

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2113

By Joint Committee on Corrections and Juvenile Justice Oversight

1-20

1 AN ACT concerning expungement; relating to expungement under the
2 Kansas code of procedure for municipal courts, the Kansas criminal
3 code and the revised Kansas juvenile justice code; prohibiting denial of
4 a petition for expungement due to the petitioner's inability to pay
5 outstanding costs, fees; ~~or fines or restitution; providing that the~~
6 ~~waiting period for expungement starts on the date of conviction or~~
7 ~~adjudication; authorizing the court to grant a petition for~~
8 **expungement when restitution is outstanding**; authorizing
9 expungement of a juvenile adjudication if the juvenile has not
10 committed a felony offense in the previous two years; amending K.S.A.
11 12-4516 and 38-2312 and K.S.A. 2022 Supp. 21-6614 and repealing
12 the existing sections.
13

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

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

21 ~~(A) Satisfied the sentence imposed; or~~
22 ~~(B) was discharged from probation, parole or a suspended sentence~~
23 ~~was convicted of such violation:~~

24 **(A) Satisfied the sentence imposed; or**
25 **(B) was discharged from probation, parole or a suspended**
26 **sentence.**

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

33 (b) Any person convicted of a violation of any ordinance that is
34 prohibited by either K.S.A. 12-16,134(a) or (b), and amendments thereto,
35 and ~~which~~ *that* was adopted prior to July 1, 2014, or who entered into a
36 diversion agreement in lieu of further criminal proceedings for such

1 violation, may petition the convicting court for the expungement of such
2 conviction or diversion agreement and related arrest records.

3 (c) Any person convicted of the violation of a city ordinance ~~which~~
4 *that* would also constitute a violation of K.S.A. 21-3512, prior to its repeal,
5 or a violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto, or
6 who entered into a diversion agreement in lieu of further criminal
7 proceedings for such violation, may petition the convicting court for the
8 expungement of such conviction or diversion agreement and related arrest
9 records if:

10 (1) One or more years have elapsed since the person ~~was convicted of~~
11 ~~such violation or~~ satisfied the sentence imposed ~~or the sentence imposed~~
12 ~~or the terms of a such diversion agreement or was discharged from~~
13 ~~probation, parole, conditional release or a suspended sentence or was~~
14 **discharged from probation, parole, conditional release or a suspended**
15 **sentence;** and

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

22 (d) ~~No person may petition for expungement until five or more years~~
23 ~~have elapsed since the person satisfied the sentence imposed or the terms~~
24 ~~of a diversion agreement or was discharged from probation, parole,~~
25 ~~conditional release or a suspended sentence, if such person was Any~~
26 ~~person~~ **No person may petition for expungement until five or more**
27 **years have elapsed since the person satisfied the sentence imposed or**
28 **the terms of a diversion agreement or was discharged from probation,**
29 **parole, conditional release or a suspended sentence, if such person was**
30 convicted of the violation of a city ordinance ~~which~~ *that* would also
31 constitute ~~a violation of any of the following statutes, or who entered into~~
32 ~~a diversion agreement in lieu of further criminal proceedings for such~~
33 ~~violation, shall not petition for expungement until five or more years have~~
34 ~~elapsed since the person was convicted of such violation or satisfied the~~
35 ~~terms of such diversion agreement.~~

36 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
37 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto;

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

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

43 (4) a violation of the provisions of K.S.A. 8-142 *Fifth*, and

1 amendments thereto, relating to fraudulent applications;

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

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

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

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

10 (e) (1) ~~No person may petition for expungement until five or more~~
11 ~~years have elapsed since the person satisfied the sentence imposed or the~~
12 ~~terms of a diversion agreement or was discharged from probation, parole,~~
13 ~~conditional release or a suspended sentence, if such person was~~*Any*
14 ~~person~~**No person may petition for expungement until five or more**
15 **years have elapsed since the person satisfied the sentence imposed or**
16 **the terms of a diversion agreement or was discharged from probation,**
17 **parole, conditional release or a suspended sentence, if such person was**
18 convicted of a first violation of a city ordinance ~~which that~~ would also
19 constitute a first violation of K.S.A. 8-1567, and amendments thereto, ~~or~~
20 ~~who entered into a diversion agreement in lieu of further criminal~~
21 ~~proceedings for such violation, shall not petition for expungement until~~
22 ~~five or more years have elapsed since the person was convicted of such~~
23 ~~violation or satisfied the terms of such diversion agreement.~~

