

SENATE BILL No. 214

By Committee on Corrections and Juvenile Justice

2-12

1 AN ACT concerning human trafficking and related crimes; relating to
2 commercial sexual exploitation of a child; civil action for victims;
3 restitution; amending K.S.A. 2014 Supp. 21-5501, 21-6328, 22-3424,
4 22-3436, 22-3701, 22-3727, 22-3727a, 22-4614, 23-2225, 23-3222, 38-
5 2202, 38-2271, 38-2309, 38-2310, 39-970, 44-706, 59-2132, 59-29a14,
6 60-455, 60-5001, 65-5117, 72-1397, 74-7305, 75-452 and 76-11a13
7 and repealing the existing sections; also repealing K.S.A. 2013 Supp.
8 38-2310, as amended by section 2 of chapter 131 of the 2014 Session
9 Laws of Kansas.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 New Section 1. (a) A victim of the conduct of another that would
13 constitute conduct prohibited by K.S.A. 2014 Supp. 21-5426, and
14 amendments thereto, human trafficking or aggravated human trafficking,
15 or K.S.A. 2014 Supp. 21-6422, and amendments thereto, commercial
16 sexual exploitation of a child, may bring an action in an appropriate state
17 court against the person or persons who engaged in such conduct if the
18 victim suffered personal or psychological injury as a result of the conduct.
19 Such victim may seek actual damages, exemplary or punitive damages,
20 injunctive relief and any other appropriate relief.

21 (b) In an action under this section, the court shall award a prevailing
22 plaintiff the cost of the suit, including reasonable attorney fees. A victim
23 who is awarded damages under this section shall be deemed to have
24 sustained damages of at least \$150,000.

25 (c) Notwithstanding any other provision of law, any action
26 commenced under this section shall be filed within 10 years after the later
27 of the date on which the victim:

- 28 (1) Was freed from the human trafficking situation; or
29 (2) attained 18 years of age.

30 (d) At the victim's request, the attorney general may pursue cases on
31 behalf of any Kansas victim under this section. All damages obtained shall
32 go to the victim, and the attorney general may seek reasonable attorney
33 fees and costs.

34 (e) Any action brought under this section shall be subject to the
35 provisions of K.S.A. 74-7312, and amendments thereto.

36 (f) This section does not preclude any other remedy available to the

1 victim under federal law or law of this state.

2 Sec. 2. K.S.A. 2014 Supp. 21-5501 is hereby amended to read as
3 follows: 21-5501. The following definitions shall apply when the words
4 and phrases defined are used in article 55 of chapter 21 of the Kansas
5 Statutes Annotated, and K.S.A. 2014 Supp. 21-6419 through ~~21-6421~~ 21-
6 6422, and amendments thereto, except when a particular context clearly
7 requires a different meaning:

8 (a) "Sexual intercourse" means any penetration of the female sex
9 organ by a finger, the male sex organ or any object. Any penetration,
10 however slight, is sufficient to constitute sexual intercourse. "Sexual
11 intercourse" does not include penetration of the female sex organ by a
12 finger or object in the course of the performance of:

13 (1) Generally recognized health care practices; or

14 (2) a body cavity search conducted in accordance with K.S.A. 22-
15 2520 through 22-2524, and amendments thereto.

16 (b) "Sodomy" means oral contact or oral penetration of the female
17 genitalia or oral contact of the male genitalia; anal penetration, however
18 slight, of a male or female by any body part or object; or oral or anal
19 copulation or sexual intercourse between a person and an animal.
20 "Sodomy" does not include penetration of the anal opening by a finger or
21 object in the course of the performance of:

22 (1) Generally recognized health care practices; or

23 (2) a body cavity search conducted in accordance with K.S.A. 22-
24 2520 through 22-2524, and amendments thereto.

25 (c) "Spouse" means a lawful husband or wife, unless the couple is
26 living apart in separate residences or either spouse has filed an action for
27 annulment, separate maintenance or divorce or for relief under the
28 protection from abuse act.

29 (d) "Unlawful sexual act" means any rape, indecent liberties with a
30 child, aggravated indecent liberties with a child, criminal sodomy,
31 aggravated criminal sodomy, lewd and lascivious behavior, sexual battery
32 or aggravated sexual battery, as defined in this code.

33 Sec. 3. K.S.A. 2014 Supp. 21-6328 is hereby amended to read as
34 follows: 21-6328. As used in the Kansas racketeer influenced and corrupt
35 organization act:

36 (a) "Beneficial interest" means:

37 (1) The interest of a person as a beneficiary under any trust
38 arrangement pursuant to which a trustee holds legal or record title to real
39 property for the benefit of such person; or

40 (2) the interest of a person under any other form of express fiduciary
41 arrangement pursuant to which any other person holds legal or record title
42 to real property for the benefit of such person.

43 The term "beneficial interest" does not include the interest of a stock

1 holder in a corporation or the interest of a partner in either a general
2 partnership or a limited partnership. A beneficial interest shall be deemed
3 to be located where the real property owned by the trustee is located.

4 (b) "Covered person" means any person who:

5 (1) Is a criminal street gang member or criminal street gang associate,
6 as defined in K.S.A. 2014 Supp. 21-6313, and amendments thereto;

7 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
8 2014 Supp. 21-5426, and amendments thereto, human trafficking or
9 aggravated human trafficking, *or K.S.A. 2014 Supp. 21-6422, and*
10 *amendments thereto, commercial sexual exploitation of a child; or*

11 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.
12 2014 Supp. 21-5703, and amendments thereto, unlawful manufacturing of
13 controlled substances, or K.S.A. 2014 Supp. 21-5705, and amendments
14 thereto, unlawful cultivation or distribution of controlled substances.

15 (c) "Documentary material" means any book, paper, document,
16 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,
17 computer printout, other data compilation from which information can be
18 obtained or from which information can be translated into usable form, or
19 other tangible item.

20 (d) "Enterprise" means any individual, sole proprietorship,
21 partnership, corporation, business trust, union chartered under the laws of
22 this state, or other legal entity, or any unchartered union, association, or
23 group of individuals associated in fact although not a legal entity; and it
24 includes illicit as well as licit enterprises and governmental, as well as
25 other, entities. A criminal street gang, as defined in K.S.A. 2014 Supp. 21-
26 6313, and amendments thereto, constitutes an enterprise.

27 (e) "Pattern of racketeering activity" means engaging in at least two
28 incidents of racketeering activity that have the same or similar intents,
29 results, accomplices, victims or methods of commission or that otherwise
30 are interrelated by distinguishing characteristics and are not isolated
31 incidents, provided at least one of such incidents occurred after the
32 effective date of this act and that the last of such incidents occurred within
33 5 years, excluding any period of imprisonment, after a prior incident of
34 racketeering activity.

35 (f) "Racketeering activity" means to commit, attempt to commit,
36 conspire to commit or to solicit, coerce or intimidate another person to
37 commit:

38 (1) Any felony or misdemeanor violation of: The felony provisions of
39 K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a
40 police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas
41 money transmitter act; article 12a of chapter 17 of the Kansas Statutes
42 Annotated, and amendments thereto, Kansas uniform securities act; K.S.A.
43 2014 Supp. 21-5401, and amendments thereto, capital murder; K.S.A.

1 2014 Supp. 21-5402, and amendments thereto, murder in the first degree;
2 K.S.A. 2014 Supp. 21-5403, and amendments thereto, murder in the
3 second degree; K.S.A. 2014 Supp. 21-5408, and amendments thereto,
4 kidnapping or aggravated kidnapping; K.S.A. 2014 Supp. 21-5412, and
5 amendments thereto; K.S.A. 2014 Supp. 21-5413, and amendments
6 thereto; K.S.A. 2014 Supp. 21-5414, and amendments thereto, domestic
7 battery; K.S.A. 2014 Supp. 21-5415, and amendments thereto, criminal
8 threat or aggravated criminal threat; K.S.A. 2014 Supp. 21-5420, and
9 amendments thereto, robbery or aggravated robbery; K.S.A. 2014 Supp.
10 21-5421, and amendments thereto, terrorism; K.S.A. 2014 Supp. 21-5422,
11 and amendments thereto, illegal use of weapons of mass destruction;
12 K.S.A. 2014 Supp. 21-5423, and amendments thereto; K.S.A. 2014 Supp.
13 21-5426, and amendments thereto, human trafficking or aggravated human
14 trafficking; K.S.A. 2014 Supp. 21-5428, and amendments thereto,
15 blackmail; K.S.A. 2014 Supp. 21-5510, and amendments thereto, sexual
16 exploitation of a child; K.S.A. 2014 Supp. 21-5601, and amendments
17 thereto, endangering a child or aggravated endangering a child; K.S.A.
18 2014 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A.
19 2014 Supp. 21-5603, and amendments thereto, contributing to a child's
20 misconduct or deprivation; ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-
21 5607(b), and amendments thereto, furnishing alcoholic beverages to a
22 minor for illicit purposes; article 57 of chapter 21 of the Kansas Statutes
23 Annotated, and amendments thereto, crimes involving controlled
24 substances; K.S.A. 2014 Supp. 21-5801, and amendments thereto, theft;
25 K.S.A. 2014 Supp. 21-5803, and amendments thereto, criminal deprivation
26 of property; K.S.A. 2014 Supp. 21-5805, and amendments thereto; K.S.A.
27 2014 Supp. 21-5807, and amendments thereto, burglary or aggravated
28 burglary; K.S.A. 2014 Supp. 21-5812, and amendments thereto, arson or
29 aggravated arson; K.S.A. 2014 Supp. 21-5813, and amendments thereto,
30 criminal damage to property; K.S.A. 2014 Supp. 21-5814, and
31 amendments thereto, criminal use of an explosive; K.S.A. 2014 Supp. 21-
32 5818, and amendments thereto, tampering with a pipeline; K.S.A. 2014
33 Supp. 21-5821, and amendments thereto, giving a worthless check; K.S.A.
34 2014 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2014 Supp.
35 21-5824, and amendments thereto, making false information; K.S.A. 2014
36 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2014
37 Supp. 21-5826, and amendments thereto, destroying written instrument;
38 K.S.A. 2014 Supp. 21-5828, and amendments thereto, criminal use of a
39 financial card; K.S.A. 2014 Supp. 21-5838, and amendments thereto,
40 conducting a pyramid promotional scheme; K.S.A. 2014 Supp. 21-5839,
41 and amendments thereto; K.S.A. 2014 Supp. 21-5903, and amendments
42 thereto, perjury; K.S.A. 2014 Supp. 21-5904, and amendments thereto,
43 interference with law enforcement; K.S.A. 2014 Supp. 21-5905, and

1 amendments thereto, interference with the judicial process; K.S.A. 2014
2 Supp. 21-5909, and amendments thereto, intimidation of a witness or
3 victim or aggravated intimidation of a witness or victim; K.S.A. 2014
4 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2014
5 Supp. 21-5913, and amendments thereto, obstructing apprehension or
6 prosecution; K.S.A. 2014 Supp. 21-5918, and amendments thereto; K.S.A.
7 2014 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2014 Supp.
8 21-6002, and amendments thereto, official misconduct; K.S.A. 2014 Supp.
9 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2014
10 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon;
11 K.S.A. 2014 Supp. 21-6303, and amendments thereto, criminal
12 distribution of firearms to a felon; K.S.A. 2014 Supp. 21-6304, and
13 amendments thereto, criminal possession of a firearm by a convicted felon;
14 K.S.A. 2014 Supp. 21-6305, and amendments thereto, aggravated weapons
15 violation by a convicted felon; K.S.A. 2014 Supp. 21-6306, and
16 amendments thereto, defacing identification marks of a firearm; K.S.A.
17 2014 Supp. 21-6308, and amendments thereto, criminal discharge of a
18 firearm; K.S.A. 2014 Supp. 21-6310, and amendments thereto, unlawful
19 endangerment; K.S.A. 2014 Supp. 21-6312, and amendments thereto;
20 K.S.A. 2014 Supp. 21-6313 through 21-6316, and amendments thereto;
21 K.S.A. 2014 Supp. 21-6401, and amendments thereto; K.S.A. 2014 Supp.
22 21-6404, and amendments thereto, gambling; K.S.A. 2014 Supp. 21-6405,
23 and amendments thereto, illegal bingo operation; K.S.A. 2014 Supp. 21-
24 6406, and amendments thereto, commercial gambling; K.S.A. 2014 Supp.
25 21-6407, and amendments thereto, dealing in gambling devices; K.S.A.
26 2014 Supp. 21-6408, and amendments thereto; K.S.A. 2014 Supp. 21-
27 6409, and amendments thereto, installing communication facilities for
28 gamblers; ~~subsections (a) or (b) of~~ K.S.A. 2014 Supp. 21-6414(a) or (b),
29 and amendments thereto, unlawful conduct of dog fighting or unlawful
30 possession of dog fighting paraphernalia; ~~subsections (a) or (b) of~~ K.S.A.
31 2014 Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct
32 of cockfighting or unlawful possession of cockfighting paraphernalia;
33 K.S.A. 2014 Supp. 21-6419, and amendments thereto, selling sexual
34 relations; K.S.A. 2014 Supp. 21-6420, and amendments thereto, promoting
35 the sale of sexual relations; K.S.A. 2014 Supp. 21-6422, and amendments
36 thereto, commercial sexual exploitation of a child; K.S.A. 2014 Supp. 21-
37 6501, and amendments thereto, extortion; K.S.A. 2014 Supp. 21-6502, and
38 amendments thereto, debt adjusting; K.S.A. 2014 Supp. 21-6504, and
39 amendments thereto, equity skimming; K.S.A. 2014 Supp. 21-6506, and
40 amendments thereto, commercial bribery; K.S.A. 2014 Supp. 21-6507, and
41 amendments thereto, sports bribery; K.S.A. 2014 Supp. 21-6508, and
42 amendments thereto, tampering with a sports contest; K.S.A. 39-720, and
43 amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and

1 amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and
2 amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and
3 amendments thereto, workers' compensation act; K.S.A. 65-1657, and
4 amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441,
5 and amendments thereto, hazardous waste; K.S.A. 65-4167, and
6 amendments thereto, trafficking in counterfeit drugs; article 88 of chapter
7 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas
8 parimutuel racing act; or K.S.A. 79-3321, and amendments thereto,
9 Kansas cigarette and tobacco products act; or

10 (2) any conduct defined as "racketeering activity" under 18 U.S.C. §
11 1961(1).

12 (g) "Real property" means any real property or any interest in such
13 real property, including, but not limited to, any lease of or mortgage upon
14 such real property.

15 (h) "Trustee" means:

16 (1) Any person acting as trustee pursuant to a trust in which the
17 trustee holds legal or record title to real property;

18 (2) any person who holds legal or record title to real property in
19 which any other person has a beneficial interest; or

20 (3) any successor trustee or trustees to any or all of the foregoing
21 persons.

22 The term "trustee" does not include any person appointed or acting as a
23 personal representative as defined in K.S.A. 59-102, and amendments
24 thereto, or appointed or acting as a trustee of any testamentary trust or as a
25 trustee of any indenture of trust under which any bonds have been or are to
26 be issued.

27 (i) "Unlawful debt" means any money or other thing of value
28 constituting principal or interest of a debt that is legally unenforceable in
29 this state in whole or in part because the debt was incurred or contracted:

30 (1) In violation of any of the following provisions of law: Article 88
31 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
32 Kansas parimutuel racing act; K.S.A. 2014 Supp. 21-6404, and
33 amendments thereto, gambling; K.S.A. 2014 Supp. 21-6405, and
34 amendments thereto, illegal bingo operation; K.S.A. 2014 Supp. 21-6406,
35 and amendments thereto, commercial gambling; K.S.A. 2014 Supp. 21-
36 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2014
37 Supp. 21-6408, and amendments thereto; or K.S.A. 2014 Supp. 21-6409,
38 and amendments thereto, installing communication facilities for gamblers;
39 or

40 (2) in gambling activity in violation of federal law or in the business
41 of lending money at a rate usurious under state or federal law.

42 Sec. 4. K.S.A. 2014 Supp. 22-3424 is hereby amended to read as
43 follows: 22-3424. (a) The judgment shall be rendered and sentence

1 imposed in open court.

2 (b) If the verdict or finding is not guilty, judgment shall be rendered
3 immediately and the defendant shall be discharged from custody and the
4 obligation of the defendant's appearance bond.

5 (c) If the verdict or finding is guilty, judgment shall be rendered and
6 sentence pronounced without unreasonable delay, allowing adequate time
7 for the filing and disposition of post-trial motions and for completion of
8 such presentence investigation as the court may require.

9 (d) (1) If the verdict or finding is guilty, upon request of the victim or
10 the victim's family and before imposing sentence, the court shall hold a
11 hearing to establish restitution. The defendant may waive the right to the
12 hearing and accept the amount of restitution as established by the court. If
13 the court orders restitution to be paid to the victim or the victim's family,
14 the order shall be enforced as a judgment of restitution pursuant to K.S.A.
15 60-4301 through 60-4304, *and amendments thereto*.

