37 uniform controlled substances act prior to July 1, 2009;

38 (2) a felony described in any section of article 34 of chapter 21 of the
39 Kansas Statutes Annotated, *prior to their repeal, or sections 36 through*
40 *64, 174, 210 or 211 of chapter 136 of the 2010 Session Laws of Kansas,*
41 *and amendments thereto*, other than an act specified in subsection (a), or a
42 battery, as described in K.S.A. 21-3412, *prior to its repeal, or subsection*
43 *(a) of section 48 of chapter 136 of the 2010 Session Laws of Kansas*, and

1 amendments thereto, or domestic battery, as described in K.S.A. 21-3412a,
2 *prior to its repeal, or section 49 of chapter 136 of the 2010 Session Laws*
3 *of Kansas*, and amendments thereto, if the victim is a minor or student;

4 (3) a felony described in any section of article 35 of chapter 21 of the
5 Kansas Statutes Annotated, *prior to their repeal, or sections 65 through 77*
6 *or 229 through 231 of chapter 136 of the 2010 Session Laws of Kansas,*
7 *and amendments thereto*, other than an act specified in subsection (a);

8 (4) any act described in any section of article 36 of chapter 21 of the
9 Kansas Statutes Annotated, *prior to their repeal, or sections 78 through 86*
10 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
11 *thereto*, other than an act specified in subsection (a);

12 (5) a felony described in article 37 of chapter 21 of the Kansas
13 Statutes Annotated, *prior to their repeal, or sections 87 through 125 or*
14 *subsection (a)(6) of section 223 of chapter 136 of the 2010 Session Laws*
15 *of Kansas, and amendments thereto*;

16 (6) promoting obscenity, as described in K.S.A. 21-4301, *prior to its*
17 *repeal, or subsection (a) of section 212 of chapter 136 of the 2010 Session*
18 *Laws of Kansas*, and amendments thereto, promoting obscenity to minors,
19 as described in K.S.A. 21-4301a, *prior to its repeal, or subsection (b) of*
20 *section 212 of chapter 136 of the 2010 Session Laws of Kansas*, and
21 amendments thereto, or promoting to minors obscenity harmful to minors,
22 as described in K.S.A. 21-4301c, *prior to its repeal, or section 213 of*
23 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

24 (7) endangering a child, as defined in K.S.A. 21-3608, *prior to its*
25 *repeal, or subsection (a) of section 78 of chapter 136 of the 2010 Session*
26 *Laws of Kansas*, and amendments thereto;

27 (8) driving under the influence of alcohol or drugs in violation of
28 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is
29 punishable as a felony;

30 (9) attempt under K.S.A. 21-3301, *prior to its repeal, or section 33 of*
31 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
32 to commit any act specified in this subsection;

33 (10) conspiracy under K.S.A. 21-3302, *prior to its repeal, or section*
34 *34 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
35 thereto, to commit any act specified in this subsection; or

36 (11) an act committed in violation of a federal law or in violation of
37 another state's law that is comparable to any act described in this
38 subsection.

39 (c) The state board of education may issue a license to or renew the
40 license of a person who has been convicted of committing an offense or
41 act described in subsection (b) or who has entered into a criminal diversion
42 agreement after having been charged with an offense or act described in
43 subsection (b) if the state board determines, following a hearing, that the

1 person has been rehabilitated for a period of at least five years from the
2 date of conviction of the offense or commission of the act or, in the case of
3 a person who has entered into a criminal diversion agreement, that the
4 person has satisfied the terms and conditions of the agreement. The state
5 board of education may consider factors including, but not limited to, the
6 following in determining whether to grant a license:

- 7 (1) The nature and seriousness of the offense or act;
- 8 (2) the conduct of the person subsequent to commission of the
9 offense or act;
- 10 (3) the time elapsed since the commission of the offense or act;
- 11 (4) the age of the person at the time of the offense or act;
- 12 (5) whether the offense or act was an isolated or recurring incident;
- 13 and
- 14 (6) discharge from probation, pardon or expungement.

15 (d) Before any license is denied by the state board of education for
16 any of the offenses or acts specified in subsections (a) and (b), the person
17 shall be given notice and an opportunity for a hearing in accordance with
18 the provisions of the Kansas administrative procedure act.

19 (e) The county or district attorney shall file a report with the state
20 board of education indicating the name, address and social security
21 number of any person who has been determined to have committed any
22 offense or act specified in subsection (a) or (b) or to have entered into a
23 criminal diversion agreement after having been charged with any offense
24 or act specified in subsection (b). Such report shall be filed within 30 days
25 of the date of the determination that the person has committed any such act
26 or entered into any such diversion agreement.

27 (f) The state board of education shall not be liable for civil damages
28 to any person refused issuance or renewal of a license by reason of the
29 state board's compliance, in good faith, with the provisions of this section.

30 Sec. 252. K.S.A. 2010 Supp. 72-5445 is hereby amended to read as
31 follows: 72-5445. (a) (1) Subject to the provisions of subsection (b), the
32 provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto,
33 apply only to: (A) Teachers who have completed not less than three
34 consecutive years of employment, and been offered a fourth contract, in
35 the school district, area vocational-technical school or community college
36 by which any such teacher is currently employed; and (B) teachers who
37 have completed not less than two consecutive years of employment, and
38 been offered a third contract, in the school district, area vocational-
39 technical school or community college by which any such teacher is
40 currently employed if at any time prior to the current employment the
41 teacher has completed the years of employment requirement of subpart (A)
42 in any school district, area vocational-technical school or community
43 college in this state.

1 (2) Any board may waive, at any time, the years of employment
 2 requirements of provision (1) for any teachers employed by it.

3 (3) The provisions of this subsection are subject to the provisions of
 4 K.S.A. 72-5446, and amendments thereto.

5 (b) The provisions of K.S.A. 72-5438 through 72-5443, and
 6 amendments thereto, do not apply to any teacher whose license has been
 7 nonrenewed or revoked by the state board of education for the reason that
 8 the teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp.
 9 21-36a01 through 21-36a17, and amendments thereto, or any felony
 10 violation of any provision of the uniform controlled substances act prior to
 11 July 1, 2009; (2) has been convicted of a felony described in any section of
 12 article 34 of chapter 21 of the Kansas Statutes Annotated, *prior to their*
 13 *repeal, or sections 36 through 64, 174, 210 or 211 of chapter 136 of the*
 14 *2010 Session Laws of Kansas, and amendments thereto*, or an act
 15 described in K.S.A. 21-3412, *prior to its repeal, or subsection (a) of*
 16 *section 48 of chapter 136 of the 2010 Session Laws of Kansas, or K.S.A.*
 17 *21-3412a, prior to its repeal, or section 49 of chapter 136 of the 2010*
 18 *Session Laws of Kansas, and amendments thereto*, if the victim is a minor
 19 or student; (3) has been convicted of a felony described in any section of
 20 article 35 of chapter 21 of the Kansas Statutes Annotated, *prior to their*
 21 *repeal, or sections 65 through 77 or 229 through 231 of chapter 136 of the*
 22 *2010 Session Laws of Kansas, and amendments thereto*, or has been
 23 convicted of an act described in K.S.A. 21-3517, *prior to its repeal, or*
 24 *subsection (a) of section 69 of chapter 136 of the 2010 Session Laws of*
 25 *Kansas, and amendments thereto*, if the victim is a minor or student; (4)
 26 has been convicted of any act described in any section of article 36 of
 27 chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, or*
 28 *sections 78 through 86 of chapter 136 of the 2010 Session Laws of*
 29 *Kansas, and amendments thereto*; (5) has been convicted of a felony
 30 described in article 37 of chapter 21 of the Kansas Statutes Annotated,
 31 *prior to their repeal, or sections 87 through 125 or subsection (a)(6) of*
 32 *section 223 of chapter 136 of the 2010 Session Laws of Kansas, and*
 33 *amendments thereto*; (6) has been convicted of an attempt under K.S.A.
 34 21-3301, *prior to its repeal, or section 33 of chapter 136 of the 2010*
 35 *Session Laws of Kansas, and amendments thereto*, to commit any act
 36 specified in this subsection; (7) has been convicted of any act which is
 37 described in K.S.A. 21-4301, 21-4301a or 21-4301c, *prior to their repeal,*
 38 *or section 212 or 213 of chapter 136 of the 2010 Session Laws of Kansas,*
 39 and amendments thereto; (8) has been convicted in another state or by the
 40 federal government of an act similar to any act described in this
 41 subsection; or (9) has entered into a criminal diversion agreement after
 42 having been charged with any offense described in this subsection.

43 Sec. 253. K.S.A. 2010 Supp. 74-4924 is hereby amended to read as

1 follows: 74-4924. (1) Any person who shall knowingly make any false
2 statement, or who shall falsify or permit to be falsified any record
3 necessary for carrying out the intent of this act for the purpose of
4 committing fraud, shall be subject to the provisions of ~~K.S.A. 21-~~
5 ~~3904~~ *subsection (a) of section 168 of chapter 136 of the 2010 Session Laws*
6 *of Kansas*, and amendments thereto.

7 (2) Should any error in any records or in any calculation of the
8 Kansas public employees retirement system result in any member or
9 beneficiary receiving more or less than he would have been entitled to
10 receive had the records or calculations been correct, the board shall correct
11 such error, and, as far as practicable, make future payments in such a
12 manner that the actuarial equivalent of the benefit to which such member
13 or beneficiary was entitled shall be paid and may recover any
14 overpayments. In the event a member has withdrawn, all or part of, such
15 member's accumulated contributions in a manner not in compliance with
16 the provisions of this act or the regulations of the system, the member shall
17 forfeit all service credit related to such withdrawn accumulated
18 contributions.

19 (3) (a) Notwithstanding the provisions of subsection (2) and except as
20 provided in subsection (3)(d), the board is not required to collect any
21 benefit overpayment that is of more than 60 months' standing when
22 discovered, if any errors in the records or calculations of the system that
23 resulted in such overpayment are attributable solely to incorrect
24 procedures or calculations by the system and there is no evidence of fraud
25 or misconduct on the part of the member or other person receiving the
26 benefit.

27 (b) The board shall make reasonable efforts to recover all benefit
28 overpayment of 60 months' standing or less, including the imposition of an
29 actuarially calculated reduction in an ongoing monthly benefit payment or
30 the deduction of the total overpaid amount from any refund of
31 contributions or group life insurance benefits that become due and payable
32 to the member or member's beneficiary.

33 (c) No monthly benefit reduction imposed under this section for the
34 purpose of collecting an overpayment shall result in a monthly benefit
35 payment that is more than 10% lower than the monthly benefit payment
36 would have been without such collection-related reduction, except that the
37 monthly benefit payment in all cases must first be reduced to the correct
38 amount as provided by the terms of this section before the 10% cap on
39 collection-related reductions is imposed.

40 (d) Notwithstanding the provisions of this section, on and after the
41 effective date of this act, the board shall not collect any benefit
42 overpayment, attributable to errors in the calculation of benefits by the
43 system that resulted in such overpayments to any person that first occurred

1 after and as a result of a statutory increase in benefits passed by the
2 legislature in 1993, and there is no evidence of fraud or other misconduct
3 on the part of the person receiving the benefit.

4 Sec. 254. K.S.A. 2010 Supp. 74-5602 is hereby amended to read as
5 follows: 74-5602. As used in the Kansas law enforcement training act:

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

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

12 (c) "Dean" means the dean of continuing education of the university
13 of Kansas.

14 (d) "Director of police training" means the director of police training
15 at the law enforcement training center.

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

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

21 (g) "Police officer" or "law enforcement officer" means a full-time or
22 part-time salaried officer or employee of the state, a county or a city,
23 whose duties include the prevention or detection of crime and the
24 enforcement of the criminal or traffic laws of this state or of any
25 municipality thereof. Such terms shall include, but not be limited to,
26 the sheriff, undersheriff and full-time or part-time salaried deputies in the
27 sheriff's office in each county; deputy sheriffs deputized pursuant to
28 K.S.A. 19-2858, and amendments thereto; conservation officers of the
29 Kansas department of wildlife and parks; university police officers, as
30 defined in K.S.A. 22-2401a, and amendments thereto; campus police
31 officers, as defined in K.S.A. 22-2401a, and amendments thereto; law
32 enforcement agents of the director of alcoholic beverage control; law
33 enforcement agents designated by the secretary of revenue pursuant to
34 K.S.A. 2010 Supp. 75-5157, and amendments thereto; law enforcement
35 agents of the Kansas lottery; law enforcement agents of the Kansas racing
36 commission; deputies and assistants of the state fire marshal having law
37 enforcement authority; capitol police, existing under the authority of
38 K.S.A. 75-4503, and amendments thereto; and law enforcement officers
39 appointed by the adjutant general pursuant to K.S.A. 48-204, and
40 amendments thereto. Such terms shall also include railroad policemen
41 appointed pursuant to K.S.A. 66-524, and amendments thereto; school
42 security officers designated as school law enforcement officers pursuant to
43 K.S.A. 72-8222, and amendments thereto; the manager and employees of

1 the horsethief reservoir benefit district pursuant to K.S.A. 2010 Supp. 82a-
2 2212, and amendments thereto; and the director of the Kansas commission
3 on peace officers' standards and training and any other employee of such
4 commission designated by the director pursuant to K.S.A. 74-5603, and
5 amendments thereto, as a law enforcement officer. Such terms shall not
6 include any elected official, other than a sheriff, serving in the capacity of
7 a law enforcement or police officer solely by virtue of such official's
8 elected position; any attorney-at-law having responsibility for law
9 enforcement and discharging such responsibility solely in the capacity of
10 an attorney; any employee of the commissioner of juvenile justice, the
11 secretary of corrections or the secretary of social and rehabilitation
12 services; any deputy conservation officer of the Kansas department of
13 wildlife and parks; or any employee of a city or county who is employed
14 solely to perform correctional duties related to jail inmates and the
15 administration and operation of a jail; or any full-time or part-time salaried
16 officer or employee whose duties include the issuance of a citation or
17 notice to appear provided such officer or employee is not vested by law
18 with the authority to make an arrest for violation of the laws of this state or
19 any municipality thereof, and is not authorized to carry firearms when
20 discharging the duties of such person's office or employment. Such term
21 shall include any officer appointed or elected on a provisional basis.

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

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

28 (j) "Misdemeanor crime of domestic violence" means a violation of
29 domestic battery as provided by K.S.A. 21-3412a, *prior to its repeal, or*
30 *section 49 of chapter 136 of the 2010 Session Laws of Kansas*, and
31 amendments thereto, or any other misdemeanor under federal, municipal
32 or state law that has as an element the use or attempted use of physical
33 force, or the threatened use of a deadly weapon, committed by a current or
34 former spouse, parent, or guardian of the victim, by a person with whom
35 the victim shares a child in common, by a person who is cohabiting with or
36 has cohabited with the victim as a spouse, parent or guardian, or by a
37 person similarly situated to a spouse, parent or guardian of the victim.

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

41 (l) "Active law enforcement certificate" means a certificate which
42 attests to the qualification of a person to perform the duties of a law
43 enforcement officer and which has not been suspended or revoked by

1 action of the Kansas commission on peace officers' standards and training
2 and has not lapsed by operation of law as provided in K.S.A. 74-5622, and
3 amendments thereto.

