

Senate Substitute for HOUSE BILL No. 2056

By Committee on Corrections and Juvenile Justice

3-12

1 AN ACT concerning bail enforcement agents; relating to licensure by the
2 attorney general; sureties and bail agents; amending *K.S.A. 22-2806*
3 *and K.S.A. ~~2014~~ 2015 Supp. 12-4516, 21-6614 and 22-2809a* and
4 *repealing the existing ~~section~~ sections; also repealing K.S.A. 2015*
5 *Supp. 12-4516d and 21-6614f.*
6

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

8 New Section 1. As used in sections 1 through ~~9~~ **10**, and amendments
9 thereto:

10 (a) "Surety" means a person or commercial surety, other than a
11 defendant in a criminal proceeding, that guarantees the appearance of a
12 defendant in a criminal proceeding, by executing an appearance bond.

13 (b) "Bail agent" means a person authorized by a surety to execute
14 surety bail bonds on its behalf.

15 (c) "Bail enforcement agent" means a person not performing the
16 duties of a law enforcement officer who tracks down, captures and
17 surrenders to the custody of a court a fugitive who has violated a surety or
18 bail bond agreement, commonly referred to as a bounty hunter.

19 New Sec. 2. (a) Except as provided in subsection (b), it shall be
20 unlawful for any person to engage in the business of a bail enforcement
21 agent in this state unless such person is licensed as a bail enforcement
22 agent under sections 1 through ~~9~~ **10**, and amendments thereto.

23 (b) The following persons shall not be deemed to be engaging in the
24 bail enforcement business:

25 (1) A surety, authorized as such in the state of Kansas, who is
26 attempting to enforce a bail bond; or

27 (2) a bail agent attempting to enforce a bail bond.

28 New Sec. 3. (a) Every person desiring to be licensed in Kansas as a
29 bail enforcement agent shall make application to the attorney general. An
30 application for a bail enforcement agent license shall be on a form
31 prescribed by the attorney general and accompanied by the required
32 application fee. An application shall be verified under penalty of perjury
33 and shall include:

34 (1) The full name and business address of the applicant;

35 (2) two photographs of the applicant taken within 30 days before the
36 date of application, of a type prescribed by the attorney general;

- 1 (3) a statement of the applicant's employment history;
- 2 (4) a statement of the applicant's criminal history, if any; and
- 3 (5) one classifiable set of the applicant's fingerprints.

4 (b) (1) Fingerprints submitted pursuant to this section shall be
5 released by the attorney general to the Kansas bureau of investigation for
6 the purpose of conducting criminal history records checks, utilizing the
7 files and records of the Kansas bureau of investigation and the federal
8 bureau of investigation.

9 (2) Each applicant shall be subject to a state and national criminal
10 history records check which conforms to applicable federal standards for
11 the purpose of verifying the identity of the applicant and whether the
12 applicant has been convicted of any crime that would disqualify the
13 applicant from being licensed as a bail enforcement agent under sections 1
14 through ~~9~~ **10**, and amendments thereto. The attorney general is authorized
15 to use the information obtained from the state and national criminal history
16 records check to determine the applicant's eligibility for such license.

17 (3) Each applicant shall pay a fee for the criminal history records
18 check in an amount necessary to reimburse the attorney general for the
19 cost of the criminal history records check. Such fee shall be in an amount
20 fixed by the attorney general pursuant to section 8, and amendments
21 thereto, and shall be in addition to the applicable original or renewal
22 application fee amount fixed by the attorney general pursuant to section 8,
23 and amendments thereto.

24 (c) In accordance with the ~~summary proceedings provisions of the~~
25 Kansas administrative procedure act, the attorney general may deny a
26 license if the applicant has:

27 (1) Committed any act *on or after July 1, 2016*, which, if committed
28 by a licensee, would be grounds for the *censure, limitation, conditioning,*
29 *suspension or revocation of a license under sections 1 through ~~9~~ 10*, and
30 amendments thereto;

31 (2) been convicted of a felony, unless such conviction has been
32 expunged;

33 (3) *in the 10 years immediately preceding the submission of the*
34 *application, been convicted of an offense classified as a person*
35 *misdemeanor offense, or a substantially similar offense from another*
36 *jurisdiction, unless such conviction has been expunged;*

37 (4) while unlicensed, committed or aided and abetted the commission
38 of any act for which a license is required by sections 1 through ~~9~~ **10**, and
39 amendments thereto; or

40 ~~(4)~~ (5) knowingly made any false statement in the application.

41 (d) The attorney general may charge a fee for initial application forms
42 and materials in an amount fixed by the attorney general pursuant to
43 section 8, and amendments thereto. Such fee shall be credited against the

1 application fee of any person who subsequently submits an application.

2 (e) Every application for an initial or a renewal license shall be
3 accompanied by a fee in an amount fixed by the attorney general pursuant
4 to section 8, and amendments thereto.

5 New Sec. 4. (a) The license, when issued, shall be in such form as
6 may be determined by the attorney general and shall include the:

7 (1) Name of the licensee; and

8 (2) number and date of the license.

9 (b) The license at all times shall be posted in a conspicuous place in
10 the principal place of business of the licensee. Upon the issuance of a
11 license, a pocket card of such size, design and content as determined by
12 the attorney general shall be issued without charge to each licensee. Such
13 card shall be evidence that the licensee is duly licensed pursuant to
14 sections 1 through ~~9~~ 10, and amendments thereto. When any licensee
15 terminates such licensee's activities as a bail enforcement agent, or such
16 licensee's license has been suspended or revoked, the card shall be
17 surrendered, within five days after such termination, suspension or
18 revocation, to the attorney general for cancellation. Within 30 days after
19 any change of address or of any change in its officers, directors, partners
20 or associates, a licensee shall notify the attorney general thereof. The
21 principal place of business may be at a residence or at a business address,
22 but it shall be the place at which the licensee maintains a permanent office.