16 (2) (A) *The court shall order a person convicted of human trafficking*
17 *or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to*
18 *their repeal, or K.S.A. 2014 Supp. 21-5426, and amendments thereto, or*
19 *commercial sexual exploitation of a child, K.S.A. 2014 Supp. 21-6422, and*
20 *amendments thereto, to pay restitution to the victim of the offense for:*

21 (i) *Expenses incurred or reasonably certain to be incurred by the*
22 *victim as a result of the offense, including reasonable attorney fees and*
23 *costs; and*

24 (ii) *an amount equal to **three times** the greatest of the following, with*
25 *no reduction for expenses the defendant incurred to maintain the victim:*

26 (a) *The gross income to the defendant for, or the value to the*
27 *defendant of, the victim's labor or services or sexual activity;*

28 (b) *the amount the defendant contracted to pay the victim; or*

29 (c) *the value of the victim's labor or services or sexual activity,*
30 *calculated under the minimum wage and overtime provisions of the*
31 *federal fair labor standards act, 29 U.S.C.A. § 201 et seq., or under K.S.A.*
32 *44-1203, and amendments thereto, whichever is higher, even if the*
33 *provisions do not apply to the victim's labor or services or sexual activity.*

34 (B) *The court shall order restitution under subsection (d)(2) even if*
35 *the victim is unavailable to accept payment of restitution.*

36 (C) *If the victim does not claim restitution ordered under subsection*
37 *(d)(2) for five years after entry of the order, the restitution must be paid to*
38 *the human trafficking victim assistance fund created by K.S.A. 2014 Supp.*
39 *75-758, and amendments thereto, to help victims.*

40 (e) Before imposing sentence the court shall: (1) Allow the
41 prosecuting attorney to address the court, if the prosecuting attorney so
42 requests; (2) afford counsel an opportunity to speak on behalf of the
43 defendant; (3) allow the victim or such members of the victim's family as

1 the court deems appropriate to address the court, if the victim or the
2 victim's family so requests; and (4) address the defendant personally and
3 ask the defendant if the defendant wishes to make a statement on the
4 defendant's own behalf and to present any evidence in mitigation of
5 punishment.

6 (f) After imposing sentence in a case which has gone to trial on a plea
7 of not guilty, the court shall advise the defendant of the defendant's right to
8 appeal and of the right of a person who is unable to pay the costs of an
9 appeal to appeal in forma pauperis.

10 Sec. 5. K.S.A. 2014 Supp. 22-3436 is hereby amended to read as
11 follows: 22-3436. *This section applies* if a defendant is charged with a
12 crime pursuant to articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
13 Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
14 through ~~21-6421~~ 21-6422, and amendments thereto;

15 (a) The prosecuting attorney, as defined in K.S.A. 22-2202, and
16 amendments thereto, shall: (1) Inform the victim or the victim's family
17 before any dismissal or declining of prosecuting charges; (2) inform the
18 victim or the victim's family of the nature of any proposed plea agreement;
19 and (3) inform and give notice to the victim or the victim's family of the
20 rights established in subsection (b);

21 (b) The victim of a crime or the victim's family have the right to be
22 present at any hearing where a plea agreement is reviewed or accepted and
23 the parties may submit written arguments to the court prior to the date of
24 the hearing.

25 Sec. 6. K.S.A. 2014 Supp. 22-3701 is hereby amended to read as
26 follows: 22-3701. ~~(+)~~ (a) The governor may pardon, or commute the
27 sentence of, any person convicted of a crime in any court of this state upon
28 such terms and conditions as prescribed in the order granting the pardon or
29 commutation.

30 ~~(2)~~ (b) The prisoner review board, hereafter referred to as the board,
31 shall adopt rules and regulations governing the procedure for initiating,
32 processing, and reviewing applications for pardon, or commutation of
33 sentence filed by and on behalf of persons convicted of crime.

34 ~~(3)~~ (c) Except as otherwise provided, no pardon or commutation of
35 sentence shall be granted until more than 30 days after written notice of
36 the application therefor has been given to: ~~(a)~~ (1) The prosecuting attorney
37 and the judge of the court in which the defendant was convicted; and ~~(b)~~
38 (2) any victim of the person's crime or the victim's family, if the person
39 was convicted of a crime specified in article 34, 35 or 36 of chapter 21 of
40 the Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56
41 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-
42 6104, 21-6325, 21-6326 or 21-6418 through ~~21-6421~~ 21-6422, and
43 amendments thereto. Notice of such application for pardon or

1 commutation of sentence shall be given by the secretary of corrections to
2 the victim who is alive and whose address is known to the secretary of
3 corrections, or if the victim is deceased, to the victim's family if the
4 family's address is known to the secretary of corrections. Notice of the
5 receipt of such application shall be given by publication in the official
6 county paper of the county of conviction. The form of notice shall be
7 prescribed by the board. If the applicant executes a poverty affidavit, the
8 cost of one publication of the notice during a twelve-month period shall be
9 paid by the state. If more than one notice of application is published during
10 any twelve-month period the additional cost of publication shall be paid by
11 the applicant. Subject to the provisions of subsection ~~(4)~~ (d), if written
12 notification is not given to such victim who is alive and whose address is
13 known to the secretary of corrections or, if the victim is deceased, to the
14 victim's family if the family's address is known to the secretary of
15 corrections, the governor shall not grant or deny such application until a
16 time at least 30 days after notification is given by publication as provided
17 in this section.

18 ~~(4)~~ (d) All applications for pardon or commutation of sentence shall
19 be referred to the board. The board shall examine each case and submit a
20 report, together with such information as the board may have concerning
21 the applicant, to the governor within 120 days after referral to the board.
22 The governor shall not grant or deny any such application until the
23 governor has received the report of the board or until 120 days after the
24 referral to the board, whichever time is the shorter and the provisions of
25 subsection ~~(3)~~ (c) have been satisfied.

26 Sec. 7. K.S.A. 2014 Supp. 22-3727 is hereby amended to read as
27 follows: 22-3727. (a) Prior to the release of any inmate on parole,
28 conditional release, expiration of sentence or postrelease supervision, if an
29 inmate is released into the community under a program under the
30 supervision of the secretary of corrections, or after the escape of an inmate
31 or death of an inmate while in the secretary of corrections' custody, the
32 secretary of corrections shall give written notice of such release, escape or
33 death to any victim of the inmate's crime who is alive and whose address is
34 known to the secretary or, if the victim is deceased, to the victim's family
35 if the family's address is known to the secretary. Such notice shall be
36 required to be given to the victim or the victim's family only if the inmate
37 was convicted of any crime in article 33, 34, 35 or 36 of chapter 21 of the
38 Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56
39 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-
40 6104, 21-6325, 21-6326 or 21-6418 through ~~21-6421~~ 21-6422, and
41 amendments thereto. Except for notifications of releases due to a court
42 order, escape or death, notification shall be given at least 14 working days
43 prior to the release of such inmate. Failure to notify the victim or the

1 victim's family as provided in this section shall not be a reason for
2 postponement of parole, conditional release or other forms of release.

3 (b) As used in this section, "victim's family" means a spouse,
4 surviving spouse, children, parents, legal guardian, siblings, stepparent or
5 grandparents.

6 Sec. 8. K.S.A. 2014 Supp. 22-3727a is hereby amended to read as
7 follows: 22-3727a. (a) The county or district attorney shall, as soon as
8 practicable, provide notification as provided in K.S.A. 22-3303, 22-3305,
9 22-3428, 22-3428a, 22-3430 and 22-3431, and amendments thereto, and
10 upon the escape or death of a committed defendant while in the custody of
11 the secretary for aging and disability services, to any victim of the
12 defendant's crime whose address is known to the county or district
13 attorney, and the victim's family, if so requested and the family's addresses
14 are known to the county or district attorney. Such notice shall be required
15 to be given only if the defendant was charged with any crime in article 33,
16 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their
17 repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes
18 Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
19 through ~~21-6421~~ 21-6422, and amendments thereto.

20 (b) As used in this section, "victim's family" means a spouse,
21 surviving spouse, children, parents, legal guardian, siblings, stepparent or
22 grandparents.

23 Sec. 9. K.S.A. 2014 Supp. 22-4614 is hereby amended to read as
24 follows: 22-4614. No law enforcement officer, government official or
25 prosecutor shall request or require any person who is alleged to be a victim
26 of an offense described in article 55 of chapter 21 of the Kansas Statutes
27 Annotated; or K.S.A. 2014 Supp. 21-6419 through ~~21-6421~~ 21-6422, and
28 amendments thereto, *human trafficking or aggravated human trafficking*
29 *as defined in K.S.A. 2014 Supp. 21-5426, and amendments thereto, or*
30 *incest as defined in subsection (a) of K.S.A. 2014 Supp. 21-5604, and*
31 *amendments thereto; or aggravated incest as defined in subsection (a)(2) of*
32 *subsection (b)(2) of K.S.A. 2014 Supp. 21-5604, and amendments thereto,*
33 to submit to a polygraph examination or similar truth telling device as a
34 condition for proceeding with an investigation, or charging or prosecuting
35 such an offense.

36 Sec. 10. K.S.A. 2014 Supp. 23-2225 is hereby amended to read as
37 follows: 23-2225. (a) Except as provided in subsection (d), a parent
38 granted rights pursuant to ~~subsection (d) of K.S.A. 2014 Supp. 23-2215(d),~~
39 and amendments thereto, shall give written notice to the other parent who
40 has been granted rights pursuant to ~~subsection (d) of K.S.A. 2014 Supp.~~
41 ~~23-2215(d),~~ and amendments thereto, not less than 30 days prior to: (1)
42 Changing the residence of the child; or (2) removing the child from this
43 state for a period of time exceeding 90 days. Such notice shall be sent by

1 restricted mail, return receipt requested, to the last known address of the
2 other parent.

3 (b) Failure to give notice as required by subsection (a) is an indirect
4 civil contempt punishable as provided by law. In addition, the court may
5 assess, against the parent required to give notice, reasonable attorney fees
6 and any other expenses incurred by the other parent by reason of the
7 failure to give notice.

8 (c) A change of the residence or the removal of a child from this state
9 as described in subsection (a) may be considered a material change of
10 circumstances which justifies modification of a prior order of child
11 support, custody or parenting time. In determining any such motion, the
12 court shall consider all factors the court deems appropriate including, but
13 not limited to:

14 (1) The effect of the move on the best interests of the child;

15 (2) the effect of the move on any party having rights granted pursuant
16 to ~~subsection (d) of~~ K.S.A. 2014 Supp. 23-2215(d), and amendments
17 thereto; and

18 (3) the increased cost the move will impose on any party seeking to
19 exercise rights granted under ~~subsection (d) of~~ K.S.A. 2014 Supp. 23-
20 2215(d), and amendments thereto.

21 (d) A parent who has been granted rights pursuant to ~~subsection (d) of~~
22 K.S.A. 2014 Supp. 23-2215(d), and amendments thereto, shall not be
23 required to give the notice required by this section to the other parent when
24 the other parent has been convicted of any crime specified in article 34, 35
25 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal,
26 or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or
27 K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through ~~21-~~
28 ~~6421~~ 21-6422, and amendments thereto, in which the child is the victim of
29 such crime.

30 (e) This section shall be part of and supplemental to the Kansas
31 parentage act.

32 Sec. 11. K.S.A. 2014 Supp. 23-3222 is hereby amended to read as
33 follows: 23-3222. (a) Except as provided in subsection (d), a parent
34 entitled to legal custody or residency of or parenting time with a child
35 under this article shall give written notice to the other parent not less than
36 30 days prior to: (1) Changing the residence of the child; or (2) removing
37 the child from this state for a period of time exceeding 90 days. Such
38 notice shall be sent by restricted mail, return receipt requested, to the last
39 known address of the other parent.

40 (b) Failure to give notice as required by subsection (a) is an indirect
41 civil contempt punishable as provided by law. In addition, the court may
42 assess, against the parent required to give notice, reasonable attorney fees
43 and any other expenses incurred by the other parent by reason of the

1 failure to give notice.

2 (c) A change of the residence or the removal of a child as described in
3 subsection (a) may be considered a material change of circumstances
4 which justifies modification of a prior order of legal custody, residency,
5 child support or parenting time. In determining any motion seeking a
6 modification of a prior order based on change of residence or removal as
7 described in (a), the court shall consider all factors the court deems
8 appropriate including, but not limited to: (1) The effect of the move on the
9 best interests of the child; (2) the effect of the move on any party having
10 rights granted under this article; and (3) the increased cost the move will
11 impose on any party seeking to exercise rights granted under this article.

12 (d) A parent entitled to the legal custody or residency of a child under
13 this article shall not be required to give the notice required by this section
14 to the other parent when the other parent has been convicted of any crime
15 specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes
16 Annotated, prior to their repeal, or K.S.A. 2014 Supp. 21-5401 through 21-
17 5609, 21-6104, 21-6325, 21-6326; *or* 21-6419, ~~21-6420 or 21-6421~~
18 *through 21-6422*, and amendments thereto, in which the child is the victim
19 of such crime.

20 Sec. 12. K.S.A. 2014 Supp. 38-2202 is hereby amended to read as
21 follows: 38-2202. As used in the revised Kansas code for care of children,
22 unless the context otherwise indicates:

23 (a) "Abandon" or "abandonment" means to forsake, desert or, without
24 making appropriate provision for substitute care, cease providing care for
25 the child.

26 (b) "Adult correction facility" means any public or private facility,
27 secure or nonsecure, which is used for the lawful custody of accused or
28 convicted adult criminal offenders.

29 (c) "Aggravated circumstances" means the abandonment, torture,
30 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

31 (d) "Child in need of care" means a person less than 18 years of age
32 at the time of filing of the petition or issuance of an ex parte protective
33 custody order pursuant to K.S.A. 2014 Supp. 38-2242, and amendments
34 thereto, who:

35 (1) Is without adequate parental care, control or subsistence and the
36 condition is not due solely to the lack of financial means of the child's
37 parents or other custodian;

38 (2) is without the care or control necessary for the child's physical,
39 mental or emotional health;

40 (3) has been physically, mentally or emotionally abused or neglected
41 or sexually abused;

42 (4) has been placed for care or adoption in violation of law;

43 (5) has been abandoned or does not have a known living parent;

1 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,
2 and amendments thereto;

3 (7) except in the case of a violation of K.S.A. 41-727, ~~subsection (j)~~
4 ~~of K.S.A. 74-8810(j), subsection (m) or (n) of K.S.A. 79-3321(m) or (n),~~
5 ~~or subsection (a)(14) of K.S.A. 2014 Supp. 21-6301(a)(14),~~ and
6 amendments thereto, or, except as provided in paragraph (12), does an act
7 which, when committed by a person under 18 years of age, is prohibited
8 by state law, city ordinance or county resolution but which is not
9 prohibited when done by an adult;

10 (8) while less than 10 years of age, commits any act which if done by
11 an adult would constitute the commission of a felony or misdemeanor as
12 defined by K.S.A. 2014 Supp. 21-5102, and amendments thereto;

13 (9) is willfully and voluntarily absent from the child's home without
14 the consent of the child's parent or other custodian;

15 (10) is willfully and voluntarily absent at least a second time from a
16 court ordered or designated placement, or a placement pursuant to court
17 order, if the absence is without the consent of the person with whom the
18 child is placed or, if the child is placed in a facility, without the consent of
19 the person in charge of such facility or such person's designee;

20 (11) has been residing in the same residence with a sibling or another
21 person under 18 years of age, who has been physically, mentally or
22 emotionally abused or neglected, or sexually abused;

23 (12) while less than 10 years of age commits the offense defined in
24 ~~subsection (a)(14) of K.S.A. 2014 Supp. 21-6301(a)(14),~~ and amendments
25 thereto; or

26 (13) has had a permanent custodian appointed and the permanent
27 custodian is no longer able or willing to serve.

28 (e) "Citizen review board" is a group of community volunteers
29 appointed by the court and whose duties are prescribed by K.S.A. 2014
30 Supp. 38-2207 and 38-2208, and amendments thereto.

31 (f) "Civil custody case" includes any case filed under chapter 23 of
32 the Kansas Statutes Annotated, and amendments thereto, the Kansas
33 family law code, article 11, of chapter 38 of the Kansas Statutes
34 Annotated, and amendments thereto, determination of parentage, article 21
35 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto,
36 adoption and relinquishment act, or article 30 of chapter 59 of the Kansas
37 Statutes Annotated, and amendments thereto, guardians and conservators.

38 (g) "Court-appointed special advocate" means a responsible adult
39 other than an attorney guardian ad litem who is appointed by the court to
40 represent the best interests of a child, as provided in K.S.A. 2014 Supp.
41 38-2206, and amendments thereto, in a proceeding pursuant to this code.

42 (h) "Custody" whether temporary, protective or legal, means the
43 status created by court order or statute which vests in a custodian, whether

1 an individual or an agency, the right to physical possession of the child and
2 the right to determine placement of the child, subject to restrictions placed
3 by the court.

4 (i) "Extended out of home placement" means a child has been in the
5 custody of the secretary and placed with neither parent for 15 of the most
6 recent 22 months beginning 60 days after the date at which a child in the
7 custody of the secretary was removed from the home.

8 (j) "Educational institution" means all schools at the elementary and
9 secondary levels.

10 (k) "Educator" means any administrator, teacher or other professional
11 or paraprofessional employee of an educational institution who has
12 exposure to a pupil specified in ~~subsection (a) of K.S.A. 72-89b03(a)~~, and
13 amendments thereto.

14 (l) "Harm" means physical or psychological injury or damage.