4 Sec. 255. K.S.A. 2010 Supp. 74-7301 is hereby amended to read as
5 follows: 74-7301. As used in this act:

6 (a) "Allowance expense" means reasonable charges incurred for
7 reasonably needed products, services and accommodations, including
8 those for medical care, rehabilitation, rehabilitative occupational training
9 and other remedial treatment and care and for the replacement of items of
10 clothing or bedding which were seized for evidence. Such term includes a
11 total charge not in excess of \$5,000 for expenses in any way related to
12 funeral, cremation or burial; but such term shall not include that portion of
13 a charge for a room in a hospital, clinic, convalescent or nursing home or
14 any other institution engaged in providing nursing care and related
15 services, in excess of a reasonable and customary charge for semi-private
16 accommodations, unless other accommodations are medically required.
17 Such term includes a total charge not in excess of \$1,000 for expenses in
18 any way related to crime scene cleanup.

19 (b) "Board" means the crime victims compensation board established
20 under K.S.A. 74-7303, and amendments thereto.

21 (c) "Claimant" means any of the following persons claiming
22 compensation under this act: A victim; a dependent of a deceased victim; a
23 third person other than a collateral source; or an authorized person acting
24 on behalf of any of them.

25 (d) "Collateral source" means a source of benefits or advantages for
26 economic loss otherwise reparable under this act which the victim or
27 claimant has received, or which is readily available to the victim or
28 claimant, from:

- 29 (1) The offender;
- 30 (2) the government of the United States or any agency thereof, a state
31 or any of its political subdivisions or an instrumentality or two or more
32 states, unless the law providing for the benefits or advantages makes them
33 excess or secondary to benefits under this act;
- 34 (3) social security, medicare and medicaid;
- 35 (4) state-required temporary nonoccupational disability insurance;
- 36 (5) workers' compensation;
- 37 (6) wage continuation programs of any employer;
- 38 (7) proceeds of a contract of insurance payable to the victim for loss
39 which the victim sustained because of the criminally injurious conduct; or
- 40 (8) a contract providing prepaid hospital and other health care
41 services or benefits for disability.

42 (e) "Criminally injurious conduct" means conduct that: (1) (A)
43 Occurs or is attempted in this state or occurs to a person whose domicile is

1 in Kansas who is the victim of a violent crime which occurs in another
2 state, possession, or territory of the United States of America may make an
3 application for compensation if:

4 (i) The crimes would be compensable had it occurred in the state of
5 Kansas; and

6 (ii) the places the crimes occurred are states, possessions or territories
7 of the United States of America not having eligible crime victim
8 compensation programs;

9 (B) poses a substantial threat or personal injury or death; and

10 (C) either is punishable by fine, imprisonment or death or would be
11 so punishable but for the fact that the person engaging in the conduct
12 lacked capacity to commit the crime under the laws of this state; or

13 (2) is an act of terrorism, as defined in 18 U.S.C. § 2331, or a violent
14 crime that posed a substantial threat or caused personal injury or death,
15 committed outside of the United States against a person whose domicile is
16 in Kansas, except that criminally injurious conduct does not include any
17 conduct resulting in injury or death sustained as a member of the United
18 States armed forces while serving on active duty.

19 Such term shall not include conduct arising out of the ownership,
20 maintenance or use of a motor vehicle, except for violations of K.S.A. 8-
21 1567 and amendments thereto, or violations of municipal ordinances
22 prohibiting the acts prohibited by that statute, or violations of K.S.A. 8-
23 1602, *and amendments thereto, K.S.A. 21-3404, 21-3405 and 21-3414,*
24 *prior to their repeal, or sections 40, 41 and subsection (b) of section 48 of*
25 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments thereto
26 or when such conduct was intended to cause personal injury or death.

27 (f) "Dependent" means a natural person wholly or partially dependent
28 upon the victim for care or support, and includes a child of the victim born
29 after the victim's death.

30 (g) "Dependent's economic loss" means loss after decedent's death of
31 contributions of things of economic value to the decedent's dependents, not
32 including services they would have received from the decedent if the
33 decedent had not suffered the fatal injury, less expenses of the dependents
34 avoided by reason of decedent's death.

35 (h) "Dependent's replacement services loss" means loss reasonably
36 incurred by dependents after decedent's death in obtaining ordinary and
37 necessary services in lieu of those the decedent would have performed for
38 their benefit if the decedent had not suffered the fatal injury, less expenses
39 of the dependents avoided by reason of decedent's death and not subtracted
40 in calculating dependent's economic loss.

41 (i) "Economic loss" means economic detriment consisting only of
42 allowable expense, work loss, replacement services loss and, if injury
43 causes death, dependent's economic loss and dependent's replacement

1 service loss. Noneconomic detriment is not loss, but economic detriment is
2 loss although caused by pain and suffering or physical impairment.

3 (j) "Noneconomic detriment" means pain, suffering, inconvenience,
4 physical impairment and nonpecuniary damage.

5 (k) "Replacement services loss" means expenses reasonably incurred
6 in obtaining ordinary and necessary services in lieu of those the injured
7 person would have performed, not for income, but for the benefit of self or
8 family, if such person had not been injured.

9 (l) "Work loss" means loss of income from work the injured person
10 would have performed if such person had not been injured, and expenses
11 reasonably incurred by such person in obtaining services in lieu of those
12 the person would have performed for income, reduced by any income from
13 substitute work actually performed by such person or by income such
14 person would have earned in available appropriate substitute work that the
15 person was capable of performing but unreasonably failed to undertake.

16 (m) "Victim" means a person who suffers personal injury or death as
17 a result of: (1) Criminally injurious conduct; (2) the good faith effort of
18 any person to prevent criminally injurious conduct; or (3) the good faith
19 effort of any person to apprehend a person suspected of engaging in
20 criminally injurious conduct.

21 (n) "Crime scene cleanup" means removal of blood, stains, odors or
22 other debris caused by the crime or the processing of the crime scene.

23 Sec. 256. K.S.A. 2010 Supp. 74-7305 is hereby amended to read as
24 follows: 74-7305. (a) An application for compensation shall be made in the
25 manner and form prescribed by the board.

26 (b) Compensation may not be awarded unless an application has been
27 filed with the board within two years of the reporting of the incident to law
28 enforcement officials if the victim was less than 16 years of age and the
29 injury or death is the result of any of the following crimes: (1) Indecent
30 liberties with a child as defined in K.S.A. 21-3503, *prior to its repeal, or*
31 *subsection (a) of section 70 of chapter 136 of the 2010 Session Laws of*
32 *Kansas, and amendments thereto; (2) aggravated indecent liberties with a*
33 *child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of*
34 *section 70 of chapter 136 of the 2010 Session Laws of Kansas, and*
35 *amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A.*
36 *21-3506, prior to its repeal, or subsection (b) of section 68 of chapter 136*
37 *of the 2010 Session Laws of Kansas, and amendments thereto; (4)*
38 *enticement of a child as defined in K.S.A. 21-3509 and amendments*
39 *thereto prior to its repeal; (5) indecent solicitation of a child as defined in*
40 *K.S.A. 21-3510, prior to its repeal, or subsection (a) of section 72 of*
41 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;*
42 *(6) aggravated indecent solicitation of a child as defined in K.S.A. 21-*
43 *3511, prior to its repeal, or subsection (b) of section 72 of chapter 136 of*

1 *the 2010 Session Laws of Kansas*, and amendments thereto; (7) sexual
 2 exploitation of a child as defined in K.S.A. 21-3516, *prior to its repeal, or*
 3 *section 74 of chapter 136 of the 2010 Session Laws of Kansas*, and
 4 amendments thereto; or (8) aggravated incest as defined in K.S.A. 21-
 5 3603, *prior to its repeal, or subsection (b) of section 81 of chapter 136 of*
 6 *the 2010 Session Laws of Kansas*, and amendments thereto. Compensation
 7 for mental health counseling may be awarded, if a claim is filed within two
 8 years of testimony, to a claimant who is, or will be, required to testify in a
 9 sexually violent predator commitment, pursuant to article 29a of chapter
 10 59 of the Kansas Statutes Annotated, and amendments thereto, of an
 11 offender who victimized the claimant or the victim on whose behalf the
 12 claim is made. For all other incidents of criminally injurious conduct,
 13 compensation may not be awarded unless the claim has been filed with the
 14 board within two years after the injury or death upon which the claim is
 15 based. Compensation may not be awarded to a claimant who was the
 16 offender or an accomplice of the offender and may not be awarded to
 17 another person if the award would unjustly benefit the offender or
 18 accomplice.

19 (c) Compensation otherwise payable to a claimant shall be reduced or
 20 denied, to the extent, if any that the:

21 (1) Economic loss upon which the claimant's claim is based is
 22 recouped from other persons, including collateral sources;

23 (2) board deems reasonable because of the contributory misconduct
 24 of the claimant or of a victim through whom the claimant claims; or

25 (3) board deems reasonable, because the victim was likely engaging
 26 in, or attempting to engage in, unlawful activity at the time of the crime
 27 upon which the claim for compensation is based. This subsection shall not
 28 be construed to reduce or deny compensation to a victim of domestic
 29 abuse or sexual assault.

30 (d) Compensation may be awarded only if the board finds that unless
 31 the claimant is awarded compensation the claimant will suffer financial
 32 stress as the result of economic loss otherwise reparable. A claimant
 33 suffers financial stress only if the claimant cannot maintain the claimant's
 34 customary level of health, safety and education for self and dependents
 35 without undue financial hardship. In making its determination of financial
 36 stress, the board shall consider all relevant factors, including:

37 (1) The number of claimant's dependents;

38 (2) the usual living expenses of the claimant and the claimant's
 39 family;

40 (3) the special needs of the claimant and the claimant's dependents;

41 (4) the claimant's income and potential earning capacity; and

42 (5) the claimant's resources.

43 (e) Compensation may not be awarded unless the criminally injurious

1 conduct resulting in injury or death was reported to a law enforcement
2 officer within 72 hours after its occurrence or the board finds there was
3 good cause for the failure to report within that time.

4 (f) The board, upon finding that the claimant or victim has not fully
5 cooperated with appropriate law enforcement agencies, may deny,
6 withdraw or reduce an award of compensation.

7 (g) Except in K.S.A. 21-3602 or 21-3603, *prior to their repeal, or*
8 *section 81 of chapter 136 of the 2010 Session Laws of Kansas, and*
9 *amendments thereto*, or cases of sex offenses established in article 35 of
10 chapter 21, of the Kansas Statutes Annotated, *prior to their repeal, or*
11 *sections 65 through 77 or 229 through 231 of chapter 136 of the 2010*
12 *Session Laws of Kansas*, and amendments thereto, compensation may not
13 be awarded if the economic loss is less than \$100.

14 (h) Compensation for work loss, replacement services loss,
15 dependent's economic loss and dependent's replacement service loss may
16 not exceed \$400 per week or actual loss, whichever is less.

17 (i) Compensation payable to a victim and to all other claimants
18 sustaining economic loss because of injury to or death of that victim may
19 not exceed \$25,000 in the aggregate.

20 Sec. 257. K.S.A. 74-7325 is hereby amended to read as follows: 74-
21 7325. (a) There is hereby created in the state treasury the protection from
22 abuse fund. All moneys credited to the fund shall be used solely for the
23 purpose of making grants to programs providing: (1) Temporary
24 emergency shelter for adult victims of domestic abuse or sexual assault
25 and their dependent children; (2) counseling and assistance to those
26 victims and their children; or (3) educational services directed at reducing
27 the incidence of domestic abuse or sexual assault and diminishing its
28 impact on the victims. All moneys credited to the fund pursuant to K.S.A.
29 20-367, and amendments thereto, shall be used only for on-going
30 operating expenses of domestic violence programs. All moneys credited to
31 the fund pursuant to any increase in docket fees as provided by this act as
32 described in K.S.A. 20-367 and 60-2001, and amendments thereto, shall
33 not be awarded to programs until July 1, 2003, and shall be used for
34 ongoing operating expenses of domestic violence or sexual assault
35 programs.

36 (b) All expenditures from the protection from abuse fund shall be
37 made in accordance with appropriation acts upon warrants of the director
38 of accounts and reports issued pursuant to vouchers approved by the
39 attorney general or by a person or persons designated by the attorney
40 general.

41 (c) The attorney general may apply for, receive and accept moneys
42 from any source for the purposes for which moneys in the protection from
43 abuse fund may be expended. Upon receipt of any such moneys, the

1 attorney general shall remit the entire amount to the state treasurer in
2 accordance with the provisions of K.S.A. 75-4215, and amendments
3 thereto. Upon receipt of each such remittance, the state treasurer shall
4 deposit the entire amount in the state treasury to the credit of the protection
5 from abuse fund.

6 (d) Grants made to programs pursuant to this section shall be based
7 on the numbers of persons served by the program and shall be made only
8 to the city of Wichita or to agencies which are engaged, as their primary
9 function, in programs aimed at preventing domestic violence or sexual
10 assault or providing residential services or facilities to family or household
11 members who are victims of domestic violence or sexual assault. In order
12 for programs to qualify for funding under this section, they must:

13 (1) Meet the requirements of section 501(c) of the internal revenue
14 code of 1986;

15 (2) be registered and in good standing as a nonprofit corporation;

16 (3) meet normally accepted standards for nonprofit organizations;

17 (4) have trustees who represent the racial, ethnic and socioeconomic
18 diversity of the county or counties served;

19 (5) have received 50% or more of their funds from sources other than
20 funds distributed through the fund, which other sources may be public or
21 private and may include contributions of goods or services, including
22 materials, commodities, transportation, office space or other types of
23 facilities or personal services;

24 (6) demonstrate ability to successfully administer programs;

25 (7) make available an independent certified audit of the previous
26 year's financial records;

27 (8) have obtained appropriate licensing or certification, or both;

28 (9) serve a significant number of residents of the county or counties
29 served;

30 (10) not unnecessarily duplicate services already adequately provided
31 to county residents; and

32 (11) agree to comply with reporting requirements of the attorney
33 general.

34 The attorney general may adopt rules and regulations establishing
35 additional standards for eligibility and accountability for grants made
36 pursuant to this section.

37 (e) As used in this section:

38 (1) "Domestic abuse" means abuse as defined by the protection from
39 abuse act (K.S.A. 60-3101 *et seq.*, and amendments thereto).

40 (2) "Sexual assault" means acts defined in article 35 of chapter 21 of
41 the Kansas Statutes Annotated, *prior to their repeal, or sections 65*
42 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto.

1 (f) On or before the 10th day of each month, the director of accounts
2 and reports shall transfer from the state general fund to the protection from
3 abuse fund interest earnings based on:

4 (1) The average daily balance of moneys in the protection from abuse
5 fund for the preceding month; and

6 (2) the net earnings rate for the pooled money investment portfolio
7 for the preceding month.

8 Sec. 258. K.S.A. 74-7333 is hereby amended to read as follows: 74-
9 7333. (a) In order to ensure the fair and compassionate treatment of
10 victims of crime and to increase the effectiveness of the criminal justice
11 system by affording victims of crime certain basic rights and
12 considerations, victims of crime shall have the following rights:

13 (1) Victims should be treated with courtesy, compassion and with
14 respect for their dignity and privacy and should suffer the minimum of
15 necessary inconvenience from their involvement with the criminal justice
16 system.

17 (2) Victims should receive, through formal and informal procedures,
18 prompt and fair redress for the harm which they have suffered.

19 (3) Information regarding the availability of criminal restitution,
20 recovery of damages in a civil cause of action, the crime victims
21 compensation fund and other remedies and the mechanisms to obtain such
22 remedies should be made available to victims.