23 New Sec. 5. (a) Any license issued under sections 1 through ~~9~~ 10, and
24 amendments thereto, shall expire two years from the date of issuance and
25 may be renewed every two years thereafter. Renewal of any such license
26 shall be made in the manner prescribed for obtaining an original license,
27 including payment of the appropriate fee required by section 8, and
28 amendments thereto, except that:

29 (1) The application for renewal shall provide the information required
30 of original applicants if the information shown on the original application
31 or any renewal thereof on file with the attorney general is no longer
32 accurate;

33 (2) a new photograph and classifiable set of fingerprints shall be
34 submitted with the application for renewal only if the photograph and
35 fingerprints on file with the attorney general has been on file more than
36 four years; and

37 (3) additional information may be required by rules and regulations
38 adopted by the attorney general.

39 (b) A license issued under sections 1 through ~~9~~ 10, and amendments
40 thereto, shall not be assignable.

41 New Sec. 6. (a) *In accordance with the Kansas administrative*
42 *procedure act*, the attorney general may censure, limit, condition, suspend
43 or revoke a license issued under sections 1 through ~~9~~ 10, and amendments

1 thereto, if ~~after notice and opportunity for hearing in accordance with the~~
2 ~~provisions of the Kansas administrative procedure act~~, the attorney general
3 determines that the licensee has:

4 (1) Made any false statement or given any false information in
5 connection with an application for a license or a renewal or reinstatement
6 thereof;

7 (2) violated any provisions of *K.S.A. 22-2809a* or sections 1 through
8 9 10, and amendments thereto;

9 (3) been convicted of a felony *or any other offense described in*
10 *section 3, and amendments thereto*;

11 (4) committed any act, while the license was expired, which would be
12 cause for the suspension or revocation of a license, or grounds for the
13 denial of an application for a license; ~~or~~

14 (5) committed any act which is grounds for denial of an application
15 for a license;

16 (6) *become subject to a domestic protection order from this or any*
17 *jurisdiction which complies with 18 U.S.C. § 922(g)(8)*;

18 (7) *become subject to K.S.A. 59-2945 et seq. or K.S.A. 59-29b45 et*
19 *seq., and amendments thereto, or a substantially similar proceeding*
20 *from another jurisdiction; or*

21 (8) *become subject to any proceeding which could render the*
22 *licensee subject to censure, limitation, condition, suspension or*
23 *revocation of such licensee's license under the provisions of this section.*

24 (b) The record of conviction, or a certified copy thereof, shall be
25 conclusive evidence of such conviction as that term is used in this section
26 or in section 3, and amendments thereto, and a plea or verdict of guilty or a
27 conviction following a plea of nolo contendere is deemed to be a
28 conviction within the meaning thereof.

29 New Sec. 7. (a) The licensing and regulation of bail enforcement
30 agents shall be under the exclusive jurisdiction and control of the attorney
31 general, as provided in sections 1 through 9 10, and amendments thereto,
32 and no city may adopt any ordinance which provides for the licensing or
33 regulation of bail enforcement agents. Any such ordinance which is so
34 adopted, or which has been adopted on or before July 1, 2015, is hereby
35 declared null and void.

36 (b) The attorney general shall adopt such rules and regulations as may
37 be necessary to carry out the provisions of sections 1 through 9 10, and
38 amendments thereto.

39 New Sec. 8. (a) In each fiscal year, the attorney general shall
40 determine the amount of funds which will be required during the next
41 ensuing fiscal year to properly administer the laws which the attorney
42 general is directed to enforce and administer relating to the licensure and
43 regulation of bail enforcement agents. The attorney general, by the

1 adoption of rules and regulations, shall fix fees in accordance with this
2 section in such reasonable sums as may be necessary for such purposes.

3 (b) After fixing such fees, the attorney general may charge and collect
4 the fees, in advance for the following purposes, subject to the following
5 limitations:

6 (1) For initial application forms and materials, not to exceed \$15;

7 (2) for application for licensure, not to exceed \$200; and

8 (3) for renewal of license, not to exceed \$175.

9 (c) A duplicate license shall be issued upon the filing of a statement
10 covering the loss of the license and the payment of a fee of ~~\$5~~ \$15 for the
11 issuance of a duplicate license. Each duplicate license shall have the word
12 "duplicate" stamped across the face thereof and shall bear the same
13 number as the original.

14 (d) In addition to the applicable original or renewal application fee
15 amount fixed by the attorney general pursuant to this section, the attorney
16 general may charge and collect a fee from each applicant to conduct a
17 criminal history records check. Such fee shall be in an amount fixed by the
18 attorney general and shall not exceed an amount necessary to reimburse
19 the attorney general for the cost of such criminal history records check.

20 New Sec. 9. The attorney general shall remit all moneys received
21 from fees or charges imposed pursuant to sections 1 through ~~9~~ 10, and
22 amendments thereto, to the state treasurer in accordance with the
23 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
24 each such remittance, the state treasurer shall deposit the entire amount in
25 the state treasury to the credit of the bail enforcement agents fee fund,
26 which is hereby created. Moneys in the bail enforcement agents fee fund
27 shall be used solely for the purpose of administering and implementing
28 sections 1 through ~~9~~ 10, and amendments thereto, and any other law
29 relating to the licensure and regulation of bail enforcement agents. All
30 expenditures from such fund shall be made in accordance with
31 appropriation acts upon warrants of the director of accounts and reports
32 issued pursuant to vouchers approved by the attorney general or by a
33 person or persons designated by the attorney general.