15 (m) "Interested party" means the grandparent of the child, a person
16 with whom the child has been living for a significant period of time when
17 the child in need of care petition is filed, and any person made an
18 interested party by the court pursuant to K.S.A. 2014 Supp. 38-2241, and
19 amendments thereto, or Indian tribe seeking to intervene that is not a party.

20 (n) "Jail" means:

21 (1) An adult jail or lockup; or
22 (2) a facility in the same building or on the same grounds as an adult
23 jail or lockup, unless the facility meets all applicable standards and
24 licensure requirements under law and there is: (A) Total separation of the
25 juvenile and adult facility spatial areas such that there could be no
26 haphazard or accidental contact between juvenile and adult residents in the
27 respective facilities; (B) total separation in all juvenile and adult program
28 activities within the facilities, including recreation, education, counseling,
29 health care, dining, sleeping and general living activities; and (C) separate
30 juvenile and adult staff, including management, security staff and direct
31 care staff such as recreational, educational and counseling.

32 (o) "Juvenile detention facility" means any secure public or private
33 facility used for the lawful custody of accused or adjudicated juvenile
34 offenders which must not be a jail.

35 (p) "Juvenile intake and assessment worker" means a responsible
36 adult authorized to perform intake and assessment services as part of the
37 intake and assessment system established pursuant to K.S.A. 75-7023, and
38 amendments thereto.

39 (q) "Kinship care" means the placement of a child in the home of the
40 child's relative or in the home of another adult with whom the child or the
41 child's parent already has a close emotional attachment.

42 (r) "Law enforcement officer" means any person who by virtue of
43 office or public employment is vested by law with a duty to maintain

1 public order or to make arrests for crimes, whether that duty extends to all
2 crimes or is limited to specific crimes.

3 (s) "Multidisciplinary team" means a group of persons, appointed by
4 the court under K.S.A. 2014 Supp. 38-2228, and amendments thereto,
5 which has knowledge of the circumstances of a child in need of care.

6 (t) "Neglect" means acts or omissions by a parent, guardian or person
7 responsible for the care of a child resulting in harm to a child, or
8 presenting a likelihood of harm, and the acts or omissions are not due
9 solely to the lack of financial means of the child's parents or other
10 custodian. Neglect may include, but shall not be limited to:

11 (1) Failure to provide the child with food, clothing or shelter
12 necessary to sustain the life or health of the child;

13 (2) failure to provide adequate supervision of a child or to remove a
14 child from a situation which requires judgment or actions beyond the
15 child's level of maturity, physical condition or mental abilities and that
16 results in bodily injury or a likelihood of harm to the child; or

17 (3) failure to use resources available to treat a diagnosed medical
18 condition if such treatment will make a child substantially more
19 comfortable, reduce pain and suffering, or correct or substantially diminish
20 a crippling condition from worsening. A parent legitimately practicing
21 religious beliefs who does not provide specified medical treatment for a
22 child because of religious beliefs shall not for that reason be considered a
23 negligent parent; however, this exception shall not preclude a court from
24 entering an order pursuant to ~~subsection (a)(2)~~ of K.S.A. 2014 Supp. 38-
25 2217(a)(2), and amendments thereto.

26 (u) "Parent" when used in relation to a child or children, includes a
27 guardian and every person who is by law liable to maintain, care for or
28 support the child.

29 (v) "Party" means the state, the petitioner, the child, any parent of the
30 child and an Indian child's tribe intervening pursuant to the Indian child
31 welfare act.

32 (w) "Permanency goal" means the outcome of the permanency
33 planning process which may be reintegration, adoption, appointment of a
34 permanent custodian or another planned permanent living arrangement.

35 (x) "Permanent custodian" means a judicially approved permanent
36 guardian of a child pursuant to K.S.A. 2014 Supp. 38-2272, and
37 amendments thereto.

38 (y) "Physical, mental or emotional abuse" means the infliction of
39 physical, mental or emotional harm or the causing of a deterioration of a
40 child and may include, but shall not be limited to, maltreatment or
41 exploiting a child to the extent that the child's health or emotional well-
42 being is endangered.

43 (z) "Placement" means the designation by the individual or agency

1 having custody of where and with whom the child will live.

2 (aa) "Relative" means a person related by blood, marriage or adoption
3 but, when referring to a relative of a child's parent, does not include the
4 child's other parent.

5 (bb) "Secretary" means the secretary of the department for children
6 and families or the secretary's designee.

7 (cc) "Secure facility" means a facility, other than a staff secure
8 facility which is operated or structured so as to ensure that all entrances
9 and exits from the facility are under the exclusive control of the staff of the
10 facility, whether or not the person being detained has freedom of
11 movement within the perimeters of the facility, or which relies on locked
12 rooms and buildings, fences or physical restraint in order to control
13 behavior of its residents. No secure facility shall be in a city or county jail.

14 (dd) "Sexual abuse" means any contact or interaction with a child in
15 which the child is being used for the sexual stimulation of the perpetrator,
16 the child or another person. Sexual abuse shall include allowing,
17 permitting or encouraging a child to engage in the sale of sexual relations
18 or commercial sexual exploitation of a child, or to be photographed, filmed
19 or depicted in pornographic material. *Sexual abuse also shall include*
20 *allowing, permitting or encouraging a child to engage in aggravated*
21 *human trafficking, as defined in K.S.A. 2014 Supp. 21-5426(b), and*
22 *amendments thereto, if committed in whole or in part for the purpose of*
23 *the sexual gratification of the offender or another.*

24 (ee) "Shelter facility" means any public or private facility or home,
25 other than a juvenile detention facility or staff secure facility, that may be
26 used in accordance with this code for the purpose of providing either
27 temporary placement for children in need of care prior to the issuance of a
28 dispositional order or longer term care under a dispositional order.

29 (ff) "Staff secure facility" means a facility described in K.S.A. 2014
30 Supp. 65-535, and amendments thereto: (1) That does not include
31 construction features designed to physically restrict the movements and
32 activities of juvenile residents who are placed therein; (2) that may
33 establish reasonable rules restricting entrance to and egress from the
34 facility; and (3) in which the movements and activities of individual
35 juvenile residents may, for treatment purposes, be restricted or subject to
36 control through the use of intensive staff supervision. No staff secure
37 facility shall be in a city or county jail.

38 (gg) "Transition plan" means, when used in relation to a youth in the
39 custody of the secretary, an individualized strategy for the provision of
40 medical, mental health, education, employment and housing supports as
41 needed for the adult and, if applicable, for any minor child of the adult, to
42 live independently and specifically provides for the supports and any
43 services for which an adult with a disability is eligible including, but not

1 limited to, funding for home and community based services waivers.

2 (hh) "Youth residential facility" means any home, foster home or
3 structure which provides 24-hour-a-day care for children and which is
4 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
5 Annotated, and amendments thereto.

6 Sec. 13. K.S.A. 2014 Supp. 38-2271 is hereby amended to read as
7 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-
8 414, and amendments thereto, that a parent is unfit by reason of conduct or
9 condition which renders the parent unable to fully care for a child, if the
10 state establishes, by clear and convincing evidence, that:

11 (1) A parent has previously been found to be an unfit parent in
12 proceedings under K.S.A. 2014 Supp. 38-2266 et seq., and amendments
13 thereto, or comparable proceedings under the laws of another jurisdiction;

14 (2) a parent has twice before been convicted of a crime specified in
15 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
16 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
17 Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
18 through 21-6421, and amendments thereto, or comparable offenses under
19 the laws of another jurisdiction, or an attempt or attempts to commit such
20 crimes and the victim was under the age of 18 years;

21 (3) on two or more prior occasions a child in the physical custody of
22 the parent has been adjudicated a child in need of care as defined by
23 ~~subsection (d)(1), (d)(3), (d)(5) or (d)(11)~~ of K.S.A. 2014 Supp. 38-
24 *2202(d)(1), (d)(3), (d)(5) or (d)(11)*, and amendments thereto, or
25 comparable proceedings under the laws of another jurisdiction;

26 (4) the parent has been convicted of causing the death of another
27 child or stepchild of the parent;

28 (5) the child has been in an out-of-home placement, under court order
29 for a cumulative total period of one year or longer and the parent has
30 substantially neglected or willfully refused to carry out a reasonable plan,
31 approved by the court, directed toward reintegration of the child into the
32 parental home;

33 (6) (A) the child has been in an out-of-home placement, under court
34 order for a cumulative total period of two years or longer; (B) the parent
35 has failed to carry out a reasonable plan, approved by the court, directed
36 toward reintegration of the child into the parental home; and (C) there is a
37 substantial probability that the parent will not carry out such plan in the
38 near future;

39 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
40 prior to its repeal, or K.S.A. 2014 Supp. 21-5401, and amendments
41 thereto, murder in the first degree, K.S.A. 21-3401, prior to its repeal, or
42 K.S.A. 2014 Supp. 21-5402, and amendments thereto, murder in the
43 second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2014 Supp.

1 21-5403, and amendments thereto, ~~or~~ voluntary manslaughter, K.S.A. 21-
2 3403, prior to its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments
3 thereto, *human trafficking or aggravated human trafficking*, K.S.A. 21-
4 3446 or 21-3447, prior to their repeal, or K.S.A. 2014 Supp. 21-5426, and
5 amendments thereto, or *commercial sexual exploitation of a child*, K.S.A.
6 2014 Supp. 21-6422, and amendments thereto, or comparable proceedings
7 under the laws of another jurisdiction or, has been adjudicated a juvenile
8 offender because of an act which if committed by an adult would be an
9 offense as provided in this subsection, and the victim of such murder was
10 the other parent of the child;

11 (8) a parent abandoned or neglected the child after having knowledge
12 of the child's birth or either parent has been granted immunity from
13 prosecution for abandonment of the child under ~~subsection (b) of~~ K.S.A.
14 21-3604(b), prior to its repeal, or ~~subsection (d) of~~ K.S.A. 2014 Supp. 21-
15 5605(d), and amendments thereto; or

16 (9) a parent has made no reasonable efforts to support or
17 communicate with the child after having knowledge of the child's birth;

18 (10) a father, after having knowledge of the pregnancy, failed without
19 reasonable cause to provide support for the mother during the six months
20 prior to the child's birth;

21 (11) a father abandoned the mother after having knowledge of the
22 pregnancy;

23 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
24 repeal, or K.S.A. 2014 Supp. 21-5503, and amendments thereto, or
25 comparable proceedings under the laws of another jurisdiction resulting in
26 the conception of the child; or

27 (13) a parent has failed or refused to assume the duties of a parent for
28 two consecutive years next preceding the filing of the petition. In making
29 this determination the court may disregard incidental visitations, contacts,
30 communications or contributions.

31 (b) The burden of proof is on the parent to rebut the presumption of
32 unfitness by a preponderance of the evidence. In the absence of proof that
33 the parent is presently fit and able to care for the child or that the parent
34 will be fit and able to care for the child in the foreseeable future, the court
35 shall terminate parental rights in proceedings pursuant to K.S.A. 2014
36 Supp. 38-2266 et seq., and amendments thereto.

37 Sec. 14. K.S.A. 2014 Supp. 38-2309 is hereby amended to read as
38 follows: 38-2309. (a) *Official file*. The official file of proceedings pursuant
39 to this code shall consist of the complaint, process, service of process,
40 orders, writs and journal entries reflecting hearings held, judgments and
41 decrees entered by the court. The official file shall be kept separate from
42 other records of the court.

43 (b) The official file shall be open for public inspection, unless the

1 judge determines that opening the official file for public inspection is not
2 in the best interests of a juvenile who is less than 14 years of age.
3 Information identifying victims and alleged victims of sex offenses, as
4 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior
5 to their repeal, or article 55 of chapter 21 of the Kansas Statutes
6 Annotated, or K.S.A. 2014 Supp. 21-6419 through ~~21-6421~~ 21-6422, and
7 amendments thereto, or *human trafficking or aggravated human*
8 *trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,*
9 *or K.S.A. 2014 Supp. 21-5426, and amendments thereto,* shall not be
10 disclosed or open to public inspection under any circumstances. Nothing in
11 this section shall prohibit the victim or alleged victim of any sex offense
12 from voluntarily disclosing such victim's identity. An official file closed
13 pursuant to this section and information identifying the victim or alleged
14 victim of any sex offense shall be disclosed only to the following:

15 (1) A judge of the district court and members of the staff of the court
16 designated by the judge;

17 (2) parties to the proceedings and their attorneys;

18 (3) any individual or any public or private agency or institution: (A)
19 Having custody of the juvenile under court order; or (B) providing
20 educational, medical or mental health services to the juvenile;

21 (4) the juvenile's court appointed special advocate;

22 (5) any placement provider or potential placement provider as
23 determined by the commissioner or court services officer;

24 (6) law enforcement officers or county or district attorneys, or their
25 staff, when necessary for the discharge of their official duties;

26 (7) the Kansas racing commission, upon written request of the
27 commission chairperson, for the purpose provided by K.S.A. 74-8804, and
28 amendments thereto, except that information identifying the victim or
29 alleged victim of any sex offense shall not be disclosed pursuant to this
30 subsection;

31 (8) juvenile intake and assessment workers;

32 (9) the commissioner;

33 (10) any other person when authorized by a court order, subject to
34 any conditions imposed by the order; and

35 (11) the commission on judicial performance in the discharge of the
36 commission's duties pursuant to article 32 of chapter 20 of the Kansas
37 Statutes Annotated, and amendments thereto.

38 (c) *Social file.* Reports and information received by the court, other
39 than the official file, shall be privileged and open to inspection only by
40 attorneys for the parties, juvenile intake and assessment workers, court
41 appointed special advocates, juvenile community corrections officers, the
42 juvenile's guardian ad litem, if any, or upon order of a judge of the district
43 court or appellate court. The reports shall not be further disclosed without

1 approval of the court or by being presented as admissible evidence.

2 (d) *Preservation of records.* The Kansas state historical society shall
3 be allowed to take possession for preservation in the state archives of any
4 court records related to proceedings under the Kansas juvenile justice code
5 or the revised Kansas juvenile justice code whenever such records
6 otherwise would be destroyed. The Kansas state historical society shall
7 make available for public inspection any unexpunged docket entry or
8 official file in its custody concerning any juvenile 14 or more years of age
9 at the time an offense is alleged to have been committed by the juvenile.
10 No other such records in the custody of the Kansas state historical society
11 shall be disclosed directly or indirectly to anyone for 70 years after
12 creation of the records, except as provided in subsections (b) and (c). A
13 judge of the district court may allow inspection for research purposes of
14 any court records in the custody of the Kansas state historical society
15 related to proceedings under the Kansas juvenile justice code or the
16 revised Kansas juvenile justice code.

17 (e) Relevant information, reports and records, shall be made available
18 to the department of corrections upon request, and a showing that the
19 former juvenile has been convicted of a crime and placed in the custody of
20 the secretary of corrections.

21 Sec. 15. K.S.A. 2014 Supp. 38-2310 is hereby amended to read as
22 follows: 38-2310. (a) All records of law enforcement officers and agencies
23 and municipal courts concerning an offense committed or alleged to have
24 been committed by a juvenile under 14 years of age shall be kept readily
25 distinguishable from criminal and other records and shall not be disclosed
26 to anyone except:

27 (1) The judge of the district court and members of the staff of the
28 court designated by the judge;

29 (2) parties to the proceedings and their attorneys;

30 (3) the Kansas department for children and families;

31 (4) the juvenile's court appointed special advocate, any officer of a
32 public or private agency or institution or any individual having custody of
33 a juvenile under court order or providing educational, medical or mental
34 health services to a juvenile;

35 (5) any educational institution, to the extent necessary to enable the
36 educational institution to provide the safest possible environment for its
37 pupils and employees;

38 (6) any educator, to the extent necessary to enable the educator to
39 protect the personal safety of the educator and the educator's pupils;

40 (7) law enforcement officers or county or district attorneys, or their
41 staff, when necessary for the discharge of their official duties;

42 (8) the central repository, as defined by K.S.A. 22-4701, and
43 amendments thereto, for use only as a part of the juvenile offender

1 information system established under K.S.A. 2014 Supp. 38-2326, and
2 amendments thereto;

3 (9) juvenile intake and assessment workers;

4 (10) ~~the juvenile justice authority~~ *department of corrections*;

5 (11) juvenile community corrections officers;

6 (12) any other person when authorized by a court order, subject to
7 any conditions imposed by the order; and

8 (13) as provided in subsection (c).

9 (b) The provisions of this section shall not apply to records
10 concerning:

11 (1) A violation, by a person 14 or more years of age, of any provision
12 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
13 of any city ordinance or county resolution which relates to the regulation
14 of traffic on the roads, highways or streets or the operation of self-
15 propelled or nonself-propelled vehicles of any kind;

16 (2) a violation, by a person 16 or more years of age, of any provision
17 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
18 or

19 (3) an offense for which the juvenile is prosecuted as an adult.

20 (c) All records of law enforcement officers and agencies and
21 municipal courts concerning an offense committed or alleged to have been
22 committed by a juvenile 14 or more years of age shall be subject to the
23 same disclosure restrictions as the records of adults. Information
24 identifying victims and alleged victims of sex offenses, as defined in
25 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
26 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, ~~and~~
27 ~~amendments thereto~~, K.S.A. 2014 Supp. 21-6419 through ~~21-6421~~ 21-
28 6422, and amendments thereto, *or human trafficking or aggravated human*
29 *trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,*
30 *or K.S.A. 2014 Supp. 21-5426, and amendments thereto*, shall not be
31 disclosed or open to public inspection under any circumstances. Nothing in
32 this section shall prohibit the victim or any alleged victim of any sex
33 offense from voluntarily disclosing such victim's identity.