23 (4) Information should be made available to victims about their
24 participation in criminal proceedings and the scheduling, progress and
25 ultimate disposition of the proceedings.

26 (5) The views and concerns of victims should be ascertained and the
27 appropriate assistance provided throughout the criminal process.

28 (6) When the personal interests of victims are affected, the views or
29 concerns of the victim should, when appropriate and consistent with
30 criminal law and procedure, be brought to the attention of the court.

31 (7) Measures may be taken when necessary to provide for the safety
32 of victims and their families and to protect them from intimidation and
33 retaliation.

34 (8) Enhanced training should be made available to sensitize criminal
35 justice personnel to the needs and concerns of victims and guidelines
36 should be developed for this purpose.

37 (9) Victims should be informed of the availability of health and social
38 services and other relevant assistance that they might continue to receive
39 the necessary medical, psychological and social assistance through
40 existing programs and services.

41 (10) Victims should report the crime and cooperate with law
42 enforcement authorities.

43 (b) As used in this act, "victim" means any person who suffers direct

1 or threatened physical, emotional or financial harm as the result of the
2 commission or attempted commission of a crime against such person.

3 (c) As used in this act and as used in article 15 of section 15 of the
4 Kansas constitution, the term "crime" shall not include violations of
5 ordinances of cities except for violations of ordinances of cities which
6 prohibit acts or omissions which are prohibited by articles 33, 34, 35 and
7 36 of chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, or*
8 *sections 33 through 86, 14, 210, 211 and 229 through 231 of chapter 136 of*
9 *the 2010 Session Laws of Kansas, and amendments thereto, and as*
10 provided in subsection (d).

11 (d) The governing body of any city which has established a municipal
12 court shall adopt policies which afford the rights granted to victims of
13 crime pursuant to this act and pursuant to article 15 of section 15 of the
14 Kansas constitution to victims of ordinance violations specified in such
15 policies.

16 (e) Nothing in this act shall be construed as creating a cause of action
17 on behalf of any person against the state, a county, a municipality or any of
18 their agencies, instrumentalities or employees responsible for the
19 enforcement of rights as provided in this act.

20 (f) This section shall be known and may be cited as the bill of rights
21 for victims of crime act.

22 Sec. 259. K.S.A. 2010 Supp. 74-8702 is hereby amended to read as
23 follows: 74-8702. As used in the Kansas lottery act, unless the context
24 otherwise requires:

25 (a) "Ancillary lottery gaming facility operations" means additional
26 non-lottery facility game products and services not owned and operated by
27 the state which may be included in the overall development associated
28 with the lottery gaming facility. Such operations may include, but are not
29 limited to, restaurants, hotels, motels, museums or entertainment facilities.

30 (b) "Commission" means the Kansas lottery commission.

31 (c) "Electronic gaming machine" means any electronic,
32 electromechanical, video or computerized device, contrivance or machine
33 authorized by the Kansas lottery which, upon insertion of cash, tokens,
34 electronic cards or any consideration, is available to play, operate or
35 simulate the play of a game authorized by the Kansas lottery pursuant to
36 the Kansas expanded lottery act, including, but not limited to, bingo,
37 poker, blackjack, keno and slot machines, and which may deliver or entitle
38 the player operating the machine to receive cash, tokens, merchandise or
39 credits that may be redeemed for cash. Electronic gaming machines may
40 use bill validators and may be single-position reel-type, single or multi-
41 game video and single-position multi-game video electronic game,
42 including, but not limited to, poker, blackjack and slot machines.
43 Electronic gaming machines shall be directly linked to a central computer

1 at a location determined by the executive director for purposes of security,
2 monitoring and auditing.

3 (d) "Executive director" means the executive director of the Kansas
4 lottery.

5 (e) "Gaming equipment" means any electric, electronic, computerized
6 or electromechanical machine, mechanism, supply or device or any other
7 equipment, which is: (1) Unique to the Kansas lottery and used pursuant to
8 the Kansas lottery act; and (2) integral to the operation of an electronic
9 gaming machine or lottery facility game; and (3) affects the results of an
10 electronic gaming machine or lottery facility game by determining win or
11 loss.

12 (f) "Gaming zone" means: (1) The northeast Kansas gaming zone,
13 which consists of Wyandotte county; (2) the southeast Kansas gaming
14 zone, which consists of Crawford and Cherokee counties; (3) the south
15 central Kansas gaming zone, which consists of Sedgwick and Sumner
16 counties; and (4) the southwest Kansas gaming zone, which consists of
17 Ford county.

18 (g) "Gray machine" means any mechanical, electro-mechanical or
19 electronic device, capable of being used for gambling, that is: (1) Not
20 authorized by the Kansas lottery, (2) not linked to a lottery central
21 computer system, (3) available to the public for play or (4) capable of
22 simulating a game played on an electronic gaming machine or any similar
23 gambling game authorized pursuant to the Kansas expanded lottery act.

24 (h) "Kansas lottery" means the state agency created by this act to
25 operate a lottery or lotteries pursuant to this act.

26 (i) "Lottery" or "state lottery" means the lottery or lotteries operated
27 pursuant to this act.

28 (j) "Lottery facility games" means any electronic gaming machines
29 and any other games which, as of January 1, 2007, are authorized to be
30 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
31 9802, and amendments thereto, located within the boundaries of this state.

32 (k) "Lottery gaming enterprise" means an entertainment enterprise
33 which includes a lottery gaming facility authorized pursuant to the Kansas
34 expanded lottery act and ancillary lottery gaming facility operations that
35 have a coordinated business or marketing strategy. A lottery gaming
36 enterprise shall be designed to attract to its lottery gaming facility
37 consumers who reside outside the immediate area of such enterprise.

38 (l) "Lottery gaming facility" means that portion of a building used for
39 the purposes of operating, managing and maintaining lottery facility
40 games.

41 (m) "Lottery gaming facility expenses" means normal business
42 expenses, as defined in the lottery gaming facility management contract,
43 associated with the ownership and operation of a lottery gaming facility.

1 (n) "Lottery gaming facility management contract" means a contract,
2 subcontract or collateral agreement between the state and a lottery gaming
3 facility manager for the management of a lottery gaming facility, the
4 business of which is owned and operated by the Kansas lottery, negotiated
5 and signed by the executive director on behalf of the state.

6 (o) "Lottery gaming facility manager" means a corporation, limited
7 liability company, resident Kansas American Indian tribe or other business
8 entity authorized to construct and manage, or manage alone, pursuant to a
9 lottery gaming facility management contract with the Kansas lottery, and
10 on behalf of the state, a lottery gaming enterprise and lottery gaming
11 facility.

12 (p) "Lottery gaming facility revenues" means the total revenues from
13 lottery facility games at a lottery gaming facility after all related prizes are
14 paid.

15 (q) (1) "Lottery machine" means any machine or device that allows a
16 player to insert cash or other form of consideration and may deliver as the
17 result of an element of chance, regardless of the skill required by the
18 player, a prize or evidence of a prize, including, but not limited to:

19 (A) Any machine or device in which the prize or evidence of a prize
20 is determined by both chance and the player's or players' skill, including,
21 but not limited to, any machine or device on which a lottery game or
22 lottery games, such as poker or blackjack, are played;

23 (B) any machine or device in which the prize or evidence of a prize is
24 determined only by chance, including, but not limited to, any slot machine
25 or bingo machine; or

26 (C) any lottery ticket vending machine, such as a keno ticket vending
27 machine, pull-tab vending machine or an instant-bingo vending machine.

28 (2) "Lottery machine" shall not mean:

29 (A) Any food vending machine defined by K.S.A. 36-501, and
30 amendments thereto;

31 (B) any nonprescription drug machine authorized under K.S.A. 65-
32 650, and amendments thereto;

33 (C) any machine which dispenses only bottled or canned soft drinks,
34 chewing gum, nuts or candies;

35 (D) any machine excluded from the definition of gambling devices
36 under subsection (d) of K.S.A. 21-4302, *prior to its repeal, or section 214*
37 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
38 thereto; or

39 (E) any electronic gaming machine or lottery facility game operated
40 in accordance with the provisions of the Kansas expanded lottery act.

41 (r) "Lottery retailer" means any person with whom the Kansas lottery
42 has contracted to sell lottery tickets or shares, or both, to the public.

43 (s) (1) "Major procurement" means any gaming product or service,

1 including but not limited to facilities, advertising and promotional
2 services, annuity contracts, prize payment agreements, consulting services,
3 equipment, tickets and other products and services unique to the Kansas
4 lottery, but not including materials, supplies, equipment and services
5 common to the ordinary operations of state agencies.

6 (2) "Major procurement" shall not mean any product, service or other
7 matter covered by or addressed in the Kansas expanded lottery act or a
8 lottery gaming facility management contract or racetrack gaming facility
9 management contract executed pursuant to the Kansas expanded lottery
10 act.

11 (t) "Net electronic gaming machine income" means all cash or other
12 consideration utilized to play an electronic gaming machine operated at a
13 racetrack gaming facility, less all cash or other consideration paid out to
14 winning players as prizes.

15 (u) "Organization licensee" has the meaning provided by K.S.A. 74-
16 8802, and amendments thereto.

17 (v) "Parimutuel licensee" means a facility owner licensee or facility
18 manager licensee under the Kansas parimutuel racing act.

19 (w) "Parimutuel licensee location" means a racetrack facility, as
20 defined in K.S.A. 74-8802, and amendments thereto, owned or managed
21 by the parimutuel licensee. A parimutuel licensee location may include any
22 existing structure at such racetrack facility or any structure that may be
23 constructed on real estate where such racetrack facility is located.

24 (x) "Person" means any natural person, association, limited liability
25 company, corporation or partnership.

26 (y) "Prize" means any prize paid directly by the Kansas lottery
27 pursuant to the Kansas lottery act or the Kansas expanded lottery act or
28 any rules and regulations adopted pursuant to either act.

29 (z) "Progressive electronic game" means a game played on an
30 electronic gaming machine for which the payoff increases uniformly as the
31 game is played and for which the jackpot, determined by application of a
32 formula to the income of independent, local or interlinked electronic
33 gaming machines, may be won.

34 (aa) "Racetrack gaming facility" means that portion of a parimutuel
35 licensee location where electronic gaming machines are operated,
36 managed and maintained.

37 (bb) "Racetrack gaming facility management contract" means an
38 agreement between the Kansas lottery and a racetrack gaming facility
39 manager, negotiated and signed by the executive director on behalf of the
40 state, for placement of electronic gaming machines owned and operated by
41 the state at a racetrack gaming facility.

42 (cc) "Racetrack gaming facility manager" means a parimutuel
43 licensee specifically certified by the Kansas lottery to become a certified

1 racetrack gaming facility manager and offer electronic gaming machines
2 for play at the racetrack gaming facility.

3 (dd) "Returned ticket" means any ticket which was transferred to a
4 lottery retailer, which was not sold by the lottery retailer and which was
5 returned to the Kansas lottery for refund by issuance of a credit or
6 otherwise.

7 (ee) "Share" means any intangible manifestation authorized by the
8 Kansas lottery to prove participation in a lottery game, except as provided
9 by the Kansas expanded lottery act.

10 (ff) "Ticket" means any tangible evidence issued by the Kansas
11 lottery to prove participation in a lottery game other than a lottery facility
12 game.

13 (gg) "Token" means a representative of value, of metal or other
14 material, which is not legal tender, redeemable for cash only by the issuing
15 lottery gaming facility manager or racetrack gaming facility manager and
16 which is issued and sold by a lottery gaming facility manager or racetrack
17 gaming facility manager for the sole purpose of playing an electronic
18 gaming machine or lottery facility game.

19 (hh) "Vendor" means any person who has entered into a major
20 procurement contract with the Kansas lottery.

21 (ii) "Video lottery machine" means any electronic video game
22 machine that, upon insertion of cash, is available to play or simulate the
23 play of a video game authorized by the commission, including, but not
24 limited to, bingo, poker, black jack and keno, and which uses a video
25 display and microprocessors and in which, by chance, the player may
26 receive free games or credits that can be redeemed for cash.

27 Sec. 260. K.S.A. 2010 Supp. 74-9101 is hereby amended to read as
28 follows: 74-9101. (a) There is hereby established the Kansas sentencing
29 commission.

30 (b) The commission shall:

31 (1) Develop a sentencing guideline model or grid based on fairness
32 and equity and shall provide a mechanism for linking justice and
33 corrections policies. The sentencing guideline model or grid shall establish
34 rational and consistent sentencing standards which reduce sentence
35 disparity, to include, but not be limited to, racial and regional biases which
36 may exist under current sentencing practices. The guidelines shall specify
37 the circumstances under which imprisonment of an offender is appropriate
38 and a presumed sentence for offenders for whom imprisonment is
39 appropriate, based on each appropriate combination of reasonable offense
40 and offender characteristics. In developing its recommended sentencing
41 guidelines, the commission shall take into substantial consideration current
42 sentencing and release practices and correctional resources, including but
43 not limited to the capacities of local and state correctional facilities. In its

1 report, the commission shall make recommendations regarding whether
2 there is a continued need for and what is the projected role of, if any, the
3 Kansas parole board and whether the policy of allocating good time credits
4 for the purpose of determining an inmate's eligibility for parole or
5 conditional release should be continued;

6 (2) consult with and advise the legislature with reference to the
7 implementation, management, monitoring, maintenance and operations of
8 the sentencing guidelines system;

9 (3) direct implementation of the sentencing guidelines system;

10 (4) assist in the process of training judges, county and district
11 attorneys, court services officers, state parole officers, correctional
12 officers, law enforcement officials and other criminal justice groups. For
13 these purposes, the sentencing commission shall develop an
14 implementation policy and shall construct an implementation manual for
15 use in its training activities;

16 (5) receive presentence reports and journal entries for all persons who
17 are sentenced for crimes committed on or after July 1, 1993, to develop
18 post-implementation monitoring procedures and reporting methods to
19 evaluate guideline sentences. In developing the evaluative criteria, the
20 commission shall take into consideration rational and consistent
21 sentencing standards which reduce sentence disparity to include, but not be
22 limited to, racial and regional biases;

23 (6) advise and consult with the secretary of corrections and members
24 of the legislature in developing a mechanism to link guidelines sentence
25 practices with correctional resources and policies, including but not
26 limited to the capacities of local and state correctional facilities. Such
27 linkage shall include a review and determination of the impact of the
28 sentencing guidelines on the state's prison population, review of
29 corrections programs and a study of ways to more effectively utilize
30 correction dollars and to reduce prison population;

31 (7) make recommendations relating to modification to the sentencing
32 guidelines as provided in ~~K.S.A. 21-4725~~ *section 303 of chapter 136 of the*
33 *2010 Session Laws of Kansas*, and amendments thereto;

34 (8) prepare and submit fiscal impact and correctional resource
35 statement as provided in K.S.A. 74-9106, and amendments thereto;

36 (9) make recommendations to those responsible for developing a
37 working philosophy of sentencing guideline consistency and rationality;

38 (10) develop prosecuting standards and guidelines to govern the
39 conduct of prosecutors when charging persons with crimes and when
40 engaging in plea bargaining;

41 (11) analyze problems in criminal justice, identify alternative
42 solutions and make recommendations for improvements in criminal law,
43 prosecution, community and correctional placement, programs, release