34 ***New Sec. 10. (a) The unlicensed conduct as a bail enforcement***
35 ***agent prohibited by this act and K.S.A. 22-2809a, and amendments***
36 ***thereto, constitutes an unconscionable act or practice in violation of***
37 ***K.S.A. 50-627, and amendments thereto, and any person who engages in***
38 ***unlicensed conduct as a bail enforcement agent shall be subject to the***
39 ***remedies and penalties provided by the Kansas consumer protection act.***

40 ***(b) For the purposes of the remedies and penalties provided by the***
41 ***Kansas consumer protection act:***

42 ***(1) The person committing unlicensed conduct as a bail***
43 ***enforcement agent shall be deemed the supplier, and the person who is***

1 *the victim of such conduct shall be deemed the consumer; and*

2 *(2) proof of a consumer transaction shall not be required.*

3 *(c) Notwithstanding any provision of the Kansas consumer*
4 *protection act to the contrary, only the attorney general, or the attorney*
5 *general's designee, may bring a civil action alleging a violation of the*
6 *Kansas consumer protection act pursuant to this section. This section*
7 *shall not be construed as creating or allowing a private right of action*
8 *under the Kansas consumer protection act.*

9 *(d) In addition to any civil penalties provided by this section, a*
10 *person who violates any provision of sections 1 through 10, and*
11 *amendments thereto, may be prosecuted for, convicted of, and punished*
12 *for an offense under K.S.A. 22-2809a, and amendments thereto.*

13 *(e) This section shall be part of and supplemental to the Kansas*
14 *consumer protection act.*

15 *New Sec. 11. (a) As used in this section:*

16 *(1) "Compensated surety" means any person who or entity that is*
17 *not a corporation that, as surety, issues appearance bonds for*
18 *compensation, is responsible for any forfeiture and is liable for*
19 *appearance bonds written by such person's or entity's authorized agents.*
20 *A compensated surety is either an insurance agent surety or a property*
21 *surety.*

22 *(2) "Insurance agent surety" means a compensated surety licensed*
23 *by the insurance commissioner to issue surety bonds or appearance*
24 *bonds in this state and who represents an authorized insurance*
25 *company. An insurance agent surety may have other insurance agent*
26 *sureties working with or for such surety.*

27 *(3) "Property surety" means a compensated surety who secures*
28 *appearance bonds by property pledged as security. A property surety may*
29 *be a person or entity, other than a corporation, and may authorize bail*
30 *agents to act on behalf of the property surety in writing appearance*
31 *bonds.*

32 *(4) "Bail agent" means a person authorized by a compensated*
33 *surety to execute surety bail bonds on such surety's behalf.*

34 *(b) Every compensated surety shall submit an application to the*
35 *chief judge of the judicial district, or the chief judge's designee, in each*
36 *judicial district where such surety seeks to act as a surety. A*
37 *compensated surety shall not act as a surety in such judicial district*
38 *prior to approval of such application.*

39 *(1) The application shall include, but is not limited to, the following*
40 *information for each insurance agent surety, property surety or bail*
41 *agent:*

42 *(A) A copy of the applicant's Kansas driver's license or nondriver's*
43 *identification card;*

1 ***(B) a statement, made under penalty of perjury, that the applicant is***
2 ***a resident of this state and is not prohibited by K.S.A. 22-2809a(c), and***
3 ***amendments thereto, from acting as a surety;***

4 ***(C) a certificate of continuing education compliance in accordance***
5 ***with subsection (f).***

6 ***(2) The application for each insurance agent surety also shall***
7 ***include:***

8 ***(A) A copy of the qualifying power of attorney certificates issued to***
9 ***such surety by any insurance company;***

10 ***(B) a current and valid certificate of license from the insurance***
11 ***department; and***

12 ***(C) a current and valid certificate of authority from the insurance***
13 ***department.***

14 ***(3) The application for each property surety also shall include:***

15 ***(A) A list of all bail agents authorized by such property surety to***
16 ***write appearance bonds on such property surety's behalf and all***
17 ***documentation from such bail agents demonstrating compliance with***
18 ***subsection (b)(1); and***

19 ***(B) an affidavit describing the property by which such property***
20 ***surety proposes to justify its obligations and the encumbrances thereon,***
21 ***and all such surety's other liabilities. The description shall include a***
22 ***valuation of the property described therein. If the valuation is not readily***
23 ***evident, an appraisal of the property may be required and, if required,***
24 ***shall be incorporated into the affidavit.***

25 ***(c) A property surety authorized to act as a surety in a judicial***
26 ***district pursuant to subsection (b) shall be allowed outstanding***
27 ***appearance bonds not to exceed an aggregate amount which is 15 times***
28 ***the valuation of the property described in subsection (b)(3). Such***
29 ***property surety shall not write any single appearance bond that exceeds***
30 ***35% of the total valuation of the property described in subsection (b)(3).***

31 ***(d) (1) Each judicial district may, by local rule, require additional***
32 ***information from any compensated surety and establish what property is***
33 ***acceptable for bonding purposes under subsection (b)(3).***

34 ***(2) A judicial district shall not require any compensated surety to***
35 ***apply for authorization in such judicial district more than once per year,***
36 ***but may require additional reporting from any compensated surety in its***
37 ***discretion. If the judicial district does not require an annual application,***
38 ***each compensated surety or bail agent shall provide a certificate of***
39 ***continuing education compliance in accordance with subsection (f) to***
40 ***the judicial district each year.***

41 ***(3) A judicial district shall not decline authorization for a***
42 ***compensated surety solely on the basis of type of compensated surety.***

43 ***(e) (1) Nothing in this section shall be construed to require the***

1 *chief judge of the judicial district, or the chief judge's designee, to*
2 *authorize any compensated surety to act as a surety in such judicial*
3 *district if the judge or designee finds, in such person's discretion, that*
4 *such authorization is not warranted.*

5 *(2) If such authorization is granted, the chief judge of the judicial*
6 *district, or the chief judge's designee, may terminate or suspend the*
7 *authorization at any time.*

8 *(A) If the authorization is suspended for 30 days or more, the judge*
9 *or designee shall make a record describing the length of the suspension*
10 *and the underlying cause and provide such record to the surety. Such*
11 *surety, upon request, shall be entitled to a hearing within 30 days after*
12 *the suspension is ordered.*