34 (d) Relevant information, reports and records, shall be made available
35 to the department of corrections upon request and a showing that the
36 former juvenile has been convicted of a crime and placed in the custody of
37 the secretary of corrections.

38 (e) All records, reports and information obtained as a part of the
39 juvenile intake and assessment process for juveniles shall be confidential,
40 and shall not be disclosed except as provided by statutory law and rules
41 and regulations promulgated by the commissioner thereunder.

42 (1) Any court of record may order the disclosure of such records,
43 reports and other information to any person or entity.

1 (2) The head of any juvenile intake and assessment program, certified
2 by the commissioner of juvenile justice, may authorize disclosure of such
3 records, reports and other information to:

4 (A) A person licensed to practice the healing arts who has before that
5 person a juvenile whom the person reasonably suspects may be abused or
6 neglected;

7 (B) a court-appointed special advocate for a juvenile or an agency
8 having the legal responsibility or authorization to care for, treat or
9 supervise a juvenile;

10 (C) a parent or other person responsible for the welfare of a juvenile,
11 or such person's legal representative, with protection for the identity of
12 persons reporting and other appropriate persons;

13 (D) the juvenile, the attorney and a guardian ad litem, if any, for such
14 juvenile;

15 (E) the police or other law enforcement agency;

16 (F) an agency charged with the responsibility of preventing or
17 treating physical, mental or emotional abuse or neglect or sexual abuse of
18 children, if the agency requesting the information has standards of
19 confidentiality as strict or stricter than the requirements of the Kansas code
20 for care of children or the revised Kansas juvenile justice code, whichever
21 is applicable;

22 (G) members of a multidisciplinary team under this code;

23 (H) an agency authorized by a properly constituted authority to
24 diagnose, care for, treat or supervise a child who is the subject of a report
25 or record of child abuse or neglect;

26 (I) any individual, or public or private agency authorized by a
27 properly constituted authority to diagnose, care for, treat or supervise a
28 juvenile who is the subject of a report or record of child abuse or neglect,
29 specifically including the following: Physicians, psychiatrists, nurses,
30 nurse practitioners, psychologists, licensed social workers, child
31 development specialists, ~~physicians'~~ *physician* assistants, community
32 mental health workers, alcohol and drug abuse counselors and licensed or
33 registered child care providers;

34 (J) a citizen review board pursuant to K.S.A. 2014 Supp. 38-2207,
35 and amendments thereto;

36 (K) an educational institution to the extent necessary to enable such
37 institution to provide the safest possible environment for pupils and
38 employees of the institution;

39 (L) any educator to the extent necessary for the protection of the
40 educator and pupils; and

41 (M) any juvenile intake and assessment worker of another certified
42 juvenile intake and assessment program.

43 Sec. 16. K.S.A. 2014 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 K.S.A. 2014 Supp. 21-5401, and amendments thereto, first
7 degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A.
8 2014 Supp. 21-5402, and amendments thereto, second degree murder,
9 pursuant to ~~subsection (a) of~~ K.S.A. 21-3402(a), prior to its repeal, or
10 ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5403(a), and amendments thereto,
11 voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or
12 K.S.A. 2014 Supp. 21-5404, and amendments thereto, assisting suicide,
13 pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2014 Supp. 21-
14 5407, and amendments thereto, mistreatment of a dependent adult,
15 pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 2014 Supp. 21-
16 5417, and amendments thereto, *human trafficking, pursuant to K.S.A. 21-*
17 *3446, prior to its repeal, or K.S.A. 2014 Supp. 21-5426(a), and*
18 *amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-*
19 *3447, prior to its repeal, or K.S.A. 2014 Supp. 21-5426(b), and*
20 *amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal,*
21 *or K.S.A. 2014 Supp. 21-5503, and amendments thereto, indecent liberties*
22 *with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or* ~~subsection~~
23 ~~(a) of~~ K.S.A. 2014 Supp. 21-5506(a), and amendments thereto, aggravated
24 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
25 repeal, or ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5506(b), and
26 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
27 3506, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-
28 5504(b), and amendments thereto, indecent solicitation of a child, pursuant
29 to K.S.A. 21-3510, prior to its repeal, or ~~subsection (a) of~~ K.S.A. 2014
30 Supp. 21-5508(a), and amendments thereto, aggravated indecent
31 solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or
32 ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5508(b), and amendments thereto,
33 sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its
34 repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto, sexual
35 battery, pursuant to K.S.A. 21-3517, prior to its repeal, or ~~subsection (a) of~~
36 K.S.A. 2014 Supp. 21-5505(a), and amendments thereto, ~~or~~ aggravated
37 sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or
38 ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5505(b), and amendments thereto,
39 *commercial sexual exploitation of a child, pursuant to K.S.A. 2014 Supp.*
40 *21-6422, and amendments thereto, an attempt to commit any of the crimes*
41 *listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its*
42 *repeal, or K.S.A. 2014 Supp. 21-5301, and amendments thereto, a*
43 *conspiracy to commit any of the crimes listed in this subsection (a)(1),*

1 pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2014 Supp. 21-
2 5302, and amendments thereto, or criminal solicitation of any of the
3 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, prior to
4 its repeal, or K.S.A. 2014 Supp. 21-5303, and amendments thereto, or
5 similar statutes of other states or the federal government. The provisions of
6 subsection (a)(2)(C) shall not apply to any person who is employed by an
7 adult care home on July 1, 2010, and while continuously employed by the
8 same adult care home.

9 (2) A person operating an adult care home may employ an applicant
10 who has been convicted of any of the following if five or more years have
11 elapsed since the applicant satisfied the sentence imposed or was
12 discharged from probation, a community correctional services program,
13 parole, postrelease supervision, conditional release or a suspended
14 sentence; or if five or more years have elapsed since the applicant has been
15 finally discharged from the custody of the commissioner of juvenile justice
16 or from probation or has been adjudicated a juvenile offender, whichever
17 time is longer: A felony conviction for a crime which is described in: (A)
18 Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their
19 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or
20 K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
21 amendments thereto, except those crimes listed in subsection (a)(1); (B)
22 articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to
23 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
24 Annotated, or K.S.A. 2014 Supp. 21-6419 through 21-6421, and
25 amendments thereto, except those crimes listed in subsection (a)(1) and
26 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2014 Supp. 21-5606, and
27 amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
28 2014 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
29 any of the crimes listed in this subsection (a)(2), pursuant to K.S.A. 21-
30 3301, prior to its repeal, or K.S.A. 2014 Supp. 21-5301, and amendments
31 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
32 (a)(2), pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2014
33 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of
34 the crimes listed in subsection (a)(2), pursuant to K.S.A. 21-3303, prior to
35 its repeal, or K.S.A. 2014 Supp. 21-5303, and amendments thereto; or (G)
36 similar statutes of other states or the federal government.

37 (b) No person shall operate an adult care home if such person has
38 been found to be in need of a guardian or conservator, or both as provided
39 in K.S.A. 59-3050 through 59-3095, and amendments thereto. The
40 provisions of this subsection shall not apply to a minor found to be in need
41 of a guardian or conservator for reasons other than impairment.

42 (c) The secretary for aging and disability services shall have access to
43 any criminal history record information in the possession of the Kansas

1 bureau of investigation regarding any criminal history information,
2 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
3 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and
4 21-5801, and amendments thereto, adjudications of a juvenile offender
5 which if committed by an adult would have been a felony conviction, and
6 adjudications of a juvenile offender for an offense described in K.S.A. 21-
7 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
8 5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
9 concerning persons working in an adult care home. The secretary shall
10 have access to these records for the purpose of determining whether or not
11 the adult care home meets the requirements of this section. The Kansas
12 bureau of investigation may charge to the Kansas department for aging and
13 disability services a reasonable fee for providing criminal history record
14 information under this subsection.

15 (d) For the purpose of complying with this section, the operator of an
16 adult care home shall request from the Kansas department for aging and
17 disability services information regarding any criminal history information,
18 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
19 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and
20 21-5801, and amendments thereto, adjudications of a juvenile offender
21 which if committed by an adult would have been a felony conviction, and
22 adjudications of a juvenile offender for an offense described in K.S.A. 21-
23 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
24 5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
25 and which relates to a person who works in the adult care home, or is
26 being considered for employment by the adult care home, for the purpose
27 of determining whether such person is subject to the provision of this
28 section. For the purpose of complying with this section, the operator of an
29 adult care home shall receive from any employment agency which
30 provides employees to work in the adult care home written certification
31 that such employees are not prohibited from working in the adult care
32 home under this section. For the purpose of complying with this section,
33 information relating to convictions and adjudications by the federal
34 government or to convictions and adjudications in states other than Kansas
35 shall not be required until such time as the secretary for aging and
36 disability services determines the search for such information could
37 reasonably be performed and the information obtained within a two-week
38 period. For the purpose of complying with this section, a person who
39 operates an adult care home may hire an applicant for employment on a
40 conditional basis pending the results from the Kansas department for aging
41 and disability services of a request for information under this subsection.
42 No adult care home, the operator or employees of an adult care home or an
43 employment agency, or the operator or employees of an employment

1 agency, shall be liable for civil damages resulting from any decision to
2 employ, to refuse to employ or to discharge from employment any person
3 based on such adult care home's compliance with the provisions of this
4 section if such adult care home or employment agency acts in good faith to
5 comply with this section.

6 (e) The secretary for aging and disability services shall charge each
7 person requesting information under this section a fee equal to cost, not to
8 exceed \$10, for each name about which an information request has been
9 submitted to the department under this section.

10 (f) (1) The secretary for aging and disability services shall provide
11 each operator requesting information under this section with the criminal
12 history record information concerning any criminal history information
13 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
14 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and
15 21-5801, and amendments thereto, in writing and within three working
16 days of receipt of such information from the Kansas bureau of
17 investigation. The criminal history record information shall be provided
18 regardless of whether the information discloses that the subject of the
19 request has been convicted of an offense enumerated in subsection (a).

20 (2) When an offense enumerated in subsection (a) exists in the
21 criminal history record information, and when further confirmation
22 regarding criminal history record information is required from the
23 appropriate court of jurisdiction or Kansas department of corrections, the
24 secretary shall notify each operator that requests information under this
25 section in writing and within three working days of receipt from the
26 Kansas bureau of investigation that further confirmation is required. The
27 secretary shall provide to the operator requesting information under this
28 section information in writing and within three working days of receipt of
29 such information from the appropriate court of jurisdiction or Kansas
30 department of corrections regarding confirmation regarding the criminal
31 history record information.

32 (3) Whenever the criminal history record information reveals that the
33 subject of the request has no criminal history on record, the secretary shall
34 provide notice to each operator requesting information under this section,
35 in writing and within three working days after receipt of such information
36 from the Kansas bureau of investigation.

37 (4) The secretary for aging and disability services shall not provide
38 each operator requesting information under this section with the juvenile
39 criminal history record information which relates to a person subject to a
40 background check as is provided by K.S.A. 2014 Supp. 38-2326, and
41 amendments thereto, except for adjudications of a juvenile offender for an
42 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2014
43 Supp. 21-5801, and amendments thereto. The secretary shall notify the

1 operator that requested the information, in writing and within three
2 working days of receipt of such information from the Kansas bureau of
3 investigation, whether juvenile criminal history record information
4 received pursuant to this section reveals that the operator would or would
5 not be prohibited by this section from employing the subject of the request
6 for information and whether such information contains adjudications of a
7 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
8 repeal, or K.S.A. 2014 Supp. 21-5801, and amendments thereto.

9 (5) An operator who receives criminal history record information
10 under this subsection (f) shall keep such information confidential, except
11 that the operator may disclose such information to the person who is the
12 subject of the request for information. A violation of this paragraph (5)
13 shall be an unclassified misdemeanor punishable by a fine of \$100.

14 (g) No person who works for an adult care home and who is currently
15 licensed or registered by an agency of this state to provide professional
16 services in the state and who provides such services as part of the work
17 which such person performs for the adult care home shall be subject to the
18 provisions of this section.

19 (h) A person who volunteers in an adult care home shall not be
20 subject to the provisions of this section because of such volunteer activity.

21 (i) An operator may request from the Kansas department for aging
22 and disability services criminal history information on persons employed
23 under subsections (g) and (h).

24 (j) No person who has been employed by the same adult care home
25 since July 1, 1992, shall be subject to the provisions of this section while
26 employed by such adult care home.

27 (k) The operator of an adult care home shall not be required under
28 this section to conduct a background check on an applicant for
29 employment with the adult care home if the applicant has been the subject
30 of a background check under this act within one year prior to the
31 application for employment with the adult care home. The operator of an
32 adult care home where the applicant was the subject of such background
33 check may release a copy of such background check to the operator of an
34 adult care home where the applicant is currently applying.

35 (l) No person who is in the custody of the secretary of corrections and
36 who provides services, under direct supervision in nonpatient areas, on the
37 grounds or other areas designated by the superintendent of the Kansas
38 soldiers' home or the Kansas veterans' home shall be subject to the
39 provisions of this section while providing such services.

40 (m) For purposes of this section, the Kansas bureau of investigation
41 shall report any criminal history information, convictions under K.S.A. 21-
42 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
43 5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,

1 adjudications of a juvenile offender which if committed by an adult would
2 have been a felony conviction, and adjudications of a juvenile offender for
3 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
4 their repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of~~ 21-5505(a)
5 and 21-5801, and amendments thereto, to the secretary for aging and
6 disability services when a background check is requested.

7 (n) This section shall be part of and supplemental to the adult care
8 home licensure act.

9 Sec. 17. K.S.A. 2014 Supp. 44-706 is hereby amended to read as
10 follows: 44-706. An individual shall be disqualified for benefits:

11 (a) If the individual left work voluntarily without good cause
12 attributable to the work or the employer, subject to the other provisions of
13 this subsection. For purposes of this subsection, "good cause" is cause of
14 such gravity that would impel a reasonable, not supersensitive, individual
15 exercising ordinary common sense to leave employment. Good cause
16 requires a showing of good faith of the individual leaving work, including
17 the presence of a genuine desire to work. Failure to return to work after
18 expiration of approved personal or medical leave, or both, shall be
19 considered a voluntary resignation. After a temporary job assignment,
20 failure of an individual to affirmatively request an additional assignment
21 on the next succeeding workday, if required by the employment
22 agreement, after completion of a given work assignment, shall constitute
23 leaving work voluntarily. The disqualification shall begin the day
24 following the separation and shall continue until after the individual has
25 become reemployed and has had earnings from insured work of at least
26 three times the individual's weekly benefit amount. An individual shall not
27 be disqualified under this subsection if:

28 (1) The individual was forced to leave work because of illness or
29 injury upon the advice of a licensed and practicing health care provider
30 and, upon learning of the necessity for absence, immediately notified the
31 employer thereof, or the employer consented to the absence, and after
32 recovery from the illness or injury, when recovery was certified by a
33 practicing health care provider, the individual returned to the employer and
34 offered to perform services and the individual's regular work or
35 comparable and suitable work was not available. As used in this paragraph
36 "health care provider" means any person licensed by the proper licensing
37 authority of any state to engage in the practice of medicine and surgery,
38 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

39 (2) the individual left temporary work to return to the regular
40 employer;

41 (3) the individual left work to enlist in the armed forces of the United
42 States, but was rejected or delayed from entry;

43 (4) the spouse of an individual who is a member of the armed forces

1 of the United States who left work because of the voluntary or involuntary
2 transfer of the individual's spouse from one job to another job, which is for
3 the same employer or for a different employer, at a geographic location
4 which makes it unreasonable for the individual to continue work at the
5 individual's job. For the purposes of this provision the term "armed forces"
6 means active duty in the army, navy, marine corps, air force, coast guard or
7 any branch of the military reserves of the United States;

8 (5) the individual left work because of hazardous working conditions;
9 in determining whether or not working conditions are hazardous for an
10 individual, the degree of risk involved to the individual's health, safety and
11 morals, the individual's physical fitness and prior training and the working
12 conditions of workers engaged in the same or similar work for the same
13 and other employers in the locality shall be considered; as used in this
14 paragraph, "hazardous working conditions" means working conditions that
15 could result in a danger to the physical or mental well-being of the
16 individual; each determination as to whether hazardous working
17 conditions exist shall include, but shall not be limited to, a consideration
18 of: (A) The safety measures used or the lack thereof; and (B) the condition
19 of equipment or lack of proper equipment; no work shall be considered
20 hazardous if the working conditions surrounding the individual's work are
21 the same or substantially the same as the working conditions generally
22 prevailing among individuals performing the same or similar work for
23 other employers engaged in the same or similar type of activity;

24 (6) the individual left work to enter training approved under section
25 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
26 substantially equal or higher skill level than the individual's past adversely
27 affected employment, as defined for purposes of the federal trade act of
28 1974, and wages for such work are not less than 80% of the individual's
29 average weekly wage as determined for the purposes of the federal trade
30 act of 1974;

31 (7) the individual left work because of unwelcome harassment of the
32 individual by the employer or another employee of which the employing
33 unit had knowledge and that would impel the average worker to give up
34 such worker's employment;

35 (8) the individual left work to accept better work; each determination
36 as to whether or not the work accepted is better work shall include, but
37 shall not be limited to, consideration of: (A) The rate of pay, the hours of
38 work and the probable permanency of the work left as compared to the
39 work accepted; (B) the cost to the individual of getting to the work left in
40 comparison to the cost of getting to the work accepted; and (C) the
41 distance from the individual's place of residence to the work accepted in
42 comparison to the distance from the individual's residence to the work left;

43 (9) the individual left work as a result of being instructed or requested

1 by the employer, a supervisor or a fellow employee to perform a service or
2 commit an act in the scope of official job duties which is in violation of an
3 ordinance or statute;

4 (10) the individual left work because of a substantial violation of the
5 work agreement by the employing unit and, before the individual left, the
6 individual had exhausted all remedies provided in such agreement for the
7 settlement of disputes before terminating. For the purposes of this
8 paragraph, a demotion based on performance does not constitute a
9 violation of the work agreement;

10 (11) after making reasonable efforts to preserve the work, the
11 individual left work due to a personal emergency of such nature and
12 compelling urgency that it would be contrary to good conscience to
13 impose a disqualification; or

14 (12) (A) the individual left work due to circumstances resulting from
15 domestic violence, including:

16 (i) The individual's reasonable fear of future domestic violence at or
17 en route to or from the individual's place of employment;

18 (ii) the individual's need to relocate to another geographic area in
19 order to avoid future domestic violence;

20 (iii) the individual's need to address the physical, psychological and
21 legal impacts of domestic violence;

22 (iv) the individual's need to leave employment as a condition of
23 receiving services or shelter from an agency which provides support
24 services or shelter to victims of domestic violence; or

25 (v) the individual's reasonable belief that termination of employment
26 is necessary to avoid other situations which may cause domestic violence
27 and to provide for the future safety of the individual or the individual's
28 family.