1 procedures and related matters including study and recommendations
2 concerning the statutory definition of crimes and criminal penalties and
3 review of proposed criminal law changes;

4 (12) perform such other criminal justice studies or tasks as may be
5 assigned by the governor or specifically requested by the legislature,
6 department of corrections, the chief justice or the attorney general;

7 (13) develop a program plan which includes involvement of business
8 and industry in the public or other social or fraternal organizations for
9 admitting back into the mainstream those offenders who demonstrate both
10 the desire and ability to reconstruct their lives during their incarceration or
11 during conditional release;

12 (14) appoint a task force to make recommendations concerning the
13 consolidation of probation, parole and community corrections services;

14 (15) produce official inmate population projections annually on or
15 before six weeks following the date of receipt of the data from the
16 department of corrections. When the commission's projections indicate
17 that the inmate population will exceed available prison capacity within two
18 years of the date of the projection, the commission shall identify and
19 analyze the impact of specific options for (A) reducing the number of
20 prison admissions; or (B) adjusting sentence lengths for specific groups of
21 offenders. Options for reducing the number of prison admissions shall
22 include, but not be limited to, possible modification of both sentencing
23 grids to include presumptive intermediate dispositions for certain
24 categories of offenders. Intermediate sanction dispositions shall include,
25 but not be limited to: intensive supervision; short-term jail sentences;
26 halfway houses; community-based work release; electronic monitoring and
27 house arrest; substance abuse treatment; and pre-revocation incarceration.
28 Intermediate sanction options shall include, but not be limited to,
29 mechanisms to explicitly target offenders that would otherwise be placed
30 in prison. Analysis of each option shall include an assessment of such
31 options impact on the overall size of the prison population, the effect on
32 public safety and costs. In preparing the assessment, the commission shall
33 review the experience of other states and shall review available research
34 regarding the effectiveness of such option. The commission's findings
35 relative to each sentencing policy option shall be presented to the governor
36 and the joint committee on corrections and juvenile justice oversight no
37 later than November 1;

38 (16) at the request of the governor or the joint committee on
39 corrections and juvenile justice oversight, initiate and complete an analysis
40 of other sentencing policy adjustments not otherwise evaluated by the
41 commission;

42 (17) develop information relating to the number of offenders on
43 postrelease supervision and subject to electronic monitoring for the

1 duration of the person's natural life;

2 (18) determine the effect the mandatory sentencing established in
3 K.S.A. 21-4642 and 21-4643, *prior to their repeal, or sections 266 and*
4 *267 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
5 thereto, would have on the number of offenders civilly committed to a
6 treatment facility as a sexually violent predator as provided pursuant to
7 K.S.A. 59-29a01 et seq., and amendments thereto;

8 (19) assume the designation and functions of the state statistical
9 analysis center. All criminal justice agencies, as defined in subsection (c)
10 of K.S.A. 22-4701, and amendments thereto, and the juvenile justice
11 authority shall provide any data or information, including juvenile offender
12 information, requested by the commission to facilitate the function of the
13 state statistical analysis center; and

14 (20) subject to the provisions of appropriation acts and the
15 availability of funds therefor, produce official juvenile correctional facility
16 population projections annually on or before November 1, not more than
17 six weeks following the receipt of the data from the juvenile justice
18 authority and develop bed impacts regarding legislation that may affect
19 juvenile correctional facility population.

20 Sec. 261. K.S.A. 2010 Supp. 75-452 is hereby amended to read as
21 follows: 75-452. The following words and phrases when used in K.S.A.
22 2010 Supp. 75-451 to 75-458, inclusive, and amendments thereto, shall
23 have the meanings respectively ascribed to them herein, unless the context
24 clearly requires otherwise:

25 (a) "Abuse" means:

26 (1) Causing or attempting to cause physical harm;

27 (2) placing another person in fear of imminent physical harm;

28 (3) causing another person to engage involuntarily in sexual relations
29 by force, threats or duress, or threatening to do so;

30 (4) engaging in mental abuse, which includes threats, intimidation
31 and acts designed to induce terror;

32 (5) depriving another person of necessary health care, housing or
33 food; or

34 (6) unreasonably and forcibly restraining the physical movement of
35 another.

36 (b) "Confidential address" means a residential street address, school
37 street address or work street address of an individual, as specified on the
38 individual's application to be a program participant under K.S.A. 2010
39 Supp. 75-451 to 75-458, inclusive, and amendments thereto.

40 (c) "Confidential mailing address" means an address that is
41 recognized for delivery by the United States postal service.

42 (d) "Domestic violence" means abuse committed against a victim or
43 the victim's spouse or dependent child by:

- 1 (1) A current or former spouse of the victim;
- 2 (2) a person with whom the victim shares parentage of a child in
3 common;
- 4 (3) a person who is cohabitating with, or has cohabitated with, the
5 victim;
- 6 (4) a person who is related by blood or marriage; or
- 7 (5) a person with whom the victim has or had a dating or engagement
8 relationship.

9 (e) "Program participant" means a person certified as a program
10 participant under K.S.A. 2010 Supp. 75-453, and amendments thereto.

11 (f) "Enrolling agent" means state and local agencies, law enforcement
12 offices, nonprofit agencies and any others designated by the secretary of
13 state that provide counseling and shelter services to victims of domestic
14 violence, sexual assault, human trafficking or stalking.

15 (g) "Sexual assault" means an act which if committed in this state
16 would constitute any crime defined in article 35 of chapter 21 of the
17 Kansas Statutes Annotated, *prior to their repeal, or sections 65 through 77*
18 *or 229 through 231 of chapter 136 of the 2010 Session Laws of Kansas,*
19 *and amendments thereto.*

20 (h) "Stalking" means an act which if committed in this state would
21 constitute "stalking" as defined by K.S.A. 60-31a01, and amendments
22 thereto.

23 (i) "Human trafficking" means an act which if committed in this state
24 would constitute the crime of human trafficking as defined by K.S.A. 21-
25 3446, *prior to its repeal, or subsection (a) of section 61 of chapter 136 of*
26 *the 2010 Session Laws of Kansas,* and amendments thereto.

27 Sec. 262. K.S.A. 2010 Supp. 75-453 is hereby amended to read as
28 follows: 75-453. (a) An adult person, an adult family member residing
29 with the victim, a parent or guardian acting on behalf of a minor, or a
30 guardian acting on behalf of an incapacitated person, may apply by and
31 through an enrolling agent to have an address designated by the secretary
32 of state serve as the person's address or the address of the minor or
33 incapacitated person. Program participants shall not apply directly to the
34 secretary of state. The secretary of state shall approve an application if it is
35 filed in the manner and on the form prescribed by the secretary of state
36 signed by the applicant and enrolling agent under penalty of perjury and
37 providing:

38 (1) A statement by the applicant that the applicant has good reason to
39 believe that the applicant, or the minor or incapacitated person on whose
40 behalf the application is made, is a victim of domestic violence, sexual
41 assault, human trafficking or stalking and:

42 (i) That the applicant fears for the applicant's safety or the applicant's
43 children's safety or the safety of the minor or incapacitated person on

1 whose behalf the application is made; or

2 (ii) that by virtue of living with an enrolled program participant, the
3 applicant fears that the knowledge or publication of the applicants'
4 whereabouts will put the enrolled participant in danger.

5 (2) A designation of the secretary of state as agent for purposes of
6 service of process and for the purpose of receipt of mail.

7 (3) The confidential mailing address where the applicant can be
8 contacted by the secretary of state, and the phone number or numbers
9 where the applicant can be called by the secretary of state.

10 (4) The confidential address or addresses that the applicant requests
11 not be disclosed for the reason that disclosure will increase the risk of
12 domestic violence, sexual assault, human trafficking or stalking.

13 (5) Evidence that the applicant or the minor or incapacitated person
14 on whose behalf the application is made, is a victim of domestic violence,
15 sexual assault, human trafficking or stalking, or is an adult family member
16 residing with the victim. This evidence may include any of the following:

17 (A) Law enforcement, court or other federal, state or local
18 government records or files.

19 (B) Documentation from a public or private entity that provides
20 assistance to victims of domestic violence, sexual assault, human
21 trafficking or stalking.

22 (C) Documentation from a religious, medical or other professional
23 from whom the applicant has sought assistance in dealing with the alleged
24 domestic violence, sexual assault, human trafficking or stalking.

25 (D) Other forms of evidence as determined by the secretary of state.

26 (6) A statement of whether there are any existing court orders
27 involving the applicant for child support, child custody or child visitation
28 and whether there are any active court actions involving the applicant for
29 child support, child custody or child visitation, the name and address of
30 legal counsel of record and the last known address of the other parent or
31 parents involved in those court orders or court actions.

32 (7) The signature of the applicant and of any individual or
33 representative of any enrolling agent who assisted in the preparation of the
34 application, and the date on which the applicant signed the application.

35 (b) Applications shall be filed in accordance with procedures
36 prescribed by the secretary of state.

37 (c) Upon filing a properly completed application, the secretary of
38 state shall certify the applicant as a program participant. Applicants shall
39 be certified for four years following the date of filing unless the
40 certification is withdrawn or invalidated before that date. The secretary of
41 state shall by rule and regulation establish a renewal procedure.

42 (d) Upon certification in the program, in any case where there are
43 court orders or court actions identified in subsection (a)(6), the secretary of

1 state shall, within 10 days, notify the other parent or parents of the address
2 designated by the secretary of state for the program participant and the
3 designation of the secretary of state as agent for purpose of service of
4 process. The notice shall be given by mail, return receipt requested,
5 postage prepaid, to the last known address of the other parent to be
6 notified. A copy shall also be sent to that parent's counsel of record.

7 (e) A person who falsely attests in an application that disclosure of
8 the applicant's address would endanger the applicant's safety or the safety
9 of the applicant's children or the minor or incapacitated person on whose
10 behalf the application is made, or who knowingly provides false or
11 incorrect information upon making an application, shall be punishable
12 under ~~K.S.A. 21-3711~~*section 110 of chapter 136 of the 2010 Session Laws*
13 *of Kansas*, and amendments thereto, or other applicable statutes.

14 Sec. 263. K.S.A. 2010 Supp. 75-755 is hereby amended to read as
15 follows: 75-755. The attorney general shall promulgate rules and
16 regulations necessary to carry out the provisions of subsection (p) of
17 ~~K.S.A. 21-4603d~~*section 244 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto, on or before July 1, 2011.

19 Sec. 264. K.S.A. 2010 Supp. 75-7b01 is hereby amended to read as
20 follows: 75-7b01. As used in this act:

21 (a) "Detective business" means the furnishing of, making of or
22 agreeing to make any investigation for the purpose of obtaining
23 information with reference to:

24 (1) Crime or wrongs done or threatened against the United States or
25 any state or territory of the United States, or any political subdivision
26 thereof when furnished or made by persons other than law enforcement
27 officers;

28 (2) the identity, habits, conduct, business, occupation, honesty,
29 integrity, credibility, knowledge, trustworthiness, efficiency, loyalty,
30 activity, movement, whereabouts, affiliations, associations, transactions,
31 acts, reputation or character of any person;

32 (3) the location, disposition or recovery of lost or stolen property;

33 (4) the cause or responsibility for fires, libels, losses, frauds,
34 accidents or damage or injury to persons or to property; or

35 (5) securing evidence to be used before any court, board, officer or
36 investigating committee.

37 (b) "Private detective" means any person who, for any consideration
38 whatsoever, engages in detective business.

39 (c) "Private detective agency" means a person who regularly employs
40 any other person, other than an organization, to engage in detective
41 business.

42 (d) "Private patrol operator" means a person who, for any
43 consideration whatsoever, agrees to furnish or furnishes a watchman,

1 guard, patrolman or other person to protect persons or property or to
2 prevent the theft, unlawful taking, loss, embezzlement, misappropriation
3 or concealment of any goods, wares, merchandise, money, bonds, stocks,
4 notes, documents, papers or property of any kind, or performs the service
5 of such watchman, guard, patrolman or other person for any such
6 purposes.

7 (e) "Law enforcement officer" means a law enforcement officer as
8 defined by ~~K.S.A. 21-3110~~ *in section 11 of chapter 136 of the 2010 Session*
9 *Laws of Kansas*, and amendments thereto.

10 (f) "Organization" means a corporation, trust, estate, partnership,
11 cooperative or association.

12 (g) "Person" means an individual or organization.

13 (h) "Firearm permit" means a permit for the limited authority to carry
14 a firearm concealed on or about the person by one licensed as a private
15 detective.

16 (i) "Firearm" means:

17 (1) A pistol or revolver which is designed to be fired by the use of a
18 single hand and which is designed to fire or capable of firing fixed
19 cartridge ammunition; or

20 (2) any other weapon which will or is designed to expel a projectile
21 by the action of an explosive and which is designed to be fired by the use
22 of a single hand.

23 (j) "Client" means any person who engages the services of a private
24 detective.

25 (k) "Dishonesty or fraud" means, in addition to other acts not
26 specifically enumerated herein:

27 (1) Knowingly making a false statement relating to evidence or
28 information obtained in the course of employment, or knowingly
29 publishing a slander or a libel in the course of business;

30 (2) using illegal means in the collection or attempted collection of a
31 debt or obligation;

32 (3) manufacturing or producing any false evidence; and

33 (4) acceptance of employment adverse to a client or former client
34 relating to a matter with respect to which the licensee has obtained
35 confidential information by reason of or in the course of the licensee's
36 employment by such client or former client.

37 Sec. 265. K.S.A. 2010 Supp. 75-7b13 is hereby amended to read as
38 follows: 75-7b13. (a) The attorney general may censure, limit, condition,
39 suspend or revoke a license issued under this act if, after notice and
40 opportunity for hearing in accordance with the provisions of the Kansas
41 administrative procedure act, the attorney general determines that the
42 licensee or, if the licensee is an organization, any of its officers, directors,
43 partners or associates has:

1 (1) Made any false statement or given any false information in
2 connection with an application for a license or a renewal or reinstatement
3 thereof;

4 (2) violated any provisions of this act;

5 (3) violated any rules and regulations of the attorney general adopted
6 pursuant to the authority contained in this act;

7 (4) been convicted of a felony, vehicular homicide, assault, battery,
8 assault of a law enforcement officer, misdemeanor battery against a law
9 enforcement officer, criminal restraint, sexual battery, endangering a child,
10 intimidation of a witness or victim or any crime involving moral turpitude
11 or illegally using, carrying, or possessing a dangerous weapon subsequent
12 to the issuance of the license;

13 (5) impersonated, or permitted or aided and abetted an employee to
14 impersonate, a law enforcement officer or employee of the United States
15 of America, or of any state or political subdivision thereof;

16 (6) committed or permitted any employee to commit any act, while
17 the license was expired, which would be cause for the suspension or
18 revocation of a license, or grounds for the denial of an application for a
19 license;

20 (7) willfully failed or refused to render to a client services or a report
21 as agreed between the parties, and for which compensation has been paid
22 or tendered in accordance with the agreement of the parties;

23 (8) committed assault, battery or kidnapping or used force or violence
24 on any person without proper justification;

25 (9) knowingly violated or advised, encouraged or assisted the
26 violation of, any court order or injunction in the course of business as a
27 licensee;

28 (10) acted as a runner or capper for any attorney;

29 (11) used any letterhead, advertisement or other printed matter, or in
30 any manner whatever represented that such person is an instrumentality of
31 the federal government, a state or any political subdivision thereof;

32 (12) used false, misleading or deceptive information in any
33 advertisement, solicitation or contract for business;

34 (13) has committed any act in the course of the licensee's business
35 constituting dishonesty or fraud;

36 (14) failed to obtain continuing education as required by this act;

37 (15) misused a firearm permit badge; or

38 (16) committed any act which is a ground for denial of an application
39 for a license under this act.