13 *(B) If the authorization is terminated, the judge or designee shall*
14 *make a record describing the underlying cause and provide such record*
15 *to the surety. Such surety, upon request, shall be entitled to a hearing*
16 *within 30 days after the termination is ordered.*

17 *(3) If an authorized compensated surety does not comply with the*
18 *continuing education requirements in subsection (f), the chief judge of*
19 *the judicial district, or the chief judge's designee, may allow a*
20 *conditional authorization to continue acting as a surety for 90 days. If*
21 *such compensated surety does not comply with the continuing education*
22 *requirements in subsection (f) within 90 days, such conditional*
23 *authorization shall be terminated and such compensated surety shall not*
24 *act as a surety in such judicial district.*

25 *(f) (1) Every compensated surety shall obtain at least eight hours of*
26 *continuing education credits during each 12-month period beginning on*
27 *January 1, 2017.*

28 *(2) The Kansas bail agents association shall either provide or*
29 *contract for a minimum of eight hours of continuing education classes*
30 *to be held at least once annually in each congressional district and may*
31 *provide additional classes in its discretion. The chief judge in each*
32 *judicial district may provide a list of topics to be covered during the*
33 *continuing education classes. A schedule of such classes shall be*
34 *publicly available. The association shall not charge more than \$250*
35 *annually for the eight hours of continuing education classes, and the*
36 *cost of any class with less than eight hours of continuing education shall*
37 *be prorated accordingly. Any fee charged for attending continuing*
38 *education classes shall not be increased or decreased based upon a*
39 *compensated surety's membership or lack of membership in the*
40 *association.*

41 *(3) Upon completion of at least eight hours of continuing education*
42 *credits during each 12-month period by a compensated surety, the*
43 *Kansas bail agents association shall issue a certificate of continuing*

1 *education compliance to such surety. The certificate shall be prepared*
2 *and delivered to the compensated surety within 30 days of such surety's*
3 *completion of the continuing education requirements. The certificate*
4 *shall show in detail the dates and hours of each course attended, along*
5 *with the signature of the Kansas bail agents association official attesting*
6 *that all continuing education requirements have been completed.*

7 *(4) Any continuing education credits used to comply with*
8 *conditional authorization pursuant to subsection (e)(3) shall not be*
9 *applied towards compliance in the current 12-month period or any*
10 *subsequent 12-month period.*

11 *Sec. 12. K.S.A. 2015 Supp. 12-4516 is hereby amended to read as*
12 *follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d),*
13 *(e) and (f), any person who has been convicted of a violation of a city*
14 *ordinance of this state may petition the convicting court for the*
15 *expungement of such conviction and related arrest records if three or*
16 *more years have elapsed since the person:*

17 *(A) Satisfied the sentence imposed; or*

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

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

26 *(b) Any person convicted of a violation of any ordinance that is*
27 *prohibited by either K.S.A. 2015 Supp. 12-16,134(a) or (b), and*
28 *amendments thereto, and which was adopted prior to July 1, 2014, or*
29 *who entered into a diversion agreement in lieu of further criminal*
30 *proceedings for such violation, may petition the convicting court for the*
31 *expungement of such conviction or diversion agreement and related*
32 *arrest records.*

33 *(c) Any person convicted of the violation of a city ordinance which*
34 *would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or*
35 *a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto, or*
36 *who entered into a diversion agreement in lieu of further criminal*
37 *proceedings for such violation, may petition the convicting court for the*
38 *expungement of such conviction or diversion agreement and related*
39 *arrest records if:*

40 *(1) One or more years have elapsed since the person satisfied the*
41 *sentence imposed or the terms of a diversion agreement or was*
42 *discharged from probation, parole, conditional release or a suspended*
43 *sentence; and*

1 (2) *such person can prove they were acting under coercion caused*
2 *by the act of another. For purposes of this subsection, "coercion"*
3 *means: Threats of harm or physical restraint against any person; a*
4 *scheme, plan or pattern intended to cause a person to believe that failure*
5 *to perform an act would result in bodily harm or physical restraint*
6 *against any person; or the abuse or threatened abuse of the legal*
7 *process.*

8 (d) *No person may petition for expungement until five or more*
9 *years have elapsed since the person satisfied the sentence imposed or the*
10 *terms of a diversion agreement or was discharged from probation,*
11 *parole, conditional release or a suspended sentence, if such person was*
12 *convicted of the violation of a city ordinance which would also*
13 *constitute:*

14 (1) *Vehicular homicide, as defined by K.S.A. 21-3405, prior to its*
15 *repeal, or K.S.A. 2015 Supp. 21-5406, and amendments thereto;*

16 (2) *driving while the privilege to operate a motor vehicle on the*
17 *public highways of this state has been canceled, suspended or revoked,*
18 *as prohibited by K.S.A. 8-262, and amendments thereto;*

19 (3) *perjury resulting from a violation of K.S.A. 8-261a, and*
20 *amendments thereto;*

21 (4) *a violation of the provisions of K.S.A. 8-142 Fifth, and*
22 *amendments thereto, relating to fraudulent applications;*

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

25 (6) *failing to stop at the scene of an accident and perform the duties*
26 *required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and*
27 *amendments thereto;*

28 (7) *a violation of the provisions of K.S.A. 40-3104, and amendments*
29 *thereto, relating to motor vehicle liability insurance coverage; or*

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

31 (e) (1) *No person may petition for expungement until five or more*
32 *years have elapsed since the person satisfied the sentence imposed or the*
33 *terms of a diversion agreement or was discharged from probation,*
34 *parole, conditional release or a suspended sentence, if such person was*
35 *convicted of a first violation of a city ordinance which would also*
36 *constitute a first violation of K.S.A. 8-1567 or K.S.A. 2015 Supp. 8-1025,*
37 *and amendments thereto.*