29 (B) An individual may prove the existence of domestic violence by
30 providing one of the following:

31 (i) A restraining order or other documentation of equitable relief by a
32 court of competent jurisdiction;

33 (ii) a police record documenting the abuse;

34 (iii) documentation that the abuser has been convicted of one or more
35 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
36 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
37 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-
38 6104, 21-6325, 21-6326 or 21-6418 through ~~21-6421~~ 21-6422, and
39 amendments thereto, where the victim was a family or household member;

40 (iv) medical documentation of the abuse;

41 (v) a statement provided by a counselor, social worker, health care
42 provider, clergy, shelter worker, legal advocate, domestic violence or
43 sexual assault advocate or other professional who has assisted the

1 individual in dealing with the effects of abuse on the individual or the
2 individual's family; or

3 (vi) a sworn statement from the individual attesting to the abuse.

4 (C) No evidence of domestic violence experienced by an individual,
5 including the individual's statement and corroborating evidence, shall be
6 disclosed by the department of labor unless consent for disclosure is given
7 by the individual.

8 (b) If the individual has been discharged or suspended for misconduct
9 connected with the individual's work. The disqualification shall begin the
10 day following the separation and shall continue until after the individual
11 becomes reemployed and in cases where the disqualification is due to
12 discharge for misconduct has had earnings from insured work of at least
13 three times the individual's determined weekly benefit amount, except that
14 if an individual is discharged for gross misconduct connected with the
15 individual's work, such individual shall be disqualified for benefits until
16 such individual again becomes employed and has had earnings from
17 insured work of at least eight times such individual's determined weekly
18 benefit amount. In addition, all wage credits attributable to the
19 employment from which the individual was discharged for gross
20 misconduct connected with the individual's work shall be canceled. No
21 such cancellation of wage credits shall affect prior payments made as a
22 result of a prior separation.

23 (1) For the purposes of this subsection, "misconduct" is defined as a
24 violation of a duty or obligation reasonably owed the employer as a
25 condition of employment including, but not limited to, a violation of a
26 company rule, including a safety rule, if: (A) The individual knew or
27 should have known about the rule; (B) the rule was lawful and reasonably
28 related to the job; and (C) the rule was fairly and consistently enforced.

29 (2) (A) Failure of the employee to notify the employer of an absence
30 and an individual's leaving work prior to the end of such individual's
31 assigned work period without permission shall be considered prima facie
32 evidence of a violation of a duty or obligation reasonably owed the
33 employer as a condition of employment.

34 (B) For the purposes of this subsection, misconduct shall include, but
35 not be limited to, violation of the employer's reasonable attendance
36 expectations if the facts show:

37 (i) The individual was absent or tardy without good cause;

38 (ii) the individual had knowledge of the employer's attendance
39 expectation; and

40 (iii) the employer gave notice to the individual that future absence or
41 tardiness may or will result in discharge.

42 (C) For the purposes of this subsection, if an employee disputes being
43 absent or tardy without good cause, the employee shall present evidence

1 that a majority of the employee's absences or tardiness were for good
2 cause. If the employee alleges that the employee's repeated absences or
3 tardiness were the result of health related issues, such evidence shall
4 include documentation from a licensed and practicing health care provider
5 as defined in subsection (a)(1).

6 (3) (A) The term "gross misconduct" as used in this subsection shall
7 be construed to mean conduct evincing extreme, willful or wanton
8 misconduct as defined by this subsection. Gross misconduct shall include,
9 but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to
10 property; (iv) intentional infliction of personal injury; or (v) any conduct
11 that constitutes a felony.

12 (B) For the purposes of this subsection, the following shall be
13 conclusive evidence of gross misconduct:

14 (i) The use of alcoholic liquor, cereal malt beverage or a
15 nonprescribed controlled substance by an individual while working;

16 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
17 or a nonprescribed controlled substance by an individual while working;

18 (iii) a positive breath alcohol test or a positive chemical test,
19 provided:

20 (a) The test was either:

21 (1) Required by law and was administered pursuant to the drug free
22 workplace act, 41 U.S.C. § 701 et seq.;

23 (2) administered as part of an employee assistance program or other
24 drug or alcohol treatment program in which the employee was
25 participating voluntarily or as a condition of further employment;

26 (3) requested pursuant to a written policy of the employer of which
27 the employee had knowledge and was a required condition of
28 employment;

29 (4) required by law and the test constituted a required condition of
30 employment for the individual's job; or

31 (5) there was reasonable suspicion to believe that the individual used,
32 had possession of, or was impaired by alcoholic liquor, cereal malt
33 beverage or a nonprescribed controlled substance while working;

34 (b) the test sample was collected either:

35 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
36 seq.;

37 (2) as prescribed by an employee assistance program or other drug or
38 alcohol treatment program in which the employee was participating
39 voluntarily or as a condition of further employment;

40 (3) as prescribed by the written policy of the employer of which the
41 employee had knowledge and which constituted a required condition of
42 employment;

43 (4) as prescribed by a test which was required by law and which

1 constituted a required condition of employment for the individual's job; or
2 (5) at a time contemporaneous with the events establishing probable
3 cause;

4 (c) the collecting and labeling of a chemical test sample was
5 performed by a licensed health care professional or any other individual
6 certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or
7 label test samples by federal or state law, or a federal or state rule or
8 regulation having the force or effect of law, including law enforcement
9 personnel;

10 (d) the chemical test was performed by a laboratory approved by the
11 United States department of health and human services or licensed by the
12 department of health and environment, except that a blood sample may be
13 tested for alcohol content by a laboratory commonly used for that purpose
14 by state law enforcement agencies;

15 (e) the chemical test was confirmed by gas chromatography, gas
16 chromatography-mass spectroscopy or other comparably reliable
17 analytical method, except that no such confirmation is required for a blood
18 alcohol sample or a breath alcohol test;

19 (f) the breath alcohol test was administered by an individual trained
20 to perform breath tests, the breath testing instrument used was certified
21 and operated strictly according to a description provided by the
22 manufacturers and the reliability of the instrument performance was
23 assured by testing with alcohol standards; and

24 (g) the foundation evidence establishes, beyond a reasonable doubt,
25 that the test results were from the sample taken from the individual;

26 (iv) an individual's refusal to submit to a chemical test or breath
27 alcohol test, provided:

28 (a) The test meets the standards of the drug free workplace act, 41
29 U.S.C. § 701 et seq.;

30 (b) the test was administered as part of an employee assistance
31 program or other drug or alcohol treatment program in which the
32 employee was participating voluntarily or as a condition of further
33 employment;

34 (c) the test was otherwise required by law and the test constituted a
35 required condition of employment for the individual's job;

36 (d) the test was requested pursuant to a written policy of the employer
37 of which the employee had knowledge and was a required condition of
38 employment; or

39 (e) there was reasonable suspicion to believe that the individual used,
40 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
41 nonprescribed controlled substance while working;

42 (v) an individual's dilution or other tampering of a chemical test.

43 (C) For purposes of this subsection:

- 1 (i) "Alcohol concentration" means the number of grams of alcohol
2 per 210 liters of breath;
- 3 (ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102,
4 and amendments thereto;
- 5 (iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-
6 2701, and amendments thereto;
- 7 (iv) "chemical test" shall include, but is not limited to, tests of urine,
8 blood or saliva;
- 9 (v) "controlled substance" shall be defined as provided in K.S.A.
10 2014 Supp. 21-5701, and amendments thereto;
- 11 (vi) "required by law" means required by a federal or state law, a
12 federal or state rule or regulation having the force and effect of law, a
13 county resolution or municipal ordinance, or a policy relating to public
14 safety adopted in an open meeting by the governing body of any special
15 district or other local governmental entity;
- 16 (vii) "positive breath test" shall mean a test result showing an alcohol
17 concentration of 0.04 or greater, or the levels listed in 49 C.F.R. part 40, if
18 applicable, unless the test was administered as part of an employee
19 assistance program or other drug or alcohol treatment program in which
20 the employee was participating voluntarily or as a condition of further
21 employment, in which case "positive chemical test" shall mean a test result
22 showing an alcohol concentration at or above the levels provided for in the
23 assistance or treatment program;
- 24 (viii) "positive chemical test" shall mean a chemical result showing a
25 concentration at or above the levels listed in K.S.A. 44-501, and
26 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
27 abuse listed therein, unless the test was administered as part of an
28 employee assistance program or other drug or alcohol treatment program
29 in which the employee was participating voluntarily or as a condition of
30 further employment, in which case "positive chemical test" shall mean a
31 chemical result showing a concentration at or above the levels provided for
32 in the assistance or treatment program.
- 33 (4) An individual shall not be disqualified under this subsection if the
34 individual is discharged under the following circumstances:
- 35 (A) The employer discharged the individual after learning the
36 individual was seeking other work or when the individual gave notice of
37 future intent to quit, except that the individual shall be disqualified after
38 the time at which such individual intended to quit and any individual who
39 commits misconduct after such individual gives notice to such individual's
40 intent to quit shall be disqualified;
- 41 (B) the individual was making a good-faith effort to do the assigned
42 work but was discharged due to: (i) Inefficiency; (ii) unsatisfactory
43 performance due to inability, incapacity or lack of training or experience;

1 (iii) isolated instances of ordinary negligence or inadvertence; (iv) good-
2 faith errors in judgment or discretion; or (v) unsatisfactory work or
3 conduct due to circumstances beyond the individual's control; or

4 (C) the individual's refusal to perform work in excess of the contract
5 of hire.

6 (c) If the individual has failed, without good cause, to either apply for
7 suitable work when so directed by the employment office of the secretary
8 of labor, or to accept suitable work when offered to the individual by the
9 employment office, the secretary of labor, or an employer, such
10 disqualification shall begin with the week in which such failure occurred
11 and shall continue until the individual becomes reemployed and has had
12 earnings from insured work of at least three times such individual's
13 determined weekly benefit amount. In determining whether or not any
14 work is suitable for an individual, the secretary of labor, or a person or
15 persons designated by the secretary, shall consider the degree of risk
16 involved to health, safety and morals, physical fitness and prior training,
17 experience and prior earnings, length of unemployment and prospects for
18 securing local work in the individual's customary occupation or work for
19 which the individual is reasonably fitted by training or experience, and the
20 distance of the available work from the individual's residence. 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 to
35 resign from or refrain from joining any labor organization; and (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, or legal needs relating to such domestic
39 violence.
40

41 (d) For any week with respect to which the secretary of labor, or a
42 person or persons designated by the secretary, finds that the individual's
43 unemployment is due to a stoppage of work which exists because of a

1 labor dispute or there would have been a work stoppage had normal
2 operations not been maintained with other personnel previously and
3 currently employed by the same employer at the factory, establishment or
4 other premises at which the individual is or was last employed, except that
5 this subsection (d) shall not apply if it is shown to the satisfaction of the
6 secretary of labor, or a person or persons designated by the secretary, that:
7 (1) The individual is not participating in or financing or directly interested
8 in the labor dispute which caused the stoppage of work; and (2) the
9 individual does not belong to a grade or class of workers of which,
10 immediately before the commencement of the stoppage, there were
11 members employed at the premises at which the stoppage occurs any of
12 whom are participating in or financing or directly interested in the dispute.
13 If in any case separate branches of work which are commonly conducted
14 as separate businesses in separate premises are conducted in separate
15 departments of the same premises, each such department shall, for the
16 purpose of this subsection be deemed to be a separate factory,
17 establishment or other premises. For the purposes of this subsection,
18 failure or refusal to cross a picket line or refusal for any reason during the
19 continuance of such labor dispute to accept the individual's available and
20 customary work at the factory, establishment or other premises where the
21 individual is or was last employed shall be considered as participation and
22 interest in the labor dispute.

23 (e) For any week with respect to which or a part of which the
24 individual has received or is seeking unemployment benefits under the
25 unemployment compensation law of any other state or of the United
26 States, except that if the appropriate agency of such other state or the
27 United States finally determines that the individual is not entitled to such
28 unemployment benefits, this disqualification shall not apply.

29 (f) For any week with respect to which the individual is entitled to
30 receive any unemployment allowance or compensation granted by the
31 United States under an act of congress to ex-service men and women in
32 recognition of former service with the military or naval services of the
33 United States.

34 (g) For the period of five years beginning with the first day following
35 the last week of unemployment for which the individual received benefits,
36 or for five years from the date the act was committed, whichever is the
37 later, if the individual, or another in such individual's behalf with the
38 knowledge of the individual, has knowingly made a false statement or
39 representation, or has knowingly failed to disclose a material fact to obtain
40 or increase benefits under this act or any other unemployment
41 compensation law administered by the secretary of labor. In addition to the
42 penalties set forth in K.S.A. 44-719, and amendments thereto, an
43 individual who has knowingly made a false statement or representation or

1 who has knowingly failed to disclose a material fact to obtain or increase
2 benefits under this act or any other unemployment compensation law
3 administered by the secretary of labor shall be liable for a penalty in the
4 amount equal to 25% of the amount of benefits unlawfully received.
5 Notwithstanding any other provision of law, such penalty shall be
6 deposited into the employment security trust fund.

7 (h) For any week with respect to which the individual is receiving
8 compensation for temporary total disability or permanent total disability
9 under the workmen's compensation law of any state or under a similar law
10 of the United States.

11 (i) For any week of unemployment on the basis of service in an
12 instructional, research or principal administrative capacity for an
13 educational institution as defined in ~~subsection (v) of~~ K.S.A. 44-703(v),
14 and amendments thereto, if such week begins during the period between
15 two successive academic years or terms or, when an agreement provides
16 instead for a similar period between two regular but not successive terms
17 during such period or during a period of paid sabbatical leave provided for
18 in the individual's contract, if the individual performs such services in the
19 first of such academic years or terms and there is a contract or a reasonable
20 assurance that such individual will perform services in any such capacity
21 for any educational institution in the second of such academic years or
22 terms.

23 (j) For any week of unemployment on the basis of service in any
24 capacity other than service in an instructional, research, or administrative
25 capacity in an educational institution, as defined in ~~subsection (v) of~~
26 K.S.A. 44-703(v), and amendments thereto, if such week begins during the
27 period between two successive academic years or terms if the individual
28 performs such services in the first of such academic years or terms and
29 there is a reasonable assurance that the individual will perform such
30 services in the second of such academic years or terms, except that if
31 benefits are denied to the individual under this subsection and the
32 individual was not offered an opportunity to perform such services for the
33 educational institution for the second of such academic years or terms,
34 such individual shall be entitled to a retroactive payment of benefits for
35 each week for which the individual filed a timely claim for benefits and for
36 which benefits were denied solely by reason of this subsection.

37 (k) For any week of unemployment on the basis of service in any
38 capacity for an educational institution as defined in ~~subsection (v) of~~
39 K.S.A. 44-703(v), and amendments thereto, if such week begins during an
40 established and customary vacation period or holiday recess, if the
41 individual performs services in the period immediately before such
42 vacation period or holiday recess and there is a reasonable assurance that
43 such individual will perform such services in the period immediately

1 following such vacation period or holiday recess.

2 (l) For any week of unemployment on the basis of any services,
3 substantially all of which consist of participating in sports or athletic
4 events or training or preparing to so participate, if such week begins during
5 the period between two successive sport seasons or similar period if such
6 individual performed services in the first of such seasons or similar periods
7 and there is a reasonable assurance that such individual will perform such
8 services in the later of such seasons or similar periods.