40 (b) The record of conviction, or a certified copy thereof, shall be
41 conclusive evidence of such conviction as that term is used in this section
42 or in K.S.A. 75-7b04, and amendments thereto, and a plea or verdict of
43 guilty or a conviction following a plea of *nolo contendere* is deemed to be

1 a conviction within the meaning thereof.

2 (c) Upon final disposition of the proceedings for a violation relating
3 to the misuse of a firearm permit badge, the attorney general may bring an
4 action for violation of ~~K.S.A. 21-3824 or 21-3825~~ *section 142 of chapter*
5 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

6 Sec. 266. K.S.A. 2010 Supp. 75-7c03 is hereby amended to read as
7 follows: 75-7c03. (a) The attorney general shall issue licenses to carry
8 concealed handguns to persons who comply with the application and
9 training requirements of this act and who are not disqualified under K.S.A.
10 2010 Supp. 75-7c04, and amendments thereto. Such licenses shall be valid
11 throughout the state for a period of four years from the date of issuance.

12 (b) The license shall be a separate card, in a form prescribed by the
13 attorney general, that is approximately the size of a Kansas driver's license
14 and shall bear the licensee's signature, name, address, date of birth and
15 driver's license number or nondriver's identification card number except
16 that the attorney general shall assign a unique number for military
17 applicants or their dependents described in subsection (a)(1)(B) of K.S.A.
18 2010 Supp. 75-7c05, and amendments thereto. At all times when the
19 licensee is in actual possession of a concealed handgun, the licensee shall
20 carry the valid license to carry concealed handguns. On demand of a law
21 enforcement officer, the licensee shall display the license to carry
22 concealed handguns and proper identification. Verification by a law
23 enforcement officer that a person holds a valid license to carry a concealed
24 handgun may be accomplished by record check using the person's driver's
25 license information or the person's concealed carry license number.

26 The license of any person who violates the provisions of this subsection
27 shall be suspended for not less than 30 days upon the first violation and
28 shall be revoked for not less than five years upon a second or subsequent
29 violation. However, a violation of this subsection shall not constitute a
30 violation of subsection (a)(4) of K.S.A. 21-4201, *prior to its repeal, or*
31 *subsection (a)(4) of section 187 of chapter 136 of the 2010 Session Laws*
32 *of Kansas*, and amendments thereto, if the licensee's license is valid.

33 (c) A valid license, issued by any other state or the District of
34 Columbia, to carry a firearm shall be recognized as valid in this state, but
35 only while the holder is not a resident of Kansas, if the attorney general
36 determines that standards for issuance of such license or permit by such
37 state or district are reasonably similar to or greater than the standards
38 imposed by this act. The attorney general shall maintain and publish a list
39 of such other jurisdictions which the attorney general determines have
40 standards reasonably similar to or greater than the standards imposed by
41 this act.

42 (d) A person who establishes residency in this state may carry
43 concealed handguns under the terms of this act until the person's

1 application for a license under this act is approved or denied, provided that
2 the person has been issued and possesses a valid license or permit to carry
3 a firearm from a jurisdiction recognized by the attorney general under
4 subsection (c) and carries with that license or permit a receipt issued by the
5 attorney general, which states the person's application for licensure under
6 this act has been received. For purposes of such application, possession of
7 the valid nonresident license or permit to carry a firearm shall satisfy the
8 requirements of subsection (b)(2) of K.S.A. 2010 Supp. 75-7c04, and
9 amendments thereto.

10 Sec. 267. K.S.A. 2010 Supp. 75-7c04 is hereby amended to read as
11 follows: 75-7c04. (a) The attorney general shall not issue a license
12 pursuant to this act if the applicant:

13 (1) Is not a resident of the county where application for licensure is
14 made or is not a resident of the state;

15 (2) is prohibited from shipping, transporting, possessing or receiving
16 a firearm or ammunition under 18 U.S.C. § 922(g) or (n), and amendments
17 thereto, or K.S.A. 21-4204, *prior to its repeal, or subsection (a)(10)*
18 *through (a)(13) of section 186 or subsection (a)(1) through (a)(3) of*
19 *section 189 of chapter 136 of the 2010 Session Laws of Kansas*, and
20 amendments thereto; or

21 (3) is less than 21 years of age.

22 (b) (1) The attorney general shall adopt rules and regulations
23 establishing procedures and standards as authorized by this act for an
24 eight-hour handgun safety and training course required by this section.
25 Such standards shall include: (A) A requirement that trainees receive
26 training in the safe storage of handguns, actual firing of weapons and
27 instruction in the laws of this state governing the carrying of concealed
28 handguns and the use of deadly force; (B) general guidelines for courses
29 which are compatible with the industry standard for basic firearms training
30 for civilians; (C) qualifications of instructors; and (D) a requirement that
31 the course be: (i) A handgun course certified or sponsored by the attorney
32 general; or (ii) a handgun course certified or sponsored by the national
33 rifle association or by a law enforcement agency, college, private or public
34 institution or organization or handgun training school, if the attorney
35 general determines that such course meets or exceeds the standards
36 required by rules and regulations adopted by the attorney general and is
37 taught by instructors certified by the attorney general or by the national
38 rifle association, if the attorney general determines that the requirements
39 for certification of instructors by such association meet or exceed the
40 standards required by rules and regulations adopted by the attorney
41 general. Any person wanting to be certified by the attorney general as an
42 instructor shall submit to the attorney general an application in the form
43 required by the attorney general and a fee not to exceed \$150.

1 (2) The cost of the handgun safety and training course required by
2 this section shall be paid by the applicant. The following shall constitute
3 satisfactory evidence of satisfactory completion of an approved handgun
4 safety and training course: (A) Evidence of completion of the course, in
5 the form provided by rules and regulations adopted by the attorney
6 general; (B) an affidavit from the instructor, school, club, organization or
7 group that conducted or taught such course attesting to the completion of
8 the course by the applicant; or (C) for the purposes of subsection (d) of
9 K.S.A. 2010 Supp. 75-7c03, and amendments thereto, a copy of a valid
10 license to carry a firearm issued by another jurisdiction, as described in
11 that subsection.

12 Sec. 268. K.S.A. 2010 Supp. 75-7c05 is hereby amended to read as
13 follows: 75-7c05. (a) The application for a license pursuant to this act shall
14 be completed, under oath, on a form prescribed by the attorney general and
15 shall only include:

16 (1) (A) Subject to the provisions of subsection (a)(1)(B), the name,
17 address, social security number, Kansas driver's license number or Kansas
18 nondriver's license identification number, place and date of birth, a
19 photocopy of the applicant's driver's license or nondriver's identification
20 card and a photocopy of the applicant's certificate of training course
21 completion; (B) in the case of an applicant who presents proof that such
22 person is on active duty with any branch of the armed forces of the United
23 States, or is the dependent of such a person, and who does not possess a
24 Kansas driver's license or Kansas nondriver's license identification, the
25 number of such license or identification shall not be required;

26 (2) a statement that the applicant is in compliance with criteria
27 contained within K.S.A. 2010 Supp. 75-7c04, and amendments thereto;

28 (3) a statement that the applicant has been furnished a copy of this act
29 and is knowledgeable of its provisions;

30 (4) a conspicuous warning that the application is executed under oath
31 and that a false answer to any question, or the submission of any false
32 document by the applicant, subjects the applicant to criminal prosecution
33 under ~~K.S.A. 21-3805~~ *section 128 of chapter 136 of the 2010 Session Laws*
34 *of Kansas*, and amendments thereto; and

35 (5) a statement that the applicant desires a concealed handgun license
36 as a means of lawful self-defense.

37 (b) The applicant shall submit to the sheriff of the county where the
38 applicant resides, during any normal business hours:

39 (1) A completed application described in subsection (a);

40 (2) except as provided by subsection (g), a nonrefundable license fee
41 of \$132.50, if the applicant has not previously been issued a statewide
42 license or if the applicant's license has permanently expired, which fee
43 shall be in the form of two cashier's checks, personal checks or money

1 orders of \$32.50 payable to the sheriff of the county where the applicant
2 resides and \$100 payable to the attorney general;

3 (3) a photocopy of a certificate or an affidavit or document as
4 described in subsection (b) of K.S.A. 2010 Supp. 75-7c04, and
5 amendments thereto, or if applicable, of a license to carry a firearm as
6 described in subsection (d) of K.S.A. 2010 Supp. 75-7c03, and
7 amendments thereto; and

8 (4) a full frontal view photograph of the applicant taken within the
9 preceding 30 days.

10 (c) (1) The sheriff, upon receipt of the items listed in subsection (b) of
11 this section, shall provide for the full set of fingerprints of the applicant to
12 be taken and forwarded to the attorney general for purposes of a criminal
13 history records check as provided by subsection (d). In addition, the sheriff
14 shall forward to the attorney general a copy of the application and the
15 portion of the original license fee which is payable to the attorney general.
16 The cost of taking such fingerprints shall be included in the portion of the
17 fee retained by the sheriff. Notwithstanding anything in this section to the
18 contrary, an applicant shall not be required to submit fingerprints for a
19 renewal application under K.S.A. 2010 Supp. 75-7c08, and amendments
20 thereto.

21 (2) The sheriff of the applicant's county of residence or the chief law
22 enforcement officer of any law enforcement agency, at the sheriff's or chief
23 law enforcement officer's discretion, may participate in the process by
24 submitting a voluntary report to the attorney general containing readily
25 discoverable information, corroborated through public records, which,
26 when combined with another enumerated factor, establishes that the
27 applicant poses a significantly greater threat to law enforcement or the
28 public at large than the average citizen. Any such voluntary reporting shall
29 be made within 45 days after the date the sheriff receives the application.
30 Any sheriff or chief law enforcement officer submitting a voluntary report
31 shall not incur any civil or criminal liability as the result of the good faith
32 submission of such report.

33 (3) All funds retained by the sheriff pursuant to the provisions of this
34 section shall be credited to a special fund of the sheriff's office which shall
35 be used solely for the purpose of administering this act.

36 (d) Each applicant shall be subject to a state and national criminal
37 history records check which conforms to applicable federal standards,
38 including an inquiry of the national instant criminal background check
39 system for the purpose of verifying the identity of the applicant and
40 whether the applicant has been convicted of any crime or has been the
41 subject of any restraining order or any mental health related finding that
42 would disqualify the applicant from holding a license under this act. The
43 attorney general is authorized to use the information obtained from the

1 state or national criminal history record check to determine the applicant's
2 eligibility for such license.

3 (e) Within 90 days after the date of receipt of the items listed in
4 subsection (b), the attorney general shall:

5 (1) Issue the license and certify the issuance to the department of
6 revenue; or

7 (2) deny the application based solely on: (A) The report submitted by
8 the sheriff or other chief law enforcement officer under subsection (c)(2)
9 for good cause shown therein; or (B) the ground that the applicant is
10 disqualified under the criteria listed in K.S.A. 2010 Supp. 75-7c04, and
11 amendments thereto. If the attorney general denies the application, the
12 attorney general shall notify the applicant in writing, stating the ground for
13 denial and informing the applicant the opportunity for a hearing pursuant
14 to the Kansas administrative procedure act.

15 (f) Each person issued a license shall pay to the department of
16 revenue a fee for the cost of the license which shall be in amounts equal to
17 the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments
18 thereto, for replacement of a driver's license.

19 (g) (1) A person who is a retired law enforcement officer, as defined
20 in ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of*
21 *Kansas*, and amendments thereto, shall be: (A) Required to pay an original
22 license fee of \$75, which fee shall be in the form of two cashier checks or
23 money orders, \$25 payable to the sheriff of the county where the applicant
24 resides and \$50 payable to the attorney general, to be forwarded by the
25 sheriff to the attorney general; (B) exempt from the required completion of
26 a weapons safety and training course if such person was certified by the
27 Kansas commission on peace officer's standards and training, or similar
28 body from another jurisdiction, not more than eight years prior to
29 submission of the application; (C) required to pay the license renewal fee;
30 (D) required to pay to the department of revenue the fees required by
31 subsection (f); and (E) required to comply with the criminal history
32 records check requirement of this section.

33 (2) Proof of retirement as a law enforcement officer shall be required
34 and provided to the attorney general in the form of a letter from the agency
35 head, or their designee, of the officer's retiring agency that attests to the
36 officer having retired in good standing from that agency as a law
37 enforcement officer for reasons other than mental instability and that the
38 officer has a nonforfeitable right to benefits under a retirement plan of the
39 agency.

40 Sec. 269. K.S.A. 2010 Supp. 75-7c09 is hereby amended to read as
41 follows: 75-7c09. The application form for an original license and for a
42 renewal license shall include, in a conspicuous place, the following:
43 "WARNING: A false statement on this application may subject the

1 applicant to prosecution for the crime of perjury (~~K.S.A. 21-3805~~section
2 128 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
3 thereto)."

4 Sec. 270. K.S.A. 2010 Supp. 75-7c17 is hereby amended to read as
5 follows: 75-7c17. (a) The legislature finds as a matter of public policy and
6 fact that it is necessary to provide statewide uniform standards for issuing
7 licenses to carry concealed handguns for self-defense and finds it
8 necessary to occupy the field of regulation of the bearing of concealed
9 handguns for self-defense to ensure that no honest, law-abiding person
10 who qualifies under the provisions of this act is subjectively or arbitrarily
11 denied the person's rights. No city, county or other political subdivision of
12 this state shall regulate, restrict or prohibit the carrying of concealed
13 handguns by persons licensed under this act except as provided in
14 subsection (b) of K.S.A. 2010 Supp. 75-7c10, and amendments thereto,
15 and subsection (f) of K.S.A. 21-4218, *prior to its repeal, or subsection (e)*
16 *of section 194 of chapter 136 of the 2010 Session Laws of Kansas*, and
17 amendments thereto. Any existing or future law, ordinance, rule, regulation
18 or resolution enacted by any city, county or other political subdivision of
19 this state that regulates, restricts or prohibits the carrying of concealed
20 handguns by persons licensed under this act except as provided in
21 subsection (b) of K.S.A. 2010 Supp. 75-7c10, and amendments thereto,
22 and subsection (f) of K.S.A. 21-4218, *prior to its repeal, or subsection (e)*
23 *of section 194 of chapter 136 of the 2010 Session Laws of Kansas*, and
24 amendments thereto, shall be null and void.

25 (b) Prosecution of any person licensed under the personal and family
26 protection act, and amendments thereto, for violating any restrictions on
27 licensees will be done through the district court.

28 (c) The legislature does not delegate to the attorney general the
29 authority to regulate or restrict the issuing of licenses provided for in this
30 act, beyond those provisions of this act pertaining to licensing and training.
31 Subjective or arbitrary actions or rules and regulations which encumber
32 the issuing process by placing burdens on the applicant beyond those
33 sworn statements and specified documents detailed in this act or which
34 create restrictions beyond those specified in this act are in conflict with the
35 intent of this act and are prohibited.

36 (d) This act shall be liberally construed. This act is supplemental and
37 additional to existing constitutional rights to bear arms and nothing in this
38 act shall impair or diminish such rights.