38 (2) *No person may petition for expungement until 10 or more years*
39 *have elapsed since the person satisfied the sentence imposed or was*
40 *discharged from probation, parole, conditional release or a suspended*
41 *sentence, if such person was convicted of a second or subsequent*
42 *violation of a city ordinance which would also constitute a second or*
43 *subsequent violation of K.S.A. 8-1567 or K.S.A. 2015 Supp. 8-1025, and*

1 *amendments thereto.*

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

5 *(g) (1) When a petition for expungement is filed, the court shall set*
6 *a date for a hearing of such petition and shall cause notice of such*
7 *hearing to be given to the prosecuting attorney and the arresting law*
8 *enforcement agency. The petition shall state the:*

9 *(A) Defendant's full name;*

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

12 *(C) defendant's sex, race and date of birth;*

13 *(D) crime for which the defendant was arrested, convicted or*
14 *diverted;*

15 *(E) date of the defendant's arrest, conviction or diversion; and*

16 *(F) identity of the convicting court, arresting law enforcement*
17 *agency or diverting authority.*

18 *(2) A municipal court may prescribe a fee to be charged as costs for*
19 *a person petitioning for an order of expungement pursuant to this*
20 *section.*

21 *(3) Any person who may have relevant information about the*
22 *petitioner may testify at the hearing. The court may inquire into the*
23 *background of the petitioner and shall have access to any reports or*
24 *records relating to the petitioner that are on file with the secretary of*
25 *corrections or the prisoner review board.*

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

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

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

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

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

1 *that:*

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

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

8 *(A) In any application for licensure as a private detective, private*
9 *detective agency, certification as a firearms trainer pursuant to K.S.A.*
10 *2015 Supp. 75-7b21, and amendments thereto, or employment as a*
11 *detective with a private detective agency, as defined by K.S.A. 75-7b01,*
12 *and amendments thereto; as security personnel with a private patrol*
13 *operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with*
14 *an institution, as defined in K.S.A. 76-12a01, and amendments thereto,*
15 *of the Kansas department for aging and disability services;*

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

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

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

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

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

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

37 *(H) 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;*

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

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

1 *as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;*~~or~~

2 *(K) for applications received on and after July 1, 2006, to aid in*
3 *determining the petitioner's qualifications for a license to carry a*
4 *concealed weapon pursuant to the personal and family protection act,*
5 *K.S.A. 2015 Supp. 75-7c01 et seq., and amendments thereto; or*

6 *(L) for applications received on and after July 1, 2016, to aid in*
7 *determining the petitioner's qualifications for a license to act as a bail*
8 *enforcement agent pursuant to sections 1 through 10, and amendments*
9 *thereto;*

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

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

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

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

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

34 *(1) The person whose record was expunged;*

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

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

41 *(4) the secretary for aging and disability services, or a designee of*
42 *the secretary, for the purpose of obtaining information relating to*
43 *employment in an institution, as defined in K.S.A. 76-12a01, and*

1 *amendments thereto, of the Kansas department for aging and disability*
2 *services of any person whose record has been expunged;*

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

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

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

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

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

28 *(10) the Kansas racing and gaming commission, or a designee of*
29 *the commission, and the request is accompanied by a statement that the*
30 *request is being made to aid in determining qualifications of the*
31 *following under the Kansas expanded lottery act:*

32 *(A) Lottery gaming facility managers and prospective managers,*
33 *racetrack gaming facility managers and prospective managers, licensees*
34 *and certificate holders; and*

35 *(B) their officers, directors, employees, owners, agents and*
36 *contractors;*

37 *(11) the state gaming agency, and the request is accompanied by a*
38 *statement that the request is being made to aid in determining*
39 *qualifications:*

40 *(A) To be an employee of the state gaming agency; or*

41 *(B) to be an employee of a tribal gaming commission or to hold a*
42 *license issued pursuant to a tribal-state gaming compact;*

43 *(12) the Kansas securities commissioner, or a designee of the*

1 *commissioner, and the request is accompanied by a statement that the*
2 *request is being made in conjunction with an application for registration*
3 *as a broker-dealer, agent, investment adviser or investment adviser*
4 *representative by such agency and the application was submitted by the*
5 *person whose record has been expunged;*

6 *(13) the attorney general, and the request is accompanied by a*
7 *statement that the request is being made to aid in determining*
8 *qualifications for a license to:*

9 *(A) Carry a concealed weapon pursuant to the personal and family*
10 *protection act; or*

11 *(B) act as a bail enforcement agent pursuant to sections 1 through*
12 *10, and amendments thereto;*

13 *(14) the Kansas sentencing commission;*

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

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

23 *Sec. 13. K.S.A. 2015 Supp. 21-6614 is hereby amended to read as*
24 *follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d),*
25 *(e) and (f), any person convicted in this state of a traffic infraction,*
26 *cigarette or tobacco infraction, misdemeanor or a class D or E felony, or*
27 *for crimes committed on or after July 1, 1993, any nongrid felony or*
28 *felony ranked in severity levels 6 through 10 of the nondrug grid, or for*
29 *crimes committed on or after July 1, 1993, but prior to July 1, 2012, any*
30 *felony ranked in severity level 4 of the drug grid, or for crimes*
31 *committed on or after July 1, 2012, any felony ranked in severity level 5*
32 *of the drug grid may petition the convicting court for the expungement*
33 *of such conviction or related arrest records if three or more years have*
34 *elapsed since the person: (A) Satisfied the sentence imposed; or (B) was*
35 *discharged from probation, a community correctional services program,*
36 *parole, postrelease supervision, conditional release or a suspended*
37 *sentence.*

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

43 *(b) Any person convicted of prostitution, as defined in K.S.A. 21-*

1 3512, prior to its repeal, convicted of a violation of K.S.A. 2015 Supp.
2 21-6419, and amendments thereto, or who entered into a diversion
3 agreement in lieu of further criminal proceedings for such violation,
4 may petition the convicting court for the expungement of such
5 conviction or diversion agreement and related arrest records if:

6 (1) One or more years have elapsed since the person satisfied the
7 sentence imposed or the terms of a diversion agreement or was
8 discharged from probation, a community correctional services program,
9 parole, postrelease supervision, conditional release or a suspended
10 sentence; and

11 (2) such person can prove they were acting under coercion caused
12 by the act of another. For purposes of this subsection, "coercion"
13 means: Threats of harm or physical restraint against any person; a
14 scheme, plan or pattern intended to cause a person to believe that failure
15 to perform an act would result in bodily harm or physical restraint
16 against any person; or the abuse or threatened abuse of the legal
17 process.