9 (m) For any week on the basis of services performed by an alien
10 unless such alien is an individual who was lawfully admitted for
11 permanent residence at the time such services were performed, was
12 lawfully present for purposes of performing such services, or was
13 permanently residing in the United States under color of law at the time
14 such services were performed, including an alien who was lawfully present
15 in the United States as a result of the application of the provisions of
16 section 212(d)(5) of the federal immigration and nationality act. Any data
17 or information required of individuals applying for benefits to determine
18 whether benefits are not payable to them because of their alien status shall
19 be uniformly required from all applicants for benefits. In the case of an
20 individual whose application for benefits would otherwise be approved, no
21 determination that benefits to such individual are not payable because of
22 such individual's alien status shall be made except upon a preponderance
23 of the evidence.

24 (n) For any week in which an individual is receiving a governmental
25 or other pension, retirement or retired pay, annuity or other similar
26 periodic payment under a plan maintained by a base period employer and
27 to which the entire contributions were provided by such employer, except
28 that: (1) If the entire contributions to such plan were provided by the base
29 period employer but such individual's weekly benefit amount exceeds such
30 governmental or other pension, retirement or retired pay, annuity or other
31 similar periodic payment attributable to such week, the weekly benefit
32 amount payable to the individual shall be reduced, but not below zero, by
33 an amount equal to the amount of such pension, retirement or retired pay,
34 annuity or other similar periodic payment which is attributable to such
35 week; or (2) if only a portion of contributions to such plan were provided
36 by the base period employer, the weekly benefit amount payable to such
37 individual for such week shall be reduced, but not below zero, by the
38 prorated weekly amount of the pension, retirement or retired pay, annuity
39 or other similar periodic payment after deduction of that portion of the
40 pension, retirement or retired pay, annuity or other similar periodic
41 payment that is directly attributable to the percentage of the contributions
42 made to the plan by such individual; or (3) if the entire contributions to the
43 plan were provided by such individual, or by the individual and an

1 employer, or any person or organization, who is not a base period
2 employer, no reduction in the weekly benefit amount payable to the
3 individual for such week shall be made under this subsection; or (4)
4 whatever portion of contributions to such plan were provided by the base
5 period employer, if the services performed for the employer by such
6 individual during the base period, or remuneration received for the
7 services, did not affect the individual's eligibility for, or increased the
8 amount of, such pension, retirement or retired pay, annuity or other similar
9 periodic payment, no reduction in the weekly benefit amount payable to
10 the individual for such week shall be made under this subsection. No
11 reduction shall be made for payments made under the social security act or
12 railroad retirement act of 1974.

13 (o) For any week of unemployment on the basis of services
14 performed in any capacity and under any of the circumstances described in
15 subsection (i), (j) or (k) which an individual performed in an educational
16 institution while in the employ of an educational service agency. For the
17 purposes of this subsection, the term "educational service agency" means a
18 governmental agency or entity which is established and operated
19 exclusively for the purpose of providing such services to one or more
20 educational institutions.

21 (p) For any week of unemployment on the basis of service as a school
22 bus or other motor vehicle driver employed by a private contractor to
23 transport pupils, students and school personnel to or from school-related
24 functions or activities for an educational institution, as defined in
25 ~~subsection (v) of~~ K.S.A. 44-703(v), and amendments thereto, if such week
26 begins during the period between two successive academic years or during
27 a similar period between two regular terms, whether or not successive, if
28 the individual has a contract or contracts, or a reasonable assurance
29 thereof, to perform services in any such capacity with a private contractor
30 for any educational institution for both such academic years or both such
31 terms. An individual shall not be disqualified for benefits as provided in
32 this subsection for any week of unemployment on the basis of service as a
33 bus or other motor vehicle driver employed by a private contractor to
34 transport persons to or from nonschool-related functions or activities.

35 (q) For any week of unemployment on the basis of services
36 performed by the individual in any capacity and under any of the
37 circumstances described in subsection (i), (j), (k) or (o) which are provided
38 to or on behalf of an educational institution, as defined in ~~subsection (v) of~~
39 K.S.A. 44-703(v), and amendments thereto, while the individual is in the
40 employ of an employer which is a governmental entity, Indian tribe or any
41 employer described in section 501(c)(3) of the federal internal revenue
42 code of 1986 which is exempt from income under section 501(a) of the
43 code.

1 (r) For any week in which an individual is registered at and attending
2 an established school, training facility or other educational institution, or is
3 on vacation during or between two successive academic years or terms. An
4 individual shall not be disqualified for benefits as provided in this
5 subsection provided:

6 (1) The individual was engaged in full-time employment concurrent
7 with the individual's school attendance;

8 (2) the individual is attending approved training as defined in
9 ~~subsection (s) of K.S.A. 44-703(s)~~, and amendments thereto; or

10 (3) the individual is attending evening, weekend or limited day time
11 classes, which would not affect availability for work, and is otherwise
12 eligible under ~~subsection (e) of K.S.A. 44-705(c)~~, and amendments
13 thereto.

14 (s) For any week with respect to which an individual is receiving or
15 has received remuneration in the form of a back pay award or settlement.
16 The remuneration shall be allocated to the week or weeks in the manner as
17 specified in the award or agreement, or in the absence of such specificity
18 in the award or agreement, such remuneration shall be allocated to the
19 week or weeks in which such remuneration, in the judgment of the
20 secretary, would have been paid.

21 (1) For any such weeks that an individual receives remuneration in
22 the form of a back pay award or settlement, an overpayment will be
23 established in the amount of unemployment benefits paid and shall be
24 collected from the claimant.

25 (2) If an employer chooses to withhold from a back pay award or
26 settlement, amounts paid to a claimant while they claimed unemployment
27 benefits, such employer shall pay the department the amount withheld.
28 With respect to such amount, the secretary shall have available all of the
29 collection remedies authorized or provided in K.S.A. 44-717, and
30 amendments thereto.

31 (t) (1) Any applicant for or recipient of unemployment benefits who
32 tests positive for unlawful use of a controlled substance or controlled
33 substance analog shall be required to complete a substance abuse treatment
34 program approved by the secretary of labor, secretary of commerce or
35 secretary for children and families, and a job skills program approved by
36 the secretary of labor, secretary of commerce or the secretary for children
37 and families. Subject to applicable federal laws, any applicant for or
38 recipient of unemployment benefits who fails to complete or refuses to
39 participate in the substance abuse treatment program or job skills program
40 as required under this subsection shall be ineligible to receive
41 unemployment benefits until completion of such substance abuse
42 treatment and job skills programs. Upon completion of both substance
43 abuse treatment and job skills programs, such applicant for or recipient of

1 unemployment benefits may be subject to periodic drug screening, as
2 determined by the secretary of labor. Upon a second positive test for
3 unlawful use of a controlled substance or controlled substance analog, an
4 applicant for or recipient of unemployment benefits shall be ordered to
5 complete again a substance abuse treatment program and job skills
6 program, and shall be terminated from unemployment benefits for a period
7 of 12 months, or until such applicant for or recipient of unemployment
8 benefits completes both substance abuse treatment and job skills programs,
9 whichever is later. Upon a third positive test for unlawful use of a
10 controlled substance or controlled substance analog, an applicant for or a
11 recipient of unemployment benefits shall be terminated from receiving
12 unemployment benefits, subject to applicable federal law.

13 (2) Any individual who has been discharged or refused employment
14 for failing a preemployment drug screen required by an employer may
15 request that the drug screening specimen be sent to a different drug testing
16 facility for an additional drug screening. Any such individual who requests
17 an additional drug screening at a different drug testing facility shall be
18 required to pay the cost of drug screening.

19 (u) If the individual was found not to have a disqualifying
20 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
21 amendments thereto, was hired and then was subsequently convicted of a
22 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
23 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and
24 amendments thereto. The disqualification shall begin the day following the
25 separation and shall continue until after the individual becomes
26 reemployed and has had earnings from insured work of at least three times
27 the individual's determined weekly benefit amount.

28 Sec. 18. K.S.A. 2014 Supp. 59-2132 is hereby amended to read as
29 follows: 59-2132. (a) Except as provided in subsection (h), in independent
30 and agency adoptions, the court shall require the petitioner to obtain an
31 assessment of the advisability of the adoption by a court approved:

32 (1) (A) Licensed social worker, licensed specialist social worker,
33 licensed specialist clinical social worker, licensed masters social worker,
34 licensed baccalaureate social worker or licensed associate social worker
35 licensed by the behavioral sciences regulatory board;

36 (B) licensed clinical marriage and family therapist as defined in
37 K.S.A. 65-6402, and amendments thereto;

38 (C) licensed marriage and family therapist as defined in K.S.A. 65-
39 6402, and amendments thereto;

40 (D) licensed clinical professional counselor as defined in K.S.A. 65-
41 5802, and amendments thereto;

42 (E) licensed professional counselor as defined in K.S.A. 65-5802, and
43 amendments thereto;

1 (F) licensed psychologist as defined in K.S.A. 65-6319, and
2 amendments thereto;

3 (G) licensed masters level psychologist as defined in K.S.A. 74-5362,
4 and amendments thereto;

5 (H) licensed clinical psychotherapist as defined in K.S.A. 74-5363,
6 and amendments thereto; or

7 (I) a licensed child-placing agency.

8 (2) Any person performing an assessment pursuant to this subsection
9 shall:

10 (A) Possess a minimum of two years experience in adoption services
11 or be supervised by a person with such experience; or

12 (B) if licensed by the behavioral sciences regulatory board to
13 diagnose and treat mental disorders in independent practice, possess a
14 minimum of one year of experience in adoption services or be supervised
15 by a person with such experience.

16 (b) The petitioner shall file with the court, not less than 10 days
17 before the hearing on the petition, a report of the assessment and, if
18 necessary, confirmation or clarification of the information filed under
19 K.S.A. 59-2130, and amendments thereto.

20 (c) If there is no one authorized pursuant to this section available to
21 make the assessment and report to the court, the court may use the Kansas
22 department for children and families for that purpose.

23 (d) The costs of making the assessment and report may be assessed as
24 court costs in the case as provided in article 20 of chapter 60 of the Kansas
25 Statutes Annotated, and amendments thereto.

26 (e) In making the assessment, the person authorized pursuant to this
27 section or Kansas department for children and families is authorized to
28 observe the child in the petitioner's home, verify financial information of
29 the petitioner, shall clear the name of the petitioner with the child abuse
30 and neglect registry through the Kansas department for children and
31 families and, when appropriate, with a similar registry in another state or
32 nation, shall determine whether the petitioner has been convicted of a
33 felony for any act described in articles 34, 35 or 36 of chapter 21 of the
34 Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of
35 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-
36 6104, 21-6325, 21-6326 or 21-6418 through ~~21-6421~~ 21-6422, and
37 amendments thereto, or, within the last five years been convicted of a
38 felony violation of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior
39 to their transfer, or article 57 of chapter 21 of the Kansas Statutes
40 Annotated, and amendments thereto, or any felony violation of any
41 provision of the uniform controlled substances act prior to July 1, 2009,
42 and, when appropriate, any similar conviction in another jurisdiction, and
43 to contact the agency or individuals consenting to the adoption and

1 confirm and, if necessary, clarify any genetic and medical history filed
2 with the petition. This information shall be made a part of the report to the
3 court. The report to the court by any person authorized pursuant to this
4 section to perform this assessment shall include the results of the
5 investigation of the petitioner, the petitioner's home and the ability of the
6 petitioner to care for the child.

7 (f) In the case of a nonresident who is filing a petition to adopt a child
8 in Kansas, the assessment and report required by this section must be
9 completed in the petitioner's state of residence by a person authorized in
10 that state to conduct such assessments. Such report shall be filed with the
11 court not less than 10 days before the hearing on the petition.

12 (g) The assessment and report required by this section shall comply
13 with any applicable rules and regulations of the department of health and
14 environment and shall have been completed not more than one year prior
15 to the filing of the petition for adoption.

16 (h) The assessment and report required by this section may be waived
17 by the court upon: (1) Review of a petition requesting such waiver by a
18 relative of the child; or

19 (2) the court's own motion.

20 Sec. 19. K.S.A. 2014 Supp. 59-29a14 is hereby amended to read as
21 follows: 59-29a14. (a) The county or district attorney shall file a special
22 allegation of sexual motivation within 14 days after arraignment in every
23 criminal case other than sex offenses as defined in article 35 of chapter 21
24 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of
25 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-
26 6419 through ~~21-6421~~ 21-6422, and amendments thereto, when sufficient
27 admissible evidence exists, which, when considered with the most
28 plausible, reasonably foreseeable defense that could be raised under the
29 evidence, would justify a finding of sexual motivation by a reasonable and
30 objective fact finder.

31 (b) In a criminal case wherein there has been a special allegation, the
32 state shall prove beyond a reasonable doubt that the accused committed the
33 crime with a sexual motivation. The court shall make a finding of fact of
34 whether or not a sexual motivation was present at the time of the
35 commission of the crime, or if a jury trial is had, the jury, if it finds the
36 defendant guilty, also shall find a special verdict as to whether or not the
37 defendant committed the crime with a sexual motivation. This finding
38 shall not be applied to sex offenses as defined in article 35 of chapter 21 of
39 the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter
40 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419
41 through ~~21-6421~~ 21-6422, and amendments thereto.

42 (c) The county or district attorney shall not withdraw the special
43 allegation of sexual motivation without approval of the court through an

1 order of dismissal of the special allegation. The court shall not dismiss this
2 special allegation unless it finds that such an order is necessary to correct
3 an error in the initial charging decision or unless there are evidentiary
4 problems which make proving the special allegation doubtful.

5 Sec. 20. K.S.A. 2014 Supp. 60-455 is hereby amended to read as
6 follows: 60-455. (a) Subject to K.S.A. 60-447, and amendments thereto,
7 evidence that a person committed a crime or civil wrong on a specified
8 occasion, is inadmissible to prove such person's disposition to commit
9 crime or civil wrong as the basis for an inference that the person
10 committed another crime or civil wrong on another specified occasion.

11 (b) Subject to K.S.A. 60-445 and 60-448, and amendments thereto,
12 such evidence is admissible when relevant to prove some other material
13 fact including motive, opportunity, intent, preparation, plan, knowledge,
14 identity or absence of mistake or accident.

15 (c) Subject to K.S.A. 60-445 and 60-448, and amendments thereto, in
16 any criminal action other than a criminal action in which the defendant is
17 accused of a sex offense under articles 34, 35 or 36 of chapter 21 of the
18 Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of
19 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-
20 6104, 21-6325, 21-6326 or ~~21-6418~~ 21-6419 through ~~21-6421~~ 21-6422,
21 and amendments thereto, such evidence is admissible to show the modus
22 operandi or general method used by a defendant to perpetrate similar but
23 totally unrelated crimes when the method of committing the prior acts is so
24 similar to that utilized in the current case before the court that it is
25 reasonable to conclude the same individual committed both acts.

26 (d) Except as provided in K.S.A. 60-445, and amendments thereto, in
27 a criminal action in which the defendant is accused of a sex offense under
28 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior
29 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
30 Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or ~~21-6418~~
31 21-6419 through ~~21-6421~~ 21-6422, and amendments thereto, evidence of
32 the defendant's commission of another act or offense of sexual misconduct
33 is admissible, and may be considered for its bearing on any matter to
34 which it is relevant and probative.

35 (e) In a criminal action in which the prosecution intends to offer
36 evidence under this rule, the prosecuting attorney shall disclose the
37 evidence to the defendant, including statements of witnesses, at least 10
38 days before the scheduled date of trial or at such later time as the court
39 may allow for good cause.

40 (f) This rule shall not be construed to limit the admission or
41 consideration of evidence under any other rule or to limit the admissibility
42 of the evidence of other crimes or civil wrongs in a criminal action under a
43 criminal statute other than in articles 34, 35 or 36 of chapter 21 of the

1 Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of
2 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-
3 6104, 21-6325, 21-6326 or ~~21-6418~~ 21-6419 through ~~21-6421~~ 21-6422,
4 and amendments thereto.

5 (g) As used in this section, an "act or offense of sexual misconduct"
6 includes:

7 (1) Any conduct proscribed by article 35 of chapter 21 of the Kansas
8 Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the
9 Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419 through ~~21-~~
10 ~~6421~~ 21-6422, and amendments thereto;

11 (2) the sexual gratification component of aggravated human
12 trafficking, as described in ~~subsection (a)(1)(B) and (a)(2) of K.S.A. 21-~~
13 ~~3447(a)(1)(B) or (a)(2), prior to its repeal, or subsection (b)(1)(B) or (b)(2)~~
14 ~~of K.S.A. 2014 Supp. 21-5426(b)(1)(B) or (b)(2), and amendments~~
15 ~~thereto;~~

16 (3) exposing another to a life threatening communicable disease, as
17 described in ~~subsection (a)(1) of K.S.A. 21-3435(a)(1), prior to its repeal,~~
18 ~~or subsection (a)(1) of K.S.A. 2014 Supp. 21-5424(a)(1), and amendments~~
19 ~~thereto;~~

20 (4) incest, as described in K.S.A. 21-3602, prior to its repeal, or
21 ~~subsection (a) of K.S.A. 2014 Supp. 21-5604(a), and amendments thereto;~~

22 (5) aggravated incest, as described in K.S.A. 21-3603, prior to its
23 repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5604(b), and~~
24 ~~amendments thereto;~~

25 (6) contact, without consent, between any part of the defendant's
26 body or an object and the genitals, mouth or anus of the victim;

27 (7) contact, without consent, between the genitals, mouth or anus of
28 the defendant and any part of the victim's body;

29 (8) deriving sexual pleasure or gratification from the infliction of
30 death, bodily injury or physical pain to the victim;

31 (9) an attempt, solicitation or conspiracy to engage in conduct
32 described in paragraphs (1) through (8); or

33 (10) any federal or other state conviction of an offense, or any
34 violation of a city ordinance or county resolution, that would constitute an
35 offense under article 35 of chapter 21 of the Kansas Statutes Annotated,
36 prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes
37 Annotated, or K.S.A. 2014 Supp. 21-6419 through ~~21-6421~~ 21-6422, and
38 amendments thereto, the sexual gratification component of aggravated
39 human trafficking, as described in ~~subsection (a)(1)(B) and (a)(2) of~~
40 ~~K.S.A. 21-3447(a)(1)(B) or (a)(2), prior to its repeal, or subsection (b)(1)~~
41 ~~(B) or (b)(2) of K.S.A. 2014 Supp. 21-5426(b)(1)(B) or (b)(2), and~~
42 ~~amendments thereto; incest, as described in K.S.A. 21-3602, prior to its~~
43 ~~repeal, or subsection (a) of K.S.A. 2014 Supp. 21-5604(a), and~~

1 amendments thereto; or aggravated incest, as described in K.S.A. 21-3603,
2 prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5604(b), and
3 amendments thereto, or involved conduct described in paragraphs (6)
4 through (9).