39 Sec. 271. K.S.A. 2010 Supp. 75-7c19 is hereby amended to read as
40 follows: 75-7c19. Any person not subject to the provisions of subsection
41 (a) of K.S.A. 21-4201, *prior to its repeal, or subsections (a)(1) through (a)*
42 *(6) of section 186 or subsections (a)(1) through (a)(5) of section 187 of*
43 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,

1 under the authority of paragraph (7) of subsection (c) of K.S.A. 21-4201,
2 *prior to its repeal, or subsection (d)(7) of section 187 of chapter 136 of the*
3 *2010 Session Laws of Kansas*, and amendments thereto, shall obtain at
4 their own expense, and maintain a license to carry concealed handguns as
5 authorized by K.S.A. 2010 Supp. 75-7c01 et seq., and amendments
6 thereto. In addition, such person shall complete a handgun training course
7 as determined by the director of police training of the law enforcement
8 training center.

9 Sec. 272. K.S.A. 2010 Supp. 75-7c26 is hereby amended to read as
10 follows: 75-7c26. On and after July 1, 2007, (a) a person who has been
11 discharged pursuant to K.S.A. 59-2973 or 59-29b73, and amendments
12 thereto, may file a petition in the court where treatment was ordered
13 pursuant to K.S.A. 59-2966 or 59-29b66, and amendments thereto, for the
14 restoration of the ability to legally possess a firearm.

15 (b) Notice of the filing of such petition shall be served on the
16 petitioner who originally filed the action pursuant to K.S.A. 59-2952, 59-
17 2957, 59-29b52 or 59-29b57, and amendments thereto, or the petitioner's
18 attorney and the county or district attorney as appropriate.

19 (c) If the court finds the person is no longer likely to cause harm to
20 such person's self or others, the court shall issue a certificate of restoration
21 to the person. Such restoration shall have the effect of restoring the
22 person's ability to legally possess a firearm, and the certification of
23 restoration shall so state.

24 (d) The certificate of registration issued pursuant to this section shall
25 only apply to the possession of a firearm for the purposes of an alleged
26 violation of subsection (a)(7) of K.S.A. 21-4204, *prior to its repeal, or*
27 *subsection (a)(13) of chapter 186 of chapter 136 of the 2010 Session Laws*
28 *of Kansas*, and amendments thereto.

29 Sec. 273. K.S.A. 2010 Supp. 75-1508 is hereby amended to read as
30 follows: 75-1508. (a) For the purpose of maintaining the department of the
31 state fire marshal and the payment of the expenses incident thereto, each
32 fire insurance company doing business in this state shall pay to the
33 commissioner of insurance, on or before March 15 each year, in addition
34 to the taxes, fees and charges now required by law to be paid by it, such
35 levy as may be made by the state fire marshal. The levy shall not be more
36 than .80% for calendar year 2004, and each calendar year thereafter, of a
37 sum equal to the gross cash receipts as premiums of such company on all
38 fire business transacted by it in the state of Kansas during the calendar
39 year next preceding, as shown by its annual statement under oath to the
40 state insurance department.

41 (b) For the purposes of maintaining the emergency medical services
42 board and the payment of the expenses incident thereto, each fire
43 insurance company doing business in this state shall pay to the

1 commissioner of insurance, on or before March 15 each year, beginning
2 with calendar year 2002 and each calendar year thereafter, in addition to
3 the taxes, fees and charges now required by law to be paid by it, such levy
4 as may be made by the emergency medical services board. The levy shall
5 not be more than .25% of a sum equal to the gross cash receipts as
6 premiums of such company on all fire business transacted by it in the state
7 of Kansas during the calendar year next preceding, as shown by its annual
8 statement to the state insurance department generated by or at the direction
9 of its president and secretary or other chief officers under penalty of
10 ~~K.S.A. 21-371~~*section 110 of chapter 136 of the 2010 Session Laws of*
11 *Kansas, and amendments thereto.*

12 (c) For the purposes of maintaining the fire service training program
13 of the university of Kansas and the payment of the expenses incident
14 thereto, each fire insurance company doing business in this state shall pay
15 to the commissioner of insurance, on or before March 15 each year,
16 beginning with calendar year 2004, and each calendar year thereafter, in
17 addition to the taxes, fees and charges now required by law to be paid by
18 it, such levy as may be made by the Kansas fire service training
19 commission. The levy shall not be more than .20% of a sum equal to the
20 gross cash receipts as premiums of such company on all fire business
21 transacted by it in the state of Kansas during the calendar year next
22 preceding, as shown by its annual statement under oath to the state
23 insurance department.

24 (d) The director of the fire service training program of the university
25 of Kansas shall submit a report concerning expenditures and activities of
26 the fire service training program of the university of Kansas to the house
27 committee on appropriations on or before February 1, 2005, and each
28 ensuing year thereafter.

29 Sec. 274. K.S.A. 75-4004 is hereby amended to read as follows: 75-
30 4004. Any person who with intent to defraud uses on a public security or
31 an instrument of payment:

32 (a) A facsimile signature, or any reproduction of it, of any authorized
33 officer shall on conviction be adjudged guilty of forgery ~~in the first degree~~
34 ~~and punished as provided in K.S.A. 21-631,~~*as defined in section 109 of*
35 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
36 *thereto; or*

37 (b) Any facsimile seal, or any reproduction of it, of this state or any
38 of its departments, agencies, boards, officers, or other instrumentalities or
39 of any of its political or taxing subdivisions shall on conviction be
40 adjudged guilty of forgery ~~in the second degree and punished as provided~~
41 ~~in K.S.A. 21-631~~*as defined in section 109 of chapter 136 of the 2010*
42 *Session Laws of Kansas, and amendments thereto.*

43 Sec. 275. K.S.A. 2010 Supp. 75-4362 is hereby amended to read as

1 follows: 75-4362. (a) The director of the division of personnel services of
2 the department of administration shall have the authority to establish and
3 implement a drug screening program for persons taking office as governor,
4 lieutenant governor or attorney general and for applicants for safety
5 sensitive positions in state government, but no applicant for a safety
6 sensitive position shall be required to submit to a test as a part of this
7 program unless the applicant is first given a conditional offer of
8 employment.

9 (b) The director also shall have the authority to establish and
10 implement a drug screening program based upon a reasonable suspicion of
11 illegal drug use by any person currently holding one of the following
12 positions or offices:

13 (1) The office of governor, lieutenant governor or attorney general;

14 (2) any safety sensitive position;

15 (3) any position in an institution of mental health, as defined in
16 K.S.A. 76-12a01, and amendments thereto, that is not a safety sensitive
17 position;

18 (4) any position in the Kansas state school for the blind, as
19 established under K.S.A. 76-1101 et seq., and amendments thereto;

20 (5) any position in the Kansas state school for the deaf, as established
21 under K.S.A. 76-1001 et seq., and amendments thereto; or

22 (6) any employee of a state veteran's home operated by the Kansas
23 commission on veteran's affairs as described in K.S.A. 76-1901 et seq. and
24 K.S.A. 76-1951 et seq., and amendments thereto.

25 (c) Any public announcement or advertisement soliciting applications
26 for employment in a safety sensitive position in state government shall
27 include a statement of the requirements of the drug screening program
28 established under this section for applicants for and employees holding a
29 safety sensitive position.

30 (d) No person shall be terminated solely due to positive results of a
31 test administered as a part of a program authorized by this section if:

32 (1) The employee has not previously had a valid positive test result;
33 and

34 (2) the employee undergoes a drug evaluation and successfully
35 completes any education or treatment program recommended as a result of
36 the evaluation. Nothing herein shall be construed as prohibiting demotions,
37 suspensions or terminations pursuant to K.S.A. 75-2949e or 75-2949f, and
38 amendments thereto.

39 (e) Except in hearings before the state civil service board regarding
40 disciplinary action taken against the employee, the results of any test
41 administered as a part of a program authorized by this section shall be
42 confidential and shall not be disclosed publicly.

43 (f) The secretary of administration may adopt such rules and

1 regulations as necessary to carry out the provisions of this section.

2 (g) "Safety sensitive positions" means the following:

3 (1) All state law enforcement officers who are authorized to carry
4 firearms;

5 (2) all state corrections officers;

6 (3) all state parole officers;

7 (4) heads of state agencies who are appointed by the governor and
8 employees on the governor's staff;

9 (5) all employees with access to secure facilities of a correctional
10 institution, as defined in ~~K.S.A. 21-3826~~ *section 139 of chapter 136 of the*
11 *2010 Session Laws of Kansas*, and amendments thereto;

12 (6) all employees of a juvenile correctional facility, as defined in
13 K.S.A. 2010 Supp. 38-2302, and amendments thereto; and

14 (7) all employees within an institution of mental health, as defined in
15 K.S.A. 76-12a01, and amendments thereto, who provide clinical,
16 therapeutic or rehabilitative services to the clients and patients of those
17 institutions.

18 Sec. 276. K.S.A. 2010 Supp. 75-5133 is hereby amended to read as
19 follows: 75-5133. (a) Except as otherwise more specifically provided by
20 law, all information received by the secretary of revenue, the director of
21 taxation or the director of alcoholic beverage control from returns, reports,
22 license applications or registration documents made or filed under the
23 provisions of any law imposing any sales, use or other excise tax
24 administered by the secretary of revenue, the director of taxation, or the
25 director of alcoholic beverage control, or from any investigation conducted
26 under such provisions, shall be confidential, and it shall be unlawful for
27 any officer or employee of the department of revenue to divulge any such
28 information except in accordance with other provisions of law respecting
29 the enforcement and collection of such tax, in accordance with proper
30 judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

31 (b) The secretary of revenue or the secretary's designee may:

32 (1) Publish statistics, so classified as to prevent identification of
33 particular reports or returns and the items thereof;

34 (2) allow the inspection of returns by the attorney general or the
35 attorney general's designee;

36 (3) provide the post auditor access to all such excise tax reports or
37 returns in accordance with and subject to the provisions of subsection (g)
38 of K.S.A. 46-1106, and amendments thereto;

39 (4) disclose taxpayer information from excise tax returns to persons
40 or entities contracting with the secretary of revenue where the secretary
41 has determined disclosure of such information is essential for completion
42 of the contract and has taken appropriate steps to preserve confidentiality;

43 (5) provide information from returns and reports filed under article 42

1 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*,
2 to county appraisers as is necessary to insure proper valuations of property.
3 Information from such returns and reports may also be exchanged with any
4 other state agency administering and collecting conservation or other taxes
5 and fees imposed on or measured by mineral production;

6 (6) provide, upon request by a city or county clerk or treasurer or
7 finance officer of any city or county receiving distributions from a local
8 excise tax, monthly reports identifying each retailer doing business in such
9 city or county or making taxable sales sourced to such city or county,
10 setting forth the tax liability and the amount of such tax remitted by each
11 retailer during the preceding month, and identifying each business location
12 maintained by the retailer and such retailer's sales or use tax registration or
13 account number;

14 (7) provide information from returns and applications for registration
15 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-
16 3601, and amendments thereto, to a city or county treasurer or clerk or
17 finance officer to explain the basis of statistics contained in reports
18 provided by subsection (b)(6);

19 (8) disclose the following oil and gas production statistics received by
20 the department of revenue in accordance with K.S.A. 79-4216 et seq. and
21 amendments thereto: Volumes of production by well name, well number,
22 operator's name and identification number assigned by the state
23 corporation commission, lease name, leasehold property description,
24 county of production or zone of production, name of purchaser and
25 purchaser's tax identification number assigned by the department of
26 revenue, name of transporter, field code number or lease code, tax period,
27 exempt production volumes by well name or lease, or any combination of
28 this information;

29 (9) release or publish liquor brand registration information provided
30 by suppliers, farm wineries and microbreweries in accordance with the
31 liquor control act. The information to be released is limited to: Item
32 number, universal numeric code, type status, product description, alcohol
33 percentage, selling units, unit size, unit of measurement, supplier number,
34 supplier name, distributor number and distributor name;

35 (10) release or publish liquor license information provided by liquor
36 licensees, distributors, suppliers, farm wineries and microbreweries in
37 accordance with the liquor control act. The information to be released is
38 limited to: County name, owner, business name, address, license type,
39 license number, license expiration date and the process agent contact
40 information;

41 (11) release or publish cigarette and tobacco license information
42 obtained from cigarette and tobacco licensees in accordance with the
43 Kansas cigarette and tobacco products act. The information to be released

1 is limited to: County name, owner, business name, address, license type
2 and license number;

3 (12) provide environmental surcharge or solvent fee, or both,
4 information from returns and applications for registration filed pursuant to
5 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary
6 of health and environment or the secretary's designee for the sole purpose
7 of ensuring that retailers collect the environmental surcharge tax or solvent
8 fee, or both;

9 (13) provide water protection fee information from returns and
10 applications for registration filed pursuant to K.S.A. 82a-954, and
11 amendments thereto, to the secretary of the state board of agriculture or the
12 secretary's designee and the secretary of the Kansas water office or the
13 secretary's designee for the sole purpose of verifying revenues deposited to
14 the state water plan fund;

15 (14) provide to the secretary of commerce copies of applications for
16 project exemption certificates sought by any taxpayer under the enterprise
17 zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606,
18 and amendments thereto;

19 (15) disclose information received pursuant to the Kansas cigarette
20 and tobacco act and subject to the confidentiality provisions of this act to
21 any criminal justice agency, as defined in subsection (c) of K.S.A. 22-
22 4701, and amendments thereto, or to any law enforcement officer, as
23 defined in ~~subsection (e)(10) of K.S.A. 21-3110~~ *section 11 of chapter 136*
24 *of the 2010 Session Laws of Kansas*, and amendments thereto, on behalf of
25 a criminal justice agency, when requested in writing in conjunction with a
26 pending investigation; and

27 (16) provide to retailers tax exemption information for the sole
28 purpose of verifying the authenticity of tax exemption numbers issued by
29 the department.

30 (c) Any person receiving any information under the provisions of
31 subsection (b) shall be subject to the confidentiality provisions of
32 subsection (a) and to the penalty provisions of subsection (d).

33 (d) Any violation of this section shall be a class A, nonperson
34 misdemeanor, and if the offender is an officer or employee of this state,
35 such officer or employee shall be dismissed from office. Reports of
36 violations of this paragraph shall be investigated by the attorney general.
37 The district attorney or county attorney and the attorney general shall have
38 authority to prosecute any violation of this section if the offender is a city
39 or county clerk or treasurer or finance officer of a city or county.

40 Sec. 277. K.S.A. 2010 Supp. 75-5218 is hereby amended to read as
41 follows: 75-5218. (a) When any person is sentenced to the custody of the
42 secretary of corrections, the clerk of the court which imposed such
43 sentence shall deliver to the officer having the offender in charge the

1 judgment form or journal entry as required by *section 280 of chapter 136*
 2 *of the 2010 Session Laws of Kansas*, or K.S.A. ~~21-4620~~ or 22-3426, and
 3 amendments thereto, together with the order of commitment to the custody
 4 of the secretary of corrections as required by ~~K.S.A. 21-4621~~*section 281*
 5 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
 6 thereto. Within three business days of receipt of the order of commitment
 7 and the judgment form or journal entry, the officer having the offender in
 8 charge shall forward certified copies to the secretary of corrections. Copies
 9 of these materials shall also be delivered to the officers conveying the
 10 offender to the Topeka correctional facility, department of corrections
 11 reception and diagnostic unit or such other correctional institution
 12 prescribed by K.S.A. 75-5220, and amendments thereto, or by the
 13 secretary of corrections in accordance with such statute.