18 (c) Except as provided in subsections (e) and (f), no person may
19 petition for expungement until five or more years have elapsed since the
20 person satisfied the sentence imposed or the terms of a diversion
21 agreement or was discharged from probation, a community correctional
22 services program, parole, postrelease supervision, conditional release or
23 a suspended sentence, if such person was convicted of a class A, B or C
24 felony, or for crimes committed on or after July 1, 1993, if convicted of
25 an off-grid felony or any felony ranked in severity levels 1 through 5 of
26 the nondrug grid, or for crimes committed on or after July 1, 1993, but
27 prior to July 1, 2012, any felony ranked in severity levels 1 through 3 of
28 the drug grid, or for crimes committed on or after July 1, 2012, any
29 felony ranked in severity levels 1 through 4 of the drug grid, or:

30 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
31 repeal, or K.S.A. 2015 Supp. 21-5406, and amendments thereto, or as
32 prohibited by any law of another state which is in substantial conformity
33 with that statute;

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

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

42 (4) violating the provisions of K.S.A. 8-142 Fifth, and amendments
43 thereto, relating to fraudulent applications or violating the provisions of

1 *a law of another state which is in substantial conformity with that*
2 *statute;*

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, prior to its repeal, or 8-1604, and*
7 *amendments thereto, or required by a law of another state which is in*
8 *substantial conformity with those statutes;*

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

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

12 (d) (1) *No person may petition for expungement until five or more*
13 *years have elapsed since the person satisfied the sentence imposed or the*
14 *terms of a diversion agreement or was discharged from probation, a*
15 *community correctional services program, parole, postrelease*
16 *supervision, conditional release or a suspended sentence, if such person*
17 *was convicted of a first violation of K.S.A. 8-1567 or K.S.A. 2015 Supp.*
18 *8-1025, and amendments thereto, including any diversion for such*
19 *violation.*

20 (2) *No person may petition for expungement until 10 or more years*
21 *have elapsed since the person satisfied the sentence imposed or was*
22 *discharged from probation, a community correctional services program,*
23 *parole, postrelease supervision, conditional release or a suspended*
24 *sentence, if such person was convicted of a second or subsequent*
25 *violation of K.S.A. 8-1567 or K.S.A. 2015 Supp. 8-1025, and*
26 *amendments thereto.*

27 (e) *There shall be no expungement of convictions for the following*
28 *offenses or of convictions for an attempt to commit any of the following*
29 *offenses:*

30 (1) *Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.*
31 *2015 Supp. 21-5503, and amendments thereto;*

32 (2) *indecent liberties with a child or aggravated indecent liberties*
33 *with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their*
34 *repeal, or K.S.A. 2015 Supp. 21-5506, and amendments thereto;*

35 (3) *criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),*
36 *prior to its repeal, or K.S.A. 2015 Supp. 21-5504(a)(3) or (a)(4), and*
37 *amendments thereto;*

38 (4) *aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior*
39 *to its repeal, or K.S.A. 2015 Supp. 21-5504, and amendments thereto;*

40 (5) *indecent solicitation of a child or aggravated indecent*
41 *solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to*
42 *their repeal, or K.S.A. 2015 Supp. 21-5508, and amendments thereto;*

43 (6) *sexual exploitation of a child, as defined in K.S.A. 21-3516,*

1 *prior to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments*
2 *thereto;*

3 (7) *aggravated incest, as defined in K.S.A. 21-3603, prior to its*
4 *repeal, or K.S.A. 2015 Supp. 21-5604, and amendments thereto;*

5 (8) *endangering a child or aggravated endangering a child, as*
6 *defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A.*
7 *2015 Supp. 21-5601, and amendments thereto;*

8 (9) *abuse of a child, as defined in K.S.A. 21-3609, prior to its*
9 *repeal, or K.S.A. 2015 Supp. 21-5602, and amendments thereto;*

10 (10) *capital murder, as defined in K.S.A. 21-3439, prior to its*
11 *repeal, or K.S.A. 2015 Supp. 21-5401, and amendments thereto;*

12 (11) *murder in the first degree, as defined in K.S.A. 21-3401, prior*
13 *to its repeal, or K.S.A. 2015 Supp. 21-5402, and amendments thereto;*

14 (12) *murder in the second degree, as defined in K.S.A. 21-3402,*
15 *prior to its repeal, or K.S.A. 2015 Supp. 21-5403, and amendments*
16 *thereto;*

17 (13) *voluntary manslaughter, as defined in K.S.A. 21-3403, prior to*
18 *its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto;*

19 (14) *involuntary manslaughter, as defined in K.S.A. 21-3404, prior*
20 *to its repeal, or K.S.A. 2015 Supp. 21-5405, and amendments thereto;*

21 (15) *sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,*
22 *or K.S.A. 2015 Supp. 21-5505, and amendments thereto, when the victim*
23 *was less than 18 years of age at the time the crime was committed;*

24 (16) *aggravated sexual battery, as defined in K.S.A. 21-3518, prior*
25 *to its repeal, or K.S.A. 2015 Supp. 21-5505, and amendments thereto;*