5 (h) If any provisions of this section or the application thereof to any
6 person or circumstances is held invalid, the invalidity does not affect other
7 provisions or applications of this section which can be given effect without
8 the invalid provisions or application. To this end the provisions of this
9 section are severable.

10 Sec. 21. K.S.A. 2014 Supp. 60-5001 is hereby amended to read as
11 follows: 60-5001. (a) Any person who, while under the age of 18, was a
12 victim of an offense described in article 35 of chapter 21 of the Kansas
13 Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the
14 Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419 through ~~21-~~
15 ~~6421~~ 21-6422, and amendments thereto, *human trafficking, as defined in*
16 *K.S.A. 21-3446, prior to its repeal, or K.S.A. 2014 Supp. 21-5426(a), and*
17 *amendments thereto, aggravated human trafficking, as defined in K.S.A.*
18 *21-3447, prior to its repeal, or K.S.A. 2014 Supp. 21-5426(b), and*
19 *amendments thereto, incest as defined in K.S.A. 21-3602, prior to its*
20 *repeal, or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5604(a), and*
21 *amendments thereto, or aggravated incest as defined in ~~subsection (a)(2)~~ of*
22 *K.S.A. 21-3603(a)(2), prior to its repeal, or ~~subsection (b)(2)~~ of K.S.A.*
23 *2014 Supp. 21-5604(b)(2), and amendments thereto, where such offense*
24 *resulted in a conviction and any portion of such offense was used in the*
25 *production of child pornography, and who suffers personal or*
26 *psychological injury as a result of the production, promotion, or*
27 *possession of such child pornography, may bring an action in an*
28 *appropriate state court against the producer, promoter or intentional*
29 *possessor of such child pornography, regardless of whether the victim is*
30 *now an adult.*

31 (b) In any action brought under this section, a prevailing plaintiff
32 shall recover the actual damages such person sustained and the cost of the
33 suit, including reasonable attorney's fees. Any victim who is awarded
34 damages under this section shall be deemed to have sustained damages of
35 at least \$150,000.

36 (c) Notwithstanding any other provision of law, any action
37 commenced under this section shall be filed within three years after the
38 later of:

39 (1) The conclusion of a related criminal case;

40 (2) the notification to the victim by a member of a law enforcement
41 agency of the creation, possession, or promotion of the child pornography;
42 or

43 (3) in the case of a victim younger than 18, within three years after

1 the person reaches the age of 18.

2 (d) It is not a defense to a civil cause of action under this section that
3 the respondent did not know the victim or commit the abuse depicted in
4 the child pornography.

5 (e) At the victim's request, the attorney general may pursue cases on
6 behalf of any Kansas victim under this section. All damages obtained shall
7 go to the victim, and the attorney general may seek reasonable attorney's
8 fees and costs.

9 (f) Any action brought under this section shall be subject to the
10 provisions of K.S.A. 74-7312, and amendments thereto.

11 (g) As used in this section, "child pornography" includes, but is not
12 limited to, any visual depiction, as described in ~~subsection (a) of~~ K.S.A.
13 21-3516(a), prior to its repeal, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-
14 5510(a), and amendments thereto, and any performance, as defined in
15 ~~subsection (b) of~~ K.S.A. 21-3516(b), prior to its repeal, or ~~subsection (c) of~~
16 K.S.A. 2014 Supp. 21-5510(c), and amendments thereto.

17 (h) This section shall not apply to acts done in the performance of
18 duty by any: (1) Law enforcement officer of the state of Kansas or any
19 political subdivision thereof; (2) forensic examiner; (3) any prosecuting
20 attorney, as defined in K.S.A. 22-2202, and amendments thereto; or (4)
21 any bona fide child advocacy organization, including, but not limited to,
22 the national center for missing and exploited children.

23 Sec. 22. K.S.A. 2014 Supp. 65-5117 is hereby amended to read as
24 follows: 65-5117. (a) (1) No person shall knowingly operate a home health
25 agency if, for the home health agency, there works any person who has
26 been convicted of or has been adjudicated a juvenile offender because of
27 having committed an act which if done by an adult would constitute the
28 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
29 repeal, or K.S.A. 2014 Supp. 21-5401, and amendments thereto, first
30 degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A.
31 2014 Supp. 21-5402, and amendments thereto, second degree murder,
32 pursuant to ~~subsection (a) of~~ K.S.A. 21-3402(a), prior to its repeal, or
33 ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5403(a), and amendments thereto,
34 voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or
35 K.S.A. 2014 Supp. 21-5404, and amendments thereto, assisting suicide,
36 pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2014 Supp. 21-
37 5407, and amendments thereto, mistreatment of a dependent adult,
38 pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 2014 Supp. 21-
39 5417, and amendments thereto, *human trafficking, pursuant to K.S.A. 21-*
40 *3446, prior to its repeal, or K.S.A. 2014 Supp. 21-5426(a), and*
41 *amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-*
42 *3447, prior to its repeal, or K.S.A. 2014 Supp. 21-5426(b), and*
43 *amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal,*

1 or K.S.A. 2014 Supp. 21-5503, and amendments thereto, indecent liberties
2 with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or ~~subsection~~
3 ~~(a)~~ of K.S.A. 2014 Supp. 21-5506(a), and amendments thereto, aggravated
4 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
5 repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5506(b), and
6 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
7 3506, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-
8 5504(b), and amendments thereto, indecent solicitation of a child, pursuant
9 to K.S.A. 21-3510, prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2014
10 Supp. 21-5508(a), and amendments thereto, aggravated indecent
11 solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or
12 ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5508(b), and amendments thereto,
13 sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its
14 repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto, sexual
15 battery, pursuant to K.S.A. 21-3517, prior to its repeal, or ~~subsection (a)~~ of
16 K.S.A. 2014 Supp. 21-5505(a), and amendments thereto, ~~or~~ aggravated
17 sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or
18 ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5505(b), and amendments thereto,
19 *commercial sexual exploitation of a child, pursuant to K.S.A. 2014 Supp.*
20 *21-6422, and amendments thereto*, an attempt to commit any of the crimes
21 listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its
22 repeal, or K.S.A. 2014 Supp. 21-5301, and amendments thereto, a
23 conspiracy to commit any of the crimes listed in this subsection (a)(1),
24 pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2014 Supp. 21-
25 5302, and amendments thereto, or criminal solicitation of any of the
26 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, prior to
27 its repeal, or K.S.A. 2014 Supp. 21-5303, and amendments thereto, or
28 similar statutes of other states or the federal government. The provisions of
29 subsection (a)(2)(C) shall not apply to any person who is employed by a
30 home health agency on July 1, 2010, and while continuously employed by
31 the same home health agency.

32 (2) A person operating a home health agency may employ an
33 applicant who has been convicted of any of the following if five or more
34 years have elapsed since the applicant satisfied the sentence imposed or
35 was discharged from probation, a community correctional services
36 program, parole, postrelease supervision, conditional release or a
37 suspended sentence; or if five or more years have elapsed since the
38 applicant has been finally discharged from the custody of the
39 commissioner of juvenile justice or from probation or has been adjudicated
40 a juvenile offender, whichever time is longer: A felony conviction for a
41 crime which is described in: (A) Article 34 of chapter 21 of the Kansas
42 Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the
43 Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-

1 6326 or 21-6418, and amendments thereto, except those crimes listed in
2 subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
3 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
4 Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419 through 21-
5 6421, and amendments thereto, except those crimes listed in subsection (a)
6 (1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2014 Supp. 21-5606,
7 and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
8 2014 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
9 any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-
10 3301, prior to its repeal, or K.S.A. 2014 Supp. 21-5301, and amendments
11 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
12 (a)(2) pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2014 Supp.
13 21-5302, and amendments thereto; (F) criminal solicitation of any of the
14 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, prior to its
15 repeal, or K.S.A. 2014 Supp. 21-5303, and amendments thereto; or (G)
16 similar statutes of other states or the federal government.

17 (b) No person shall operate a home health agency if such person has
18 been found to be a person in need of a guardian or a conservator, or both,
19 as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.
20 The provisions of this subsection shall not apply to a minor found to be in
21 need of a guardian or conservator for reasons other than impairment.

22 (c) The secretary of health and environment shall have access to any
23 criminal history record information in the possession of the Kansas bureau
24 of investigation regarding any criminal history information, convictions
25 under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or
26 K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of~~ 21-5505(a) and 21-5801,
27 and amendments thereto, adjudications of a juvenile offender which if
28 committed by an adult would have been a felony conviction, and
29 adjudications of a juvenile offender for an offense described in K.S.A. 21-
30 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
31 5417, ~~subsection (a) of~~ 21-5505(a) and 21-5801, and amendments thereto,
32 concerning persons working for a home health agency. The secretary shall
33 have access to these records for the purpose of determining whether or not
34 the home health agency meets the requirements of this section. The Kansas
35 bureau of investigation may charge to the department of health and
36 environment a reasonable fee for providing criminal history record
37 information under this subsection.

38 (d) For the purpose of complying with this section, the operator of a
39 home health agency shall request from the department of health and
40 environment information regarding any criminal history information,
41 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
42 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of~~ 21-5505(a) and
43 21-5801, and amendments thereto, adjudications of a juvenile offender

1 which if committed by an adult would have been a felony conviction, and
2 adjudications of a juvenile offender for an offense described in K.S.A. 21-
3 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-
4 5417, ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
5 and which relates to a person who works for the home health agency or is
6 being considered for employment by the home health agency, for the
7 purpose of determining whether such person is subject to the provisions of
8 this section. For the purpose of complying with this section, information
9 relating to convictions and adjudications by the federal government or to
10 convictions and adjudications in states other than Kansas shall not be
11 required until such time as the secretary of health and environment
12 determines the search for such information could reasonably be performed
13 and the information obtained within a two-week period. For the purpose of
14 complying with this section, the operator of a home health agency shall
15 receive from any employment agency which provides employees to work
16 for the home health agency written certification that such employees are
17 not prohibited from working for the home health agency under this
18 section. For the purpose of complying with this section, a person who
19 operates a home health agency may hire an applicant for employment on a
20 conditional basis pending the results from the department of health and
21 environment of a request for information under this subsection. No home
22 health agency, the operator or employees of a home health agency or an
23 employment agency, or the operator or employees of an employment
24 agency, which provides employees to work for the home health agency
25 shall be liable for civil damages resulting from any decision to employ, to
26 refuse to employ or to discharge from employment any person based on
27 such home health agency's compliance with the provisions of this section
28 if such home health agency or employment agency acts in good faith to
29 comply with this section.

30 (e) The secretary of health and environment shall charge each person
31 requesting information under this section a fee equal to cost, not to exceed
32 \$10, for each name about which an information request has been submitted
33 under this section.

34 (f) (1) The secretary of health and environment shall provide each
35 operator requesting information under this section with the criminal
36 history record information concerning any criminal history information
37 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
38 repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~ and
39 21-5801, and amendments thereto, in writing and within three working
40 days of receipt of such information from the Kansas bureau of
41 investigation. The criminal history record information shall be provided
42 regardless of whether the information discloses that the subject of the
43 request has been convicted of an offense enumerated in subsection (a).

1 (2) When an offense enumerated in subsection (a) exists in the
2 criminal history record information, and when further confirmation
3 regarding criminal history record information is required from the
4 appropriate court of jurisdiction or Kansas department of corrections, the
5 secretary shall notify each operator that requests information under this
6 section in writing and within three working days of receipt from the
7 Kansas bureau of investigation that further confirmation is required. The
8 secretary shall provide to the operator requesting information under this
9 section information in writing and within three working days of receipt of
10 such information from the appropriate court of jurisdiction or Kansas
11 department of corrections regarding confirmation regarding the criminal
12 history record information.

13 (3) Whenever the criminal history record information reveals that the
14 subject of the request has no criminal history on record, the secretary shall
15 provide notice to each operator requesting information under this section,
16 in writing and within three working days after receipt of such information
17 from the Kansas bureau of investigation.

18 (4) The secretary of health and environment shall not provide each
19 operator requesting information under this section with the juvenile
20 criminal history record information which relates to a person subject to a
21 background check as is provided by K.S.A. 2014 Supp. 38-2326, and
22 amendments thereto, except for adjudications of a juvenile offender for an
23 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2014
24 Supp. 21-5801, and amendments thereto. The secretary shall notify the
25 operator that requested the information, in writing and within three
26 working days of receipt of such information from the Kansas bureau of
27 investigation, whether juvenile criminal history record information
28 received pursuant to this section reveals that the operator would or would
29 not be prohibited by this section from employing the subject of the request
30 for information and whether such information contains adjudications of a
31 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
32 repeal, or K.S.A. 2014 Supp. 21-5801, and amendments thereto.

33 (5) An operator who receives criminal history record information
34 under this subsection (f) shall keep such information confidential, except
35 that the operator may disclose such information to the person who is the
36 subject of the request for information. A violation of this paragraph (5)
37 shall be an unclassified misdemeanor punishable by a fine of \$100.

38 (g) No person who works for a home health agency and who is
39 currently licensed or registered by an agency of this state to provide
40 professional services in this state and who provides such services as part of
41 the work which such person performs for the home health agency shall be
42 subject to the provisions of this section.

43 (h) A person who volunteers to assist a home health agency shall not

1 be subject to the provisions of this section because of such volunteer
2 activity.

3 (i) An operator may request from the department of health and
4 environment criminal history information on persons employed under
5 subsections (g) and (h).

6 (j) No person who has been employed by the same home health
7 agency since July 1, 1992, shall be subject to the requirements of this
8 section while employed by such home health agency.

9 (k) The operator of a home health agency shall not be required under
10 this section to conduct a background check on an applicant for
11 employment with the home health agency if the applicant has been the
12 subject of a background check under this act within one year prior to the
13 application for employment with the home health agency. The operator of
14 a home health agency where the applicant was the subject of such
15 background check may release a copy of such background check to the
16 operator of a home health agency where the applicant is currently
17 applying.

18 (l) For purposes of this section, the Kansas bureau of investigation
19 shall only report felony convictions, convictions under K.S.A. 21-3437,
20 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2014 Supp. 21-5417,
21 ~~subsection (a) of 21-5505(a)~~ and 21-5801, and amendments thereto,
22 adjudications of a juvenile offender which if committed by an adult would
23 have been a felony conviction, and adjudications of a juvenile offender for
24 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
25 their repeal, or K.S.A. 2014 Supp. 21-5417, ~~subsection (a) of 21-5505(a)~~
26 and 21-5801, and amendments thereto, to the secretary of health and
27 environment when a background check is requested.

28 (m) This section shall be part of and supplemental to the provisions
29 of article 51 of chapter 65 of the Kansas Statutes Annotated, and
30 amendments thereto.