14 (b) When an offender's sentence has been modified in accordance
 15 with the provisions of ~~K.S.A. 21-4609~~*section 245 of chapter 136 of the*
 16 *2010 Session Laws of Kansas*, and amendments thereto, the clerk of the
 17 court which imposed such modified sentence shall within three business
 18 days notify the secretary of corrections by sending a certified copy of the
 19 court's order modifying the offender's sentence to the secretary or the
 20 secretary's designee.

21 Sec. 278. K.S.A. 75-5233 is hereby amended to read as follows: 75-
 22 5233. (a) Except when another cost effective method of transportation is
 23 available, the secretary of corrections may contract with qualified
 24 individuals, partnerships or corporations for the purpose of transporting
 25 individuals in the secretary's custody, including the exchange of inmates
 26 with other states and the return of individuals who have violated the
 27 conditions of their parole or conditional release.

28 (b) The secretary of corrections shall require that any party desiring
 29 to enter into such a contract have adequate levels of liability insurance.

30 (c) The secretary of corrections shall require the contracting party to
 31 present evidence of training for its employees prior to transporting any
 32 individual.

33 (d) An individual engaged in transportation pursuant to a contract
 34 with the secretary of corrections shall have the authority of a person
 35 assisting a law enforcement officer as provided in ~~K.S.A. 21-3215~~*section*
 36 *25 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
 37 thereto.

38 (e) The secretary of corrections shall adopt such rules and regulations
 39 as necessary to implement the provisions of this section.

40 Sec. 279. K.S.A. 75-5269 is hereby amended to read as follows: 75-
 41 5269. The willful failure of an inmate to remain within the extended limits
 42 of ~~his or her~~*such inmate's* confinement or to return within the time
 43 prescribed to an institution or facility designated by the secretary shall be

1 deemed an aggravated escape from custody as provided for in ~~K.S.A. 21-~~
2 ~~3810~~ *subsection (b) of section 136 of chapter 136 of the 2010 Session Laws*
3 *of Kansas, and amendments thereto.*

4 Sec. 280. K.S.A. 2010 Supp. 75-5291 is hereby amended to read as
5 follows: 75-5291. (a) (1) The secretary of corrections may make grants to
6 counties for the development, implementation, operation and improvement
7 of community correctional services that address the criminogenic needs of
8 felony offenders including, but not limited to, adult intensive supervision,
9 substance abuse and mental health services, employment and residential
10 services, and facilities for the detention or confinement, care or treatment
11 of offenders as provided in this section except that no community
12 corrections funds shall be expended by the secretary for the purpose of
13 establishing or operating a conservation camp as provided by K.S.A. 75-
14 52,127, and amendments thereto.

15 (2) Except as otherwise provided, placement of offenders in
16 community correctional services programs by the court shall be limited to
17 placement of adult offenders, convicted of a felony offense:

18 (A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the
19 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-
20 G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In
21 addition, the court may place in a community correctional services
22 program adult offenders, convicted of a felony offense, whose offense is
23 classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the
24 sentencing guidelines grid for nondrug crimes;

25 (B) whose severity level and criminal history score designate a
26 presumptive prison sentence on either sentencing guidelines grid but
27 receive a nonprison sentence as a result of departure;

28 (C) all offenders convicted of an offense which satisfies the definition
29 of offender pursuant to K.S.A. 22-4902, and amendments thereto, and
30 which is classified as a severity level 7 or higher offense and who receive a
31 nonprison sentence, regardless of the manner in which the sentence is
32 imposed;

33 (D) any offender for whom a violation of conditions of release or
34 assignment or a nonprison sanction has been established as provided in
35 K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in
36 the offender being required to serve any time for the sentence imposed or
37 which might originally have been imposed in a state facility in the custody
38 of the secretary of corrections;

39 (E) on and after January 1, 2011, for offenders who are expected to be
40 subject to supervision in Kansas, who are determined to be "high risk or
41 needs, or both" by the use of a statewide, mandatory, standardized risk
42 assessment tool or instrument which shall be specified by the Kansas
43 sentencing commission;

1 (F) placed in community correctional services programs as a
2 condition of supervision following the successful completion of a
3 conservation camp program; or

4 (G) who has been sentenced to community corrections supervision
5 pursuant to K.S.A. 21-4729, *prior to its repeal, or section 305 of chapter*
6 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

7 (3) Notwithstanding any law to the contrary and subject to the
8 availability of funding therefor, adult offenders sentenced to community
9 supervision in Johnson county for felony crimes that occurred on or after
10 July 1, 2002, but before January 1, 2011, shall be placed under court
11 services or community corrections supervision based upon court rules
12 issued by the chief judge of the 10th judicial district. The provisions
13 contained in this subsection shall not apply to offenders transferred by the
14 assigned agency to an agency located outside of Johnson county. The
15 provisions of this paragraph shall expire on January 1, 2011.

16 (4) Nothing in this act shall prohibit a community correctional
17 services program from providing services to juvenile offenders upon
18 approval by the local community corrections advisory board. Grants from
19 community corrections funds administered by the secretary of corrections
20 shall not be expended for such services.

21 (5) The court may require an offender for whom a violation of
22 conditions of release or assignment or a nonprison sanction has been
23 established, as provided in K.S.A. 22-3716, and amendments thereto, to
24 serve any time for the sentence imposed or which might originally have
25 been imposed in a state facility in the custody of the secretary of
26 corrections without a prior assignment to a community correctional
27 services program if the court finds and sets forth with particularity the
28 reasons for finding that the safety of the members of the public will be
29 jeopardized or that the welfare of the inmate will not be served by such
30 assignment to a community correctional services program.

31 (b) (1) In order to establish a mechanism for community correctional
32 services to participate in the department of corrections annual budget
33 planning process, the secretary of corrections shall establish a community
34 corrections advisory committee to identify new or enhanced correctional
35 or treatment interventions designed to divert offenders from prison.

36 (2) The secretary shall appoint one member from the southeast
37 community corrections region, one member from the northeast community
38 corrections region, one member from the central community corrections
39 region and one member from the western community corrections region.
40 The deputy secretary of community and field services shall designate two
41 members from the state at large. The secretary shall have final
42 appointment approval of the members designated by the deputy secretary.
43 The committee shall reflect the diversity of community correctional

1 services with respect to geographical location and average daily population
2 of offenders under supervision.

3 (3) Each member shall be appointed for a term of three years and
4 such terms shall be staggered as determined by the secretary. Members
5 shall be eligible for reappointment.

6 (4) The committee, in collaboration with the deputy secretary of
7 community and field services or the deputy secretary's designee, shall
8 routinely examine and report to the secretary on the following issues:

- 9 (A) Efficiencies in the delivery of field supervision services;
- 10 (B) effectiveness and enhancement of existing interventions;
- 11 (C) identification of new interventions; and
- 12 (D) statewide performance indicators.

13 (5) The committee's report concerning enhanced or new interventions
14 shall address:

- 15 (A) Goals and measurable objectives;
- 16 (B) projected costs;
- 17 (C) the impact on public safety; and
- 18 (D) the evaluation process.

19 (6) The committee shall submit its report to the secretary annually on
20 or before July 15 in order for the enhanced or new interventions to be
21 considered for inclusion within the department of corrections budget
22 request for community correctional services or in the department's
23 enhanced services budget request for the subsequent fiscal year.

24 Sec. 281. K.S.A. 2010 Supp. 75-52,127 is hereby amended to read as
25 follows: 75-52,127. On or after the effective date of this act, the secretary
26 of corrections may establish conservation camps to provide inmates with a
27 highly structured residential work program. Such conservation camps shall
28 be a state correctional institution or facility for confinement under the
29 supervision of the secretary. A conservation camp may accept defendants
30 assigned to such camp as provided in K.S.A. 21-4603 or K.S.A. 21-4603d,
31 *prior to its repeal, or section 244 or 271 of chapter 136 of the 2010*
32 *Session Laws of Kansas*, and amendments thereto. Defendants assigned
33 pursuant to K.S.A. 21-4603 or K.S.A. 21-4603d, *prior to its repeal, or*
34 *section 244 or 271 of chapter 136 of the 2010 Session Laws of Kansas*, and
35 amendments thereto, to a conservation camp may be transferred by the
36 secretary to any other correctional institution or facility. Any inmate
37 sentenced to the custody of the secretary may be confined in a
38 conservation camp, however, only those inmates assigned to the
39 conservation camp pursuant to subsection (a)(5) or (e) of K.S.A. 21-
40 4603d, *prior to its repeal, or subsection (a)(15) of section 244 of chapter*
41 *136 of the 2010 Session Laws of Kansas*, or subsection (b)(6) of K.S.A.
42 21-4603, *prior or its repeal, or subsection (b)(6) of section 271 of chapter*
43 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, shall be

1 eligible for release upon successful completion of the conservation camp
2 program.

3 Sec. 282. K.S.A. 2010 Supp. 75-52,144 is hereby amended to read as
4 follows: 75-52,144. (a) Drug abuse treatment programs certified in
5 accordance with subsection (b) shall provide:

6 (1) Presentence drug abuse assessments of any person who is
7 convicted of a felony violation of K.S.A. 65-4160 or 65-4162, prior to
8 such sections repeal or K.S.A. 2010 Supp. 21-36a06, and amendments
9 thereto, and meets the requirements of K.S.A. 21-4729, *prior to its repeal,*
10 *or section 305 of chapter 136 of the 2010 Session Laws of Kansas,* and
11 amendments thereto;

12 (2) treatment of all persons who are convicted of a felony violation of
13 K.S.A. 65-4160 or 65-4162, prior to such sections repeal or K.S.A. 2010
14 Supp. 21-36a06, and amendments thereto, meet the requirements of K.S.A.
15 21-4729, *prior to its repeal, or section 305 of chapter 136 of the 2010*
16 *Session Laws of Kansas,* and amendments thereto, and whose sentence
17 requires completion of a certified drug abuse treatment program, as
18 provided in this section;

19 (3) one or more treatment options in the continuum of services
20 needed to reach recovery: Detoxification, rehabilitation, continuing care
21 and aftercare, and relapse prevention;

22 (4) treatment options to incorporate family and auxiliary support
23 services; and

24 (5) treatment options for alcohol abuse when indicated by the
25 assessment of the offender or required by the court.

26 (b) The presentence criminal risk-need assessment shall be conducted
27 by a court services officer or a community corrections officer. The
28 presentence drug abuse treatment program placement assessment shall be
29 conducted by a drug abuse treatment program certified in accordance with
30 the provisions of this subsection to provide assessment and treatment
31 services. A drug abuse treatment program shall be certified by the
32 secretary of corrections. The secretary may establish qualifications for the
33 certification of programs, which may include requirements for supervision
34 and monitoring of clients; fee reimbursement procedures; handling of
35 conflicts of interest; delivery of services to clients unable to pay; and other
36 matters relating to quality and delivery of services by the program. Drug
37 abuse treatment may include community based and faith based programs.
38 The certification shall be for a four-year period. Recertification of a
39 program shall be by the secretary. To be eligible for certification under this
40 subsection, the secretary shall determine that a drug abuse treatment
41 program: (1) Meets the qualifications established by the secretary; (2) is
42 capable of providing the assessments, supervision and monitoring required
43 under subsection (a); (3) has employed or contracted with certified

1 treatment providers; and (4) meets any other functions and duties specified
2 by law.

3 (c) Any treatment provider who is employed or has contracted with a
4 certified drug abuse treatment program who provides services to offenders
5 shall be certified by the secretary of corrections. The secretary shall
6 require education and training which shall include, but not be limited to,
7 case management and cognitive behavior training. The duties of providers
8 who prepare the presentence drug abuse assessment may also include
9 appearing at sentencing and probation hearings in accordance with the
10 orders of the court, monitoring offenders in the treatment programs,
11 notifying the probation department and the court of any offender failing to
12 meet the conditions of probation or referrals to treatment, appearing at
13 revocation hearings as may be required and providing assistance and data
14 reporting and program evaluation.

15 (d) The cost for all drug abuse assessments and certified drug abuse
16 treatment programs for any person shall be paid by the Kansas sentencing
17 commission from funds appropriated for such purpose. The Kansas
18 sentencing commission shall contract for payment for such services with
19 the supervising agency. The sentencing court shall determine the extent, if
20 any, that such person is able to pay for such assessment and treatment.
21 Such payments shall be used by the supervising agency to offset costs to
22 the state. If such financial obligations are not met or cannot be met, the
23 sentencing court shall be notified for the purpose of collection or review
24 and further action on the offender's sentence.

25 (e) The community corrections staff shall work with the substance
26 abuse treatment staff to ensure effective supervision and monitoring of the
27 offender.

28 (f) The secretary of corrections is hereby authorized to adopt rules
29 and regulations to carry out the provisions of this section.

30 Sec. 283. K.S.A. 2010 Supp. 75-52,148 is hereby amended to read as
31 follows: 75-52,148. (a) The department of corrections shall be required to
32 review and report on the following serious offenses committed by sex
33 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while
34 such offenders are in the custody of the secretary of corrections:

35 (1) Murder in the first degree, as ~~provided in K.S.A. 21-3401~~ *defined*
36 *in section 37 of chapter 136 of the 2010 Session Laws of Kansas*, and
37 amendments thereto;

38 (2) murder in the second degree, as ~~provided in K.S.A. 21-~~
39 ~~3402~~ *defined in section 38 of chapter 136 of the 2010 Session Laws of*
40 *Kansas*, and amendments thereto;

41 (3) capital murder, as ~~provided in K.S.A. 21-3439~~ *defined in section*
42 *36 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
43 thereto;

- 1 (4) rape, as ~~provided in K.S.A. 21-3502~~ defined in section 67 of
2 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;
- 3 (5) aggravated criminal sodomy, as ~~provided in K.S.A. 21-~~
4 ~~3506~~ defined in subsection (b) of section 68 of chapter 136 of the 2010
5 Session Laws of Kansas, and amendments thereto;
- 6 (6) sexual exploitation of a child, as ~~provided in K.S.A. 21-~~
7 ~~3516~~ defined in section 74 of chapter 136 of the 2010 Session Laws of
8 Kansas, and amendments thereto;
- 9 (7) kidnapping as ~~provided in K.S.A. 21-3420~~ defined in subsection
10 (a) of section 43 of chapter 136 of the 2010 Session Laws of Kansas, and
11 amendments thereto;
- 12 (8) aggravated kidnapping, as ~~provided in K.S.A. 21-3421~~ defined in
13 subsection (b) of section 43 of chapter 136 of the 2010 Session Laws of
14 Kansas, and amendments thereto;
- 15 (9) criminal restraint, as ~~provided in K.S.A. 21-3424~~ defined in
16 section 46 of chapter 136 of the 2010 Session Laws of Kansas, and
17 amendments thereto;
- 18 (10) indecent solicitation of a child, as ~~provided in K.S.A. 21-~~
19 ~~3510~~ defined in subsection (a) of section 72 of chapter 136 of the 2010
20 Session Laws of Kansas, and amendments thereto;
- 21 (11) aggravated indecent solicitation of a child, as ~~provided in K.S.A.~~
22 ~~21-3511~~ defined in subsection (b) of section 72 of chapter 136 of the 2010
23 Session Laws of Kansas, and amendments thereto;
- 24 (12) indecent liberties with a child, as ~~provided in K.S.A. 21-~~
25 ~~3503~~ defined in subsection (a) of section 70 of chapter 136 of the 2010
26 Session Laws of Kansas, and amendments thereto;
- 27 (13) aggravated indecent liberties with a child, as ~~provided in K.S.A.~~
28 ~~21-3504~~ defined in subsection (b) of section 70 of chapter 136 of the 2010
29 Session Laws of Kansas, and amendments thereto;
- 30 (14) criminal sodomy, as ~~provided in K.S.A. 21-3505~~ defined in
31 subsection (a) of section 68 of chapter 136 of the 2010 Session Laws of
32 Kansas, and amendments thereto;
- 33 (15) ~~aggravated~~ child abuse, as ~~provided in K.S.A. 21-3609~~ defined in
34 section 79 of chapter 136 of the 2010 Session Laws of Kansas, and
35 amendments thereto;
- 36 (16) aggravated robbery, as ~~provided in K.S.A. 21-3427~~ defined in
37 subsection (b) of section 55 of chapter 136 of the 2010 Session Laws of
38 Kansas, and amendments thereto;
- 39 (17) burglary, as ~~provided in K.S.A. 21-3715~~ defined in subsection (a)
40 of section 93 of chapter 136 of the 2010 Session Laws of Kansas, and
41 amendments thereto;
- 42 (18) aggravated burglary, as ~~provided in K.S.A. 21-3716~~ defined in
43 subsection (b) of section 93 of chapter 136 of the 2010 Session Laws of

1 *Kansas*, and amendments thereto;

2 (19) theft, as ~~provided in K.S.A. 21-3701~~ *defined in section 87 of*
3 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

4 (20) vehicular homicide, as ~~provided in K.S.A. 21-3405~~ *defined in*
5 *section 41 of chapter 136 of the 2010 Session Laws of Kansas*, and
6 amendments thereto;

7 (21) involuntary manslaughter while driving under the influence, as
8 ~~provided in K.S.A. 21-3442~~ *defined in subsection (a)(3) of section 40 of*
9 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;
10 or

11 (22) stalking, as ~~provided in K.S.A. 21-3438~~ *defined in section 62 of*
12 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

13 (b) The secretary of corrections shall submit such report to the
14 speaker of the house of representatives and the president of the senate
15 annually, beginning January 1, 2007.