26 (17) *a violation of K.S.A. 8-2,144, and amendments thereto,*
27 *including any diversion for such violation; or*

28 (18) *any conviction for any offense in effect at any time prior to*
29 *July 1, 2011, that is comparable to any offense as provided in this*
30 *subsection.*

31 (f) *Notwithstanding any other law to the contrary, for any offender*
32 *who is required to register as provided in the Kansas offender*
33 *registration act, K.S.A. 22-4901 et seq., and amendments thereto, there*
34 *shall be no expungement of any conviction or any part of the offender's*
35 *criminal record while the offender is required to register as provided in*
36 *the Kansas offender registration act.*

37 (g) (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*
39 *hearing to be given to the prosecutor and the arresting law enforcement*
40 *agency. 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 by law, a petition for expungement*
8 *shall be accompanied by a docket fee in the amount of \$176. On and*
9 *after July 1, 2013 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme*
10 *court may impose a charge, not to exceed \$19 per case, to fund the costs*
11 *of non-judicial personnel. The charge established in this section shall be*
12 *the only fee collected or moneys in the nature of a fee collected for the*
13 *case. Such charge shall only be established by an act of the legislature*
14 *and no other authority is established by law or otherwise to collect a fee.*

15 (3) *All petitions for expungement shall be docketed in the original*
16 *criminal action. Any person who may have relevant information about*
17 *the petitioner may testify at the hearing. The court may inquire into the*
18 *background of the petitioner and shall have access to any reports or*
19 *records relating to the petitioner that are on file with the secretary of*
20 *corrections or the prisoner review board.*

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

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

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

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

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

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

43 (2) *the petitioner shall disclose that the arrest, conviction or*

1 *diversion occurred if asked about previous arrests, convictions or*
2 *diversions:*

3 *(A) In any application for licensure as a private detective, private*
4 *detective agency, certification as a firearms trainer pursuant to K.S.A.*
5 *2015 Supp. 75-7b21, and amendments thereto, or employment as a*
6 *detective with a private detective agency, as defined by K.S.A. 75-7b01,*
7 *and amendments thereto; as security personnel with a private patrol*
8 *operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with*
9 *an institution, as defined in K.S.A. 76-12a01, and amendments thereto,*
10 *of the Kansas department for aging and disability services;*

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

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

17 *(D) to aid in determining the petitioner's qualifications for*
18 *executive director of the Kansas racing and gaming commission, for*
19 *employment with the commission or for work in sensitive areas in*
20 *parimutuel racing as deemed appropriate by the executive director of the*
21 *commission, or to aid in determining qualifications for licensure or*
22 *renewal of licensure by the commission;*

23 *(E) to aid in determining the petitioner's qualifications for the*
24 *following under the Kansas expanded lottery act: (i) Lottery gaming*
25 *facility manager or prospective manager, racetrack gaming facility*
26 *manager or prospective manager, licensee or certificate holder; or (ii) an*
27 *officer, director, employee, owner, agent or contractor thereof;*

28 *(F) upon application for a commercial driver's license under K.S.A.*
29 *8-2,125 through 8-2,142, and amendments thereto;*

30 *(G) to aid in determining the petitioner's qualifications to be an*
31 *employee of the state gaming agency;*

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

35 *(I) in any application for registration as a broker-dealer, agent,*
36 *investment adviser or investment adviser representative all as defined in*
37 *K.S.A. 17-12a102, and amendments thereto;*

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

40 *(K) for applications received on and after July 1, 2006, to aid in*
41 *determining the petitioner's qualifications for a license to carry a*
42 *concealed weapon pursuant to the personal and family protection act,*
43 *K.S.A. 2015 Supp. 75-7c01 et seq., and amendments thereto; or*

1 (L) for applications received on and after July 1, 2016, to aid in
2 determining the petitioner's qualifications for a license to act as a bail
3 enforcement agent pursuant to sections 1 through 10, and amendments
4 thereto;

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

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

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

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

21 (k) (1) Subject to the disclosures required pursuant to subsection
22 (i), in any application for employment, license or other civil right or
23 privilege, or any appearance as a witness, a person whose arrest records,
24 conviction or diversion of a crime has been expunged under this statute
25 may state that such person has never been arrested, convicted or diverted
26 of such crime.

27 (2) Notwithstanding the provisions of subsection (k)(1), and except
28 as provided in K.S.A. 2015 Supp. 21-6304(a)(3)(A), and amendments
29 thereto, the expungement of a prior felony conviction does not relieve
30 the individual of complying with any state or federal law relating to the
31 use, shipment, transportation, receipt or possession of firearms by
32 persons previously convicted of a felony.

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

39 (1) The person whose record was expunged;

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

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

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

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

10 (6) *a prosecutor, and such request is accompanied by a statement*
11 *that the request is being made in conjunction with a prosecution of an*
12 *offense that requires a prior conviction as one of the elements of such*
13 *offense;*

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

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

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

33 (10) *the Kansas racing and gaming commission, or a designee of*
34 *the commission, and the request is accompanied by a statement that the*
35 *request is being made to aid in determining qualifications of the*
36 *following under the Kansas expanded lottery act: (A) Lottery gaming*
37 *facility managers and prospective managers, racetrack gaming facility*
38 *managers and prospective managers, licensees and certificate holders;*
39 *and (B) their officers, directors, employees, owners, agents and*
40 *contractors;*

41 (11) *the Kansas sentencing commission;*

42 (12) *the state gaming agency, and the request is accompanied by a*
43 *statement that the request is being made to aid in determining*

1 *qualifications: (A) To be an employee of the state gaming agency; or (B)*
2 *to be an employee of a tribal gaming commission or to hold a license*
3 *issued pursuant to a tribal-gaming compact;*

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

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

15 *(15) a law enforcement agency and the request is accompanied by a*
16 *statement that the request is being made to aid in determining eligibility*
17 *for employment as a law enforcement officer as defined by K.S.A. 22-*
18 *2202, and amendments thereto;*