24 (2) ~~No person may petition for expungement until 10 or more years~~
25 ~~have elapsed since the person satisfied the sentence imposed or was~~
26 ~~discharged from probation, parole, conditional release or a suspended~~
27 ~~sentence, if such person was~~*Any person***No person may petition for**
28 **expungement until 10 or more years have elapsed since the person**
29 **satisfied the sentence imposed or was discharged from probation,**
30 **parole, conditional release or a suspended sentence, if such person was**
31 convicted of a second or subsequent violation of a city ordinance ~~which~~
32 ~~that~~ would also constitute a second or subsequent violation of K.S.A. 8-
33 1567, and amendments thereto, ~~shall not petition for expungement until 10~~
34 ~~or more years have elapsed since the person was convicted of such~~
35 ~~violation.~~

36 (3) The provisions of this subsection shall apply to all violations
37 committed on or after July 1, 2006.

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

41 (g) (1) When a petition for expungement is filed, the court shall set a
42 date for a hearing of such petition and shall cause notice of such hearing to
43 be given to the prosecuting attorney and the arresting law enforcement

1 agency. The petition shall state the:

2 (A) Defendant's full name;

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

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

6 (D) crime for which the defendant was arrested, convicted or
7 diverted;

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

9 (F) identity of the convicting court, arresting law enforcement agency
10 or diverting authority.

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

13 (3) Any person who may have relevant information about the
14 petitioner may testify at the hearing. The court may inquire into the
15 background of the petitioner and shall have access to any reports or
16 records relating to the petitioner that are on file with the secretary of
17 corrections or the prisoner review board.

18 (h) (1) At the hearing on the petition, the court shall order the
19 petitioner's arrest record, conviction or diversion expunged if the court
20 finds that:

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

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

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

27 (2) *The court shall not deny the petition for expungement due to the*
28 *petitioner's inability to pay outstanding costs, fees, or fines or restitution.*
29 *The petitioner's unwillingness, rather than inability, to pay such costs,*
30 *fees, or fines or restitution may be considered as a factor in denying the*
31 *petition for expungement. **The court may grant a petition for***
32 **expungement when the petitioner owes outstanding restitution.**

33 (i) When the court has ordered an arrest record, conviction or
34 diversion expunged, the order of expungement shall state the information
35 required to be contained in the petition. The clerk of the court shall send a
36 certified copy of the order of expungement to the Kansas bureau of
37 investigation which shall *then* notify the federal bureau of investigation,
38 the secretary of corrections and any other criminal justice agency ~~which~~
39 *that* may have a record of the arrest, conviction or diversion. If the case
40 was appealed from municipal court, the clerk of the district court shall
41 send a certified copy of the order of expungement to the municipal court.
42 The municipal court shall order the case expunged once the certified copy
43 of the order of expungement is received. After the order of expungement is

1 entered, the petitioner shall be treated as not having been arrested,
2 convicted or diverted of the crime, except that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (L) for applications received on and after July 1, 2016, to aid in
7 determining the petitioner's qualifications for a license to act as a bail
8 enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, *and*
9 *amendments thereto*, and K.S.A. 2022 Supp. 50-6,141, and amendments
10 thereto;

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

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

17 (5) *the petitioner shall continue to be responsible for fully satisfying*
18 *any outstanding costs, fees, fines and restitution related to the arrest,*
19 *conviction or diversion. For the purpose of collecting such outstanding*
20 *costs, fees, fines or restitution, the following persons shall have access to*
21 *the expunged case file notwithstanding any expungement:*

22 (A) *The clerk of the court;*

23 (B) *a contracting agent as defined in K.S.A. 12-4119, and*
24 *amendments thereto;*

25 (C) *the petitioner and the petitioner's attorney;*

26 (D) *the beneficiary under an order of restitution as defined in K.S.A.*
27 *12-4119, and amendments thereto, and such beneficiary's attorney; and*

28 (E) *any other person as authorized by a court order if the court finds*
29 *it is necessary for the person to have access to the expunged case file for*
30 *the purpose of collecting the outstanding costs, fees, fines or restitution.*

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

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

42 (l) Whenever the record of any arrest, conviction or diversion has
43 been expunged under the provisions of this section or under the provisions