16 Sec. 284. K.S.A. 2010 Supp. 76-11a13 is hereby amended to read as
17 follows: 76-11a13. (a) (1) Subject to the provisions of subsection (b), the
18 provisions of K.S.A. 76-11a06 through 76-11a11, and amendments thereto,
19 apply only to: (A) Teachers who have completed not less than three
20 consecutive years of employment, and been offered a contract for a fourth
21 year of employment, at the state school in which the teacher is currently
22 employed; and (B) teachers who have completed not less than two
23 consecutive years of employment, and been offered a contract for a third
24 year of employment, at the state school in which the teacher is currently
25 employed if at any time prior to the current employment the teacher has
26 completed the years of employment requirement of subpart (A) at the other
27 state school.

28 (2) The state board may waive, at any time, the years of employment
29 requirements of provision (1) for any teachers employed at a state school.

30 (3) The provisions of this subsection are subject to the provisions of
31 K.S.A. 76-11a14, and amendments thereto.

32 (b) The provisions of K.S.A. 76-11a06 through 76-11a11, and
33 amendments thereto, do not apply to any teacher whose certificate has
34 been nonrenewed or revoked by the state board for the reason that the
35 teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp. 21-
36 36a01 through 21-36a17, and amendments thereto, or any felony violation
37 of any provision of the uniform controlled substances act prior to July 1,
38 2009; (2) has been convicted of a felony described in any section of article
39 34 of chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, or*
40 *sections 36 through 64, 174, 210 or 211 of chapter 136 of the 2010 Session*
41 *Laws of Kansas, and amendments thereto, or an act described in K.S.A.*
42 *21-3412, prior to its repeal, or subsection (a) of section 48 of chapter 136*
43 *of the 2010 Session Laws of Kansas*, and amendments thereto, if the victim

1 is a minor or student; (3) has been convicted of a felony described in any
2 section of article 35 of chapter 21 of the Kansas Statutes Annotated, *prior*
3 *to their repeal, or sections 65 through 77 or 229 through 231 of chapter*
4 *136 of the 2010 Session Laws of Kansas, and amendments thereto, or has*
5 *been convicted of an act described in K.S.A. 21-3517, prior to its repeal,*
6 *or subsection (a) of section 69 of chapter 136 of the 2010 Session Laws of*
7 *Kansas, and amendments thereto, if the victim is a minor or student; (4)*
8 *has been convicted of any act described in any section of article 36 of*
9 *chapter 21 of the Kansas Statutes Annotated; prior to their repeal, or*
10 *sections 78 through 86 of chapter 136 of the 2010 Session Laws of*
11 *Kansas, and amendments thereto, (5) has been convicted of a felony*
12 *described in article 37 of chapter 21 of the Kansas Statutes Annotated;*
13 *prior to their repeal, or sections 87 through 125 or subsection (a)(6) of*
14 *section 223 of chapter 136 of the 2010 Session Laws of Kansas, and*
15 *amendments thereto; (6) has been convicted of an attempt under K.S.A.*
16 *21-3301, prior to its repeal, or section 33 of chapter 136 of the 2010*
17 *Session Laws of Kansas, and amendments thereto, to commit any act*
18 *specified in this subsection; (7) has been convicted of any act which is*
19 *described in K.S.A. 21-4301, 21-4301a or 21-4301c, prior to their repeal,*
20 *or section 212 or 213 of chapter 136 of the 2010 Session Laws of Kansas,*
21 *and amendments thereto; (8) has been convicted in another state or by the*
22 *federal government of an act similar to any act described in this*
23 *subsection; or (9) has entered into a criminal diversion agreement after*
24 *having been charged with any offense described in this subsection.*

25 **[Sec. 285. Section 79 of chapter 136 of the 2010 Session Laws of**
26 **Kansas is hereby amended to read as follows: Sec. 79. (a) Abuse of a**
27 **child is knowingly:**

28 **[(1) Torturing or cruelly beating or shaking any child under the**
29 **age of 18 years which results in great bodily harm to the child;**

30 **[(2) shaking any child under the age of 18 years which results in great**
31 **bodily harm to the child; or**

32 **[(2)(3) inflicting cruel and inhuman corporal punishment upon**
33 **any child under the age of 18 years.**

34 **[(b) Abuse of a child is a severity level 5, person felony.**

35 **[(c) A person who violates the provisions of this section may also**
36 **be prosecuted for, convicted of, and punished for any form of battery**
37 **or homicide.**

38 **[Sec. 286. Section 228 of chapter 136 of the 2010 Session Laws of**
39 **Kansas is hereby amended to read as follows: Sec. 228. (a) Unlawful**
40 **conduct of cockfighting is:**

41 **[(1) Causing, for amusement or gain, any gamecock to fight with**
42 **or injure or kill another gamecock, with no requirement of culpable**
43 **mental state;**

1 **[(2) knowingly permitting such fighting or injuring on premises**
2 **under one's ownership, charge or control; or**

3 **[(3) training, grooming, preparing or medicating any gamecock**
4 **with the intent of having it fight with or injure or kill another**
5 **gamecock.**

6 **[(b) Unlawful possession of cockfighting paraphernalia is**
7 **possession of, with the intent to use in the unlawful conduct of**
8 **cockfighting, spurs, gaffs, swords, leather training spur covers or**
9 **anything worn by a gamecock during a fight to further the killing**
10 **power of such gamecock.**

11 **[(c) Unlawful attendance of cockfighting is entering or remaining**
12 **on the premises where the unlawful conduct of cockfighting is**
13 **occurring, whether or not the person knows or has reason to know**
14 **that cockfighting is occurring on the premises.**

15 **[(d) (1) Unlawful conduct of cockfighting is a level 10, nonperson**
16 **felony.**

17 **[(2) Unlawful possession of cockfighting paraphernalia is a class A**
18 **nonperson misdemeanor.**

19 **[(3) Unlawful attendance of cockfighting is a class B nonperson**
20 **misdemeanor.**

21 **[(e) As used in this section, "gamecock" means a domesticated**
22 **fowl that is bred, reared or trained for the purpose of fighting with**
23 **other fowl.**

24 **[(f) A person who violates the provisions of this section may also**
25 **be prosecuted for, convicted of, and punished for cruelty to animals.**

26 **[Sec. 287. K.S.A. 2010 Supp. 21-36a03 is hereby amended to read**
27 **as follows: 21-36a03. (a) It shall be unlawful for any person to**
28 **manufacture any controlled substance or controlled substance analog.**

29 **[(b) Violation or attempted violation of subsection (a) is a drug**
30 **severity level 1 felony. The provisions of subsection (d) of ~~K.S.A. 21-~~**
31 **~~330~~section 33 of chapter 136 of the 2010 Session Laws of Kansas, and**
32 **amendments thereto, shall not apply to a violation of attempting to**
33 **unlawfully manufacture any controlled substance pursuant to this**
34 **section.**

35 **[(c) For persons arrested and charged under this section, bail shall**
36 **be at least \$50,000 cash or surety, unless the court determines, on the**
37 **record, that the defendant is not likely to re-offend, the court imposes**
38 **pretrial supervision, or the defendant agrees to participate in a**
39 **licensed or certified drug treatment program.**

40 **[(d) The sentence of a person who violates this section shall not be**
41 **subject to statutory provisions for suspended sentence, community**
42 **service work or probation.**

43 **[(e) The sentence of a person who violates this section or K.S.A.**

1 **65-4159 prior to its repeal, shall not be reduced because these sections**
2 **prohibit conduct identical to that prohibited by K.S.A. 65-4161 or 65-**
3 **4163, prior to such sections repeal, or K.S.A. 2010 Supp. 21-36a05,**
4 **and amendments thereto.]**

5 Sec. ~~285~~ [288.] ~~Sec. 285-~~ K.S.A. 8-254, 8-285, 8-1450, 9-2004,
6 19-101d, 19-27,139, 19-4808, 20-369, 22-2411, 22-2615, 22-2307, 22-
7 2908, 22-3008, 22-3102, 22-3220, 22-3414, 22-3415, 22-3427, as
8 amended by section 306 of chapter 136 of the 2010 Session Laws of
9 Kansas, 22-3429, 22-3436, 22-3439, 22-3602, 22-3701, 22-3725, 22-
10 4807a, 34-228, 34-249a, 36-602, 38-1132, 39-720, 39-785, 41-206, 44-
11 1039, 46-920, 47-653c, 47-1715, 50-618, 50-648, 50-651, 50-653, 57-227,
12 58-2573, 60-523, 60-1620, 60-2610, 60-4111, 60-4402, 60-4404, 60-4405,
13 65-444, 65-1120, 65-2006, 65-2859, 65-28,108, 65-28a05, 65-4209, 65-
14 6703, 65-6721, 68-422a, 74-7325, 74-7333, 75-4004, 75-5233 and 75-
15 5269; K.S.A. 2010 Supp. 8-116a, 8-255, 8-262, 8-287, 8-2,144, 8-1013, 8-
16 1102, 8-1567, 8-2106, 8-2117, 8-2410, 12-16,119, 12-4104, 12-4516, 12-
17 4516a, 12-4517, 17-12a508, 20-2207, 20-2208, 20-3207, 21-3105, 21-
18 3211, 21-3212, 21-3212a, 21-3213, 21-3214, 21-3215, 21-3216, 21-3217,
19 21-3218, 21-3220, 21-3221, 21-3301, 21-3302, 21-3303, 21-3437, 21-
20 3446, 21-3447, 21-3449, 21-3450, 21-3502, 21-3504, 21-3506, 21-3513,
21 21-3516, 21-3520, 21-3608a, [21-36a03,] 21-3826, 21-4018, 21-4201, 21-
22 4203, 21-4204, 21-4218, 21-4226, 21-4311, 21-4316, 21-4603d, 21-4610a,
23 21-4619, 21-4623, 21-4624, 21-4632, 21-4634, 21-4642, 21-4643, 21-
24 4704, 21-4710, 21-4718, 22-2310, 22-3410, 22-2512, 22-2802, 22-2901,
25 22-2909, 22-3212, 22-3212a, 22-3303, 22-3426, 22-3716, 22-3717, 22-
26 3717c, 22-3727, 22-3727a, 22-4614, 22-4616, 22-4617, 22-4902, 22-4906,
27 28-177, 32-1013, 32-1047, 32-1063, 36-604, 38-2202, 38-2255, 38-2255a,
28 38-2271, 38-2302, 38-2303, 38-2309, 38-2310, 38-2312, 38-2313, 38-
29 2326, 38-2331, 38-2355, 38-2356, 38-2361, 38-2364, 38-2365, 38-2371,
30 38-2377, 39-970, 40-252, 40-2,118, 40-1702, 40-3213, 41-346, 41-2611,
31 41-2708, 41-2905, 41-2906, 44-5,125, 44-706, 44-719, 44-1131, 45-217,
32 45-221, 45-230, 47-1706, 47-1707, 58-3043, 58-3068, 58-4505, 59-2132,
33 59-2948, 59-29a02, 59-29a07, 59-29a14, 59-29b48, 60-312, 60-455, 60-
34 1610, 60-1629, 60-3107, 60-31a06, 60-4104, 60-4105, 60-4113, 60-4119,
35 60-4403, 60-5001, 65-448, 65-516, 65-516b, 65-1436, 65-1627, 65-2434,
36 65-2836, 65-5117, 66-2304, 72-1397, 72-5445, 74-4924, 74-5602, 74-
37 7301, 74-7305, 74-8702, 74-9101, 75-452, 75-453, 75-755, 75-7b01, 75-
38 7b13, 75-7c03, 75-7c04, 75-7c05, 75-7c09, 75-7c17, 75-7c19, 75-7c26,
39 75-1508, 75-4362, 75-5133, 75-5218, 75-5291, 75-52,129, 75-52,144, 75-
40 52,148 and 76-11a13; K.S.A. 2009 Supp. [8-1567, as amended by section
41 **3 of chapter 153 of the 2010 Session Laws of Kansas;**]21-3110, as
42 amended by section 5 of chapter 101 of the 2010 Session Laws of Kansas,
43 21-3412a, as amended by section 6 of chapter 101 of the 2010 Session

1 Laws of Kansas, 21-4603d, as amended by section 7 of chapter 101 of the
2 2010 Session Laws of Kansas, and 21-4704 as amended by section 6 of
3 chapter 147 of the 2010 Session Laws of Kansas; and Sections 2, 11, 21,
4 22, 23, 24, 25, 26, 28, 33, 34, 35, 39, 47, 48, 49, 52, 53, 56, 57, 60, 61, 62,
5 64, 67, 68, 70, 74, 76, 78, **[79,]** 88, 96, 98, 105, 136, 139, 141, 147, 158,
6 159, 164, 177, 183, 186, 187, 188, 189, 190, 192, 194, 198, 209, 212, 223,
7 225, **[228,]** 230, 232, 242, 243, 244, 247, 248, 254, 257, 259, 260, 262, 266,
8 267, 268, 269, 271, 285, 291, 292, 294, 298, 299 and 302 of chapter 136 of
9 the 2010 Session Laws of Kansas are hereby repealed.
10 Sec. ~~286~~ **[289.]** This act shall take effect and be in force from and
11 after its publication in the statute book.