19 *(16) the attorney general and the request is accompanied by a*
20 *statement that the request is being made to:*

21 *(A) Aid in determining qualifications for a license to carry a*
22 *concealed weapon pursuant to the personal and family protection act; or*

23 *(B) act as a bail enforcement agent pursuant to sections 1 through*
24 *10, and amendments thereto; or*

25 *(17) the Kansas bureau of investigation for the purposes of:*

26 *(A) Completing a person's criminal history record information*
27 *within the central repository, in accordance with K.S.A. 22-4701 et seq.,*
28 *and amendments thereto; or*

29 *(B) providing information or documentation to the federal bureau*
30 *of investigation, in connection with the national instant criminal*
31 *background check system, to determine a person's qualification to*
32 *possess a firearm.*

33 *(m) The provisions of subsection (l)(17) shall apply to records*
34 *created prior to, on and after July 1, 2011.*

35 *Sec. 14. K.S.A. 22-2806 is hereby amended to read as follows: 22-*
36 *2806. Every uncompensated surety, except an insurance company*
37 *authorized to transact business pursuant to subsection (d) of K.S.A. 40-*
38 *1102(d), and amendments thereto, shall justify by affidavit and may be*
39 *required to describe in the affidavit the property by which such surety*
40 *proposes to justify and the encumbrances thereon, the number and*
41 *amount of other bonds and undertakings for bail entered into by such*
42 *surety and remaining undischarged and all such surety's other*
43 *liabilities. No bond shall be approved unless the uncompensated surety*

1 *appears to be qualified. The appearance bond and the uncompensated*
2 *sureties may be approved and accepted by a judge of the court where the*
3 *action is pending or by the sheriff of the county.*

4 Sec. ~~10~~ 15. K.S.A. ~~2014~~ 2015 Supp. 22-2809a is hereby amended to
5 read as follows: 22-2809a. (a) As used in this section:

6 (1) "Surety" means a person or commercial surety, other than a
7 defendant in a criminal proceeding, that guarantees the appearance of a
8 defendant in a criminal proceeding, by executing an appearance bond;

9 (2) ~~"agent of a surety" means a person not performing the duties of a~~
10 ~~law enforcement officer who tracks down, captures and surrenders to the~~
11 ~~custody of a court a fugitive who has violated a surety or bail bond~~
12 ~~agreement. "bail agent" means a person authorized by a surety to execute~~
13 ~~surety bail bonds on behalf of such surety; and~~

14 (3) *"bail enforcement agent" means a person not performing the duties*
15 *of a law enforcement officer who tracks down, captures and surrenders to*
16 *the custody of a court a fugitive who has violated a surety or bail bond*
17 *agreement, commonly referred to as a bounty hunter, but is not a surety or*
18 *bail agent.*

19 (b) ~~Any surety or agent of a surety, commonly referred to as a bounty~~
20 ~~hunter, bail agent or bail enforcement agent who intends to apprehend any~~
21 ~~person in this state pursuant to K.S.A. 22-2809, and amendments thereto,~~
22 ~~or under similar authority from any other state, shall inform law~~
23 ~~enforcement authorities in the city or county in which such surety or agent~~
24 ~~of a surety, bail agent or bail enforcement agent intends such~~
25 ~~apprehension, before attempting such apprehension. The surety or agent of~~
26 ~~a surety, bail agent or bail enforcement agent shall present to the local law~~
27 ~~enforcement authorities a certified copy of the bond, a valid government-~~
28 ~~issued photo identification, written appointment of agency, if not the actual~~
29 ~~surety, and all other appropriate paperwork identifying the principal and~~
30 ~~the person to be apprehended. Local law enforcement may accompany the~~
31 ~~surety or agent, bail agent or bail enforcement agent.~~

32 (c) No person who has been convicted, in this or any other
33 jurisdiction, of a felony shall act as a surety ~~or as an agent of a surety,~~ *bail*
34 *agent or bail enforcement agent, unless such conviction has been*
35 *expunged.*

36 (d) *A bail enforcement agent must be licensed under sections 1*
37 *through ~~9~~ 10, and amendments thereto, in order to apprehend a person*
38 *pursuant to K.S.A. 22-2809, and amendments thereto.*

39 (e) ~~An out-of-state surety or agent of a surety, bail agent or bail~~
40 ~~enforcement agent who intends to apprehend any person in this state~~
41 ~~pursuant to K.S.A. 22-2809, and amendments thereto, or under similar~~
42 ~~authority from any other state, shall contract with an individual that has~~
43 ~~been authorized by any court in this state to act as a surety or agent of a~~

1 surety, before attempting such apprehension, ~~and be accompanied by such~~
2 ~~individual during such apprehension shall:~~

3 (1) *Have a bail enforcement agent's license pursuant to sections 1*
4 *through ~~9~~ 10, and amendments thereto;*

5 (2) *contract with an individual that has been authorized by any court*
6 *in this state to act as a surety and be accompanied by such individual*
7 *during such apprehension; or*

8 (3) *contract with an individual who is currently a licensed bail*
9 *enforcement agent pursuant to sections 1 through ~~9~~ 10, and amendments*
10 *thereto, and be accompanied by such individual during such apprehension.*

11 ~~(e)-(f)~~ Violation of this section is a class A nonperson misdemeanor
12 for the first conviction of a violation and a severity level 9, nonperson
13 felony upon a second or subsequent conviction of a violation.

14 Sec. ~~11~~ 16. *K.S.A. 22-2806 and K.S.A. ~~2014~~ 2015 Supp. 12-4516,*
15 *12-4516d, 21-6614, 21-6614f and 22-2809a ~~is~~ are hereby repealed.*

16 Sec. 12. ~~15~~ 17. This act shall take effect and be in force from and
17 after its publication in the statute book.