31 Sec. 23. K.S.A. 2014 Supp. 72-1397 is hereby amended to read as
32 follows: 72-1397. (a) The state board of education shall not knowingly
33 issue a license to or renew the license of any person who has been
34 convicted of:

35 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
36 2014 Supp. 21-5503, and amendments thereto;

37 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
38 to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5506(a)~~, and
39 amendments thereto;

40 (3) aggravated indecent liberties with a child, as defined in K.S.A.
41 21-3504, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-~~
42 ~~5506(b)~~, and amendments thereto;

43 (4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~

- 1 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or~~
2 ~~(a)(4)~~ of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4), and amendments
3 thereto;
- 4 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
5 to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5504(b), and
6 amendments thereto;
- 7 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
8 prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5508(a), and
9 amendments thereto;
- 10 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
11 21-3511, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-
12 5508(b), and amendments thereto;
- 13 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
14 to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto;
- 15 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
16 repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5604(b), and
17 amendments thereto;
- 18 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
19 prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5601(b), and
20 amendments thereto;
- 21 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
22 or K.S.A. 2014 Supp. 21-5602, and amendments thereto;
- 23 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
24 or K.S.A. 2014 Supp. 21-5401, and amendments thereto;
- 25 (13) murder in the first degree, as defined in K.S.A. 21-3401, prior to
26 its repeal, or K.S.A. 2014 Supp. 21-5402, and amendments thereto;
- 27 (14) murder in the second degree, as defined in K.S.A. 21-3402, prior
28 to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments thereto;
- 29 (15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
30 its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto;
- 31 (16) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
32 its repeal, or K.S.A. 2014 Supp. 21-5405, and amendments thereto;
- 33 (17) involuntary manslaughter while driving under the influence of
34 alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 35 (18) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
36 or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5505(a), and amendments
37 thereto, when, at the time the crime was committed, the victim was less
38 than 18 years of age or a student of the person committing such crime;
- 39 (19) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
40 its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5505(b), and
41 amendments thereto;
- 42 (20) *commercial sexual exploitation of a child, as defined in K.S.A.*
43 *2014 Supp. 21-6422, and amendments thereto;*

1 (21) *human trafficking, as defined in K.S.A. 21-3446, prior to its*
2 *repeal, or K.S.A. 2014 Supp. 21-5426(a), and amendments thereto;*

3 (22) *aggravated human trafficking, as defined in K.S.A. 21-3447,*
4 *prior to its repeal, or K.S.A. 2014 Supp. 21-5426(b), and amendments*
5 *thereto;*

6 ~~(20)~~ (23) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
7 2014 Supp. 21-5301, and amendments thereto, to commit any act specified
8 in this subsection;

9 ~~(21)~~ (24) conspiracy under K.S.A. 21-3302, prior to its repeal, or
10 K.S.A. 2014 Supp. 21-5302, and amendments thereto, to commit any act
11 specified in this subsection;

12 ~~(22)~~ (25) an act in another state or by the federal government that is
13 comparable to any act described in this subsection; or

14 ~~(23)~~ (26) an offense in effect at any time prior to the effective date of
15 this act that is comparable to an offense as provided in this subsection.

16 (b) Except as provided in subsection (c), the state board of education
17 shall not knowingly issue a license to or renew the license of any person
18 who has been convicted of, or has entered into a criminal diversion
19 agreement after having been charged with:

20 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
21 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes
22 Annotated, and amendments thereto, or any felony violation of any
23 provision of the uniform controlled substances act prior to July 1, 2009;

24 (2) a felony described in any section of article 34 of chapter 21 of the
25 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
26 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325,
27 21-6326 or 21-6418, and amendments thereto, other than an act specified
28 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
29 repeal, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5413(a), and
30 amendments thereto, or domestic battery, as described in K.S.A. 21-3412a,
31 prior to its repeal, or K.S.A. 2014 Supp. 21-5414, and amendments
32 thereto, if the victim is a minor or student;

33 (3) a felony described in any section of article 35 of chapter 21 of the
34 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
35 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419 through
36 21-6421, and amendments thereto, other than an act specified in
37 subsection (a);

38 (4) any act described in any section of article 36 of chapter 21 of the
39 Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21
40 of the Kansas Statutes Annotated, and amendments thereto, other than an
41 act specified in subsection (a);

42 (5) a felony described in article 37 of chapter 21 of the Kansas
43 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the

1 Kansas Statutes Annotated, or ~~subsection (a)(6)~~ of K.S.A. 2014 Supp. 21-
2 6412(a)(6), and amendments thereto;

3 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
4 repeal, or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-6401(a), and
5 amendments thereto, promoting obscenity to minors, as described in
6 K.S.A. 21-4301a, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2014
7 Supp. 21-6401(b), and amendments thereto, or promoting to minors
8 obscenity harmful to minors, as described in K.S.A. 21-4301c, prior to its
9 repeal, or K.S.A. 2014 Supp. 21-6402, and amendments thereto;

10 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
11 repeal, or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5601(a), and
12 amendments thereto;

13 (8) driving under the influence of alcohol or drugs in violation of
14 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is
15 punishable as a felony;

16 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2014
17 Supp. 21-5301, and amendments thereto, to commit any act specified in
18 this subsection;

19 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
20 2014 Supp. 21-5302, and amendments thereto, to commit any act specified
21 in this subsection; or

22 (11) an act committed in violation of a federal law or in violation of
23 another state's law that is comparable to any act described in this
24 subsection.

25 (c) The state board of education may issue a license to or renew the
26 license of a person who has been convicted of committing an offense or
27 act described in subsection (b) or who has entered into a criminal diversion
28 agreement after having been charged with an offense or act described in
29 subsection (b) if the state board determines, following a hearing, that the
30 person has been rehabilitated for a period of at least five years from the
31 date of conviction of the offense or commission of the act or, in the case of
32 a person who has entered into a criminal diversion agreement, that the
33 person has satisfied the terms and conditions of the agreement. The state
34 board of education may consider factors including, but not limited to, the
35 following in determining whether to grant a license:

36 (1) The nature and seriousness of the offense or act;

37 (2) the conduct of the person subsequent to commission of the
38 offense or act;

39 (3) the time elapsed since the commission of the offense or act;

40 (4) the age of the person at the time of the offense or act;

41 (5) whether the offense or act was an isolated or recurring incident;
42 and

43 (6) discharge from probation, pardon or expungement.

1 (d) Before any license is denied by the state board of education for
2 any of the offenses or acts specified in subsections (a) and (b), the person
3 shall be given notice and an opportunity for a hearing in accordance with
4 the provisions of the Kansas administrative procedure act.

5 (e) The county or district attorney shall file a report with the state
6 board of education indicating the name, address and social security
7 number of any person who has been determined to have committed any
8 offense or act specified in subsection (a) or (b) or to have entered into a
9 criminal diversion agreement after having been charged with any offense
10 or act specified in subsection (b). Such report shall be filed within 30 days
11 of the date of the determination that the person has committed any such act
12 or entered into any such diversion agreement.

13 (f) The state board of education shall not be liable for civil damages
14 to any person refused issuance or renewal of a license by reason of the
15 state board's compliance, in good faith, with the provisions of this section.

16 Sec. 24. K.S.A. 2014 Supp. 74-7305 is hereby amended to read as
17 follows: 74-7305. (a) An application for compensation shall be made in the
18 manner and form prescribed by the board.

19 (b) Compensation may not be awarded unless an application has been
20 filed with the board within two years of the reporting of the incident to law
21 enforcement officials if the victim was less than 16 years of age and the
22 injury or death is the result of any of the following crimes: (1) Indecent
23 liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or
24 ~~subsection (a) of K.S.A. 2014 Supp. 21-5506(a)~~, and amendments thereto;
25 (2) aggravated indecent liberties with a child as defined in K.S.A. 21-3504,
26 prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5506(b)~~, and
27 amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A.
28 21-3506, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-~~
29 ~~5504(b)~~, and amendments thereto; (4) enticement of a child as defined in
30 K.S.A. 21-3509 prior to its repeal; (5) indecent solicitation of a child as
31 defined in K.S.A. 21-3510, prior to its repeal, or ~~subsection (a) of K.S.A.~~
32 ~~2014 Supp. 21-5508(a)~~, and amendments thereto; (6) aggravated indecent
33 solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or
34 ~~subsection (b) of K.S.A. 2014 Supp. 21-5508(b)~~, and amendments thereto;
35 (7) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its
36 repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto; ~~or~~ (8)
37 aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or
38 ~~subsection (b) of K.S.A. 2014 Supp. 21-5604(b)~~, and amendments thereto;
39 (9) *human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or*
40 *K.S.A. 2014 Supp. 21-5426(a), and amendments thereto; (10) aggravated*
41 *human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or*
42 *K.S.A. 2014 Supp. 21-5426(b), and amendments thereto; or (11)*
43 *commercial sexual exploitation of a child as defined in K.S.A. 2014 Supp.*

1 21-6422, and amendments thereto. Compensation for mental health
2 counseling may be awarded, if a claim is filed within two years of
3 testimony, to a claimant who is, or will be, required to testify in a sexually
4 violent predator commitment, pursuant to article 29a of chapter 59 of the
5 Kansas Statutes Annotated, and amendments thereto, of an offender who
6 victimized the claimant or the victim on whose behalf the claim is made.
7 For all other incidents of criminally injurious conduct, compensation may
8 not be awarded unless the claim has been filed with the board within two
9 years after the injury or death upon which the claim is based.
10 Compensation may not be awarded to a claimant who was the offender or
11 an accomplice of the offender and may not be awarded to another person if
12 the award would unjustly benefit the offender or accomplice.

13 (c) Compensation otherwise payable to a claimant shall be reduced or
14 denied, to the extent, if any that the:

15 (1) Economic loss upon which the claimant's claim is based is
16 recouped from other persons, including collateral sources;

17 (2) board deems reasonable because of the contributory misconduct
18 of the claimant or of a victim through whom the claimant claims; or

19 (3) board deems reasonable, because the victim was likely engaging
20 in, or attempting to engage in, unlawful activity at the time of the crime
21 upon which the claim for compensation is based. This subsection shall not
22 be construed to reduce or deny compensation to a victim of domestic
23 abuse or sexual assault.

24 (d) Compensation may be awarded only if the board finds that unless
25 the claimant is awarded compensation the claimant will suffer financial
26 stress as the result of economic loss otherwise reparable. A claimant
27 suffers financial stress only if the claimant cannot maintain the claimant's
28 customary level of health, safety and education for self and dependents
29 without undue financial hardship. In making its determination of financial
30 stress, the board shall consider all relevant factors, including:

31 (1) The number of claimant's dependents;

32 (2) the usual living expenses of the claimant and the claimant's
33 family;

34 (3) the special needs of the claimant and the claimant's dependents;

35 (4) the claimant's income and potential earning capacity; and

36 (5) the claimant's resources.

37 (e) Compensation may not be awarded unless the criminally injurious
38 conduct resulting in injury or death was reported to a law enforcement
39 officer within 72 hours after its occurrence or the board finds there was
40 good cause for the failure to report within that time.

41 (f) The board, upon finding that the claimant or victim has not fully
42 cooperated with appropriate law enforcement agencies, may deny,
43 withdraw or reduce an award of compensation.

1 (g) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or
2 K.S.A. 2014 Supp. 21-5604, and amendments thereto, or cases of sex
3 offenses established in article 35 of chapter 21, of the Kansas Statutes
4 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas
5 Statutes Annotated, ~~or~~ *and amendments thereto*, K.S.A. 2014 Supp. 21-
6 6419 through ~~21-6421~~ 21-6422, and amendments thereto, *or human*
7 *trafficking or aggravated human trafficking, as defined in K.S.A. 21-3446*
8 *or 21-3447, prior to their repeal, or K.S.A. 2014 Supp. 21-5426, and*
9 *amendments thereto*, compensation may not be awarded if the economic
10 loss is less than \$100.

11 (h) Compensation for work loss, replacement services loss,
12 dependent's economic loss and dependent's replacement service loss may
13 not exceed \$400 per week or actual loss, whichever is less.

14 (i) Compensation payable to a victim and to all other claimants
15 sustaining economic loss because of injury to or death of that victim may
16 not exceed \$25,000 in the aggregate.

17 Sec. 25. K.S.A. 2014 Supp. 75-452 is hereby amended to read as
18 follows: 75-452. The following words and phrases when used in K.S.A.
19 2014 Supp. 75-451 to 75-458, inclusive, and amendments thereto, shall
20 have the meanings respectively ascribed to them herein, unless the context
21 clearly requires otherwise:

22 (a) "Abuse" means:

23 (1) Causing or attempting to cause physical harm;

24 (2) placing another person in fear of imminent physical harm;

25 (3) causing another person to engage involuntarily in sexual relations
26 by force, threats or duress, or threatening to do so;

27 (4) engaging in mental abuse, which includes threats, intimidation
28 and acts designed to induce terror;

29 (5) depriving another person of necessary health care, housing or
30 food; or

31 (6) unreasonably and forcibly restraining the physical movement of
32 another.

33 (b) "Confidential address" means a residential street address, school
34 street address or work street address of an individual, as specified on the
35 individual's application to be a program participant under K.S.A. 2014
36 Supp. 75-451 to 75-458, inclusive, and amendments thereto.

37 (c) "Confidential mailing address" means an address that is
38 recognized for delivery by the United States postal service.

39 (d) "Domestic violence" means abuse committed against a victim or
40 the victim's spouse or dependent child by:

41 (1) A current or former spouse of the victim;

42 (2) a person with whom the victim shares parentage of a child in
43 common;

1 (3) a person who is cohabitating with, or has cohabitated with, the
2 victim;

3 (4) a person who is related by blood or marriage; or

4 (5) a person with whom the victim has or had a dating or engagement
5 relationship.

6 (e) "Program participant" means a person certified as a program
7 participant under K.S.A. 2014 Supp. 75-453, and amendments thereto.

8 (f) "Enrolling agent" means state and local agencies, law enforcement
9 offices, nonprofit agencies and any others designated by the secretary of
10 state that provide counseling and shelter services to victims of domestic
11 violence, sexual assault, human trafficking or stalking.

12 (g) "Sexual assault" means an act which if committed in this state
13 would constitute any crime defined in article 35 of chapter 21 of the
14 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
15 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419 through
16 ~~21-6421~~ 21-6422, and amendments thereto.

17 (h) "Stalking" means an act which if committed in this state would
18 constitute "stalking" as defined by K.S.A. 60-31a01, and amendments
19 thereto.

20 (i) "Human trafficking" means an act which if committed in this state
21 would constitute the crime of human trafficking as defined by K.S.A. 21-
22 3446, prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-
23 5426(a), and amendments thereto.

24 Sec. 26. K.S.A. 2014 Supp. 76-11a13 is hereby amended to read as
25 follows: 76-11a13. (a) (1) Subject to the provisions of subsection (b), the
26 provisions of K.S.A. 76-11a06 through 76-11a11, and amendments thereto,
27 apply only to: (A) Teachers who have completed not less than three
28 consecutive years of employment, and been offered a contract for a fourth
29 year of employment, at the state school in which the teacher is currently
30 employed; and (B) teachers who have completed not less than two
31 consecutive years of employment, and been offered a contract for a third
32 year of employment, at the state school in which the teacher is currently
33 employed if at any time prior to the current employment the teacher has
34 completed the years of employment requirement of ~~subpart~~ *subparagraph*
35 (A) at the other state school.

36 (2) The state board may waive, at any time, the years of employment
37 requirements of ~~provision~~ *subsection (a)(1)* for any teachers employed at a
38 state school.

39 (3) The provisions of this subsection are subject to the provisions of
40 K.S.A. 76-11a14, and amendments thereto.

41 (b) The provisions of K.S.A. 76-11a06 through 76-11a11, and
42 amendments thereto, do not apply to any teacher whose certificate has
43 been nonrenewed or revoked by the state board for the reason that the

1 teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp. 21-
2 36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21
3 of the Kansas Statutes Annotated, and amendments thereto, or any felony
4 violation of any provision of the uniform controlled substances act prior to
5 July 1, 2009; (2) has been convicted of a felony described in any section of
6 article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their
7 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or
8 K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
9 amendments thereto, or an act described in K.S.A. 21-3412, prior to its
10 repeal, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5413(a), and
11 amendments thereto, if the victim is a minor or student; (3) has been
12 convicted of a felony described in any section of article 35 of chapter 21 of
13 the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter
14 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419
15 through ~~21-6421~~ 21-6422, and amendments thereto, or has been convicted
16 of an act described in K.S.A. 21-3517, prior to its repeal, or ~~subsection (a)~~
17 ~~of~~ K.S.A. 2014 Supp. 21-5505(a), and amendments thereto, if the victim is
18 a minor or student; (4) has been convicted of any act described in any
19 section of article 36 of chapter 21 of the Kansas Statutes Annotated, prior
20 to their repeal, or article 56 of chapter 21 of the Kansas Statutes
21 Annotated, and amendments thereto; (5) has been convicted of a felony
22 described in article 37 of chapter 21 of the Kansas Statutes Annotated;
23 prior to their repeal, or article 58 of chapter 21 of the Kansas Statutes
24 Annotated, or ~~subsection (a)(6) of~~ K.S.A. 2014 Supp. 21-6412(a)(6), and
25 amendments thereto; (6) has been convicted of an attempt under K.S.A.
26 21-3301, prior to its repeal, or K.S.A. 2014 Supp. 21-5301, and
27 amendments thereto, to commit any act specified in this subsection; (7)
28 has been convicted of any act which is described in K.S.A. 21-4301, 21-
29 4301a or 21-4301c, prior to their repeal, or K.S.A. 2014 Supp. 21-6401 or
30 21-6402, and amendments thereto; (8) has been convicted in another state
31 or by the federal government of an act similar to any act described in this
32 subsection; or (9) has entered into a criminal diversion agreement after
33 having been charged with any offense described in this subsection.

34 Sec. 27. K.S.A. 2013 Supp. 38-2310, as amended by section 2 of
35 chapter 131 of the 2014 Session Laws of Kansas, and K.S.A. 2014 Supp.
36 21-5501, 21-6328, 22-3424, 22-3436, 22-3701, 22-3727, 22-3727a, 22-
37 4614, 23-2225, 23-3222, 38-2202, 38-2271, 38-2309, 38-2310, 39-970,
38 44-706, 59-2132, 59-29a14, 60-455, 60-5001, 65-5117, 72-1397, 74-7305,
39 75-452 and 76-11a13 are hereby repealed.

40 Sec. 28. This act shall take effect and be in force from and after its
41 publication in the statute book.