1 of any other existing or former statute, the custodian of the records of
2 arrest, conviction, diversion and incarceration relating to that crime shall
3 not disclose the existence of such records, except when requested by:

4 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

40 (10) the Kansas racing and gaming commission, or a designee of the
41 commission, and the request is accompanied by a statement that the
42 request is being made to aid in determining qualifications of the following
43 under the Kansas expanded lottery act:

1 (A) Lottery gaming facility managers and prospective managers,
2 racetrack gaming facility managers and prospective managers, licensees
3 and certificate holders; and

4 (B) their officers, directors, employees, owners, agents and
5 contractors;

6 (11) the state gaming agency, and the request is accompanied by a
7 statement that the request is being made to aid in determining
8 qualifications:

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

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

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

18 (13) the attorney general, and the request is accompanied by a
19 statement that the request is being made to aid in determining
20 qualifications for a license to:

21 (A) Carry a concealed weapon pursuant to the personal and family
22 protection act; or

23 (B) act as a bail enforcement agent pursuant to K.S.A. 75-7e01
24 through 75-7e09, *and amendments thereto*, and K.S.A. 2022 Supp. 50-
25 6,141, and amendments thereto;

26 (14) the Kansas sentencing commission;

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

31 (16) a law enforcement agency and the request is accompanied by a
32 statement that the request is being made to aid in determining eligibility
33 for employment as a law enforcement officer as defined by K.S.A. 22-
34 2202, and amendments thereto.

35 Sec. 2. K.S.A. 2022 Supp. 21-6614 is hereby amended to read as
36 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
37 and (f), any person convicted in this state of a traffic infraction, cigarette
38 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
39 committed on or after July 1, 1993, any nongrid felony or felony ranked in
40 severity levels 6 through 10 of the nondrug grid, or for crimes committed
41 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
42 severity level 4 of the drug grid, or for crimes committed on or after July
43 1, 2012, any felony ranked in severity level 5 of the drug grid may petition

1 the convicting court for the expungement of such conviction ~~or and~~ related
2 arrest records if three or more years have elapsed since the person: ~~(A)~~
3 ~~Satisfied the sentence imposed; or (B) was discharged from probation, a~~
4 ~~community correctional services program, parole, postrelease supervision,~~
5 ~~conditional release or a suspended sentence was convicted of such offense:~~
6 **(A) Satisfied the sentence imposed; or (B) was discharged from**
7 **probation, a community correctional services program, parole,**
8 **postrelease supervision, conditional release or a suspended sentence.**

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

14 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
15 3512, prior to its repeal, convicted of a violation of K.S.A. 2022 Supp. 21-
16 6419, and amendments thereto, or who entered into a diversion agreement
17 in lieu of further criminal proceedings for such violation, may petition the
18 convicting court for the expungement of such conviction or diversion
19 agreement and related arrest records if:

20 (1) One or more years have elapsed since the person ~~satisfied the~~
21 ~~sentence imposed was convicted of such offense~~ **satisfied the sentence**
22 **imposed or fulfilled** the terms of a *such* diversion agreement ~~or was~~
23 ~~discharged from probation, a community correctional services program,~~
24 ~~parole, postrelease supervision, conditional release or a suspended~~
25 ~~sentence or was discharged from probation, a community correctional~~
26 **services program, parole, postrelease supervision, conditional release**
27 **or a suspended sentence; and**

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

34 (c) Except as provided in subsections (e) and (f), ~~no person may~~
35 ~~petition for expungement until five or more years have elapsed since the~~
36 ~~person satisfied the sentence imposed or the terms of a diversion~~
37 ~~agreement or was discharged from probation, a community correctional~~
38 ~~services program, parole, postrelease supervision, conditional release or a~~
39 ~~suspended sentence, if such person was convicted of~~ *any person convicted*
40 *of a violation described in this subsection, or who entered into a diversion*
41 *agreement in lieu of further criminal proceedings for such violation, shall*
42 *not petition for expungement until five or more years have elapsed since*
43 *the person was convicted of such violation or satisfied the terms of such*

1 ~~diversion agreement~~ **no person may petition for expungement until five**
 2 **or more years have elapsed since the person satisfied the sentence**
 3 **imposed or the terms of a diversion agreement or was discharged from**
 4 **probation, a community correctional services program, parole,**
 5 **postrelease supervision, conditional release or a suspended sentence, if**
 6 **such person was convicted of:**

7 (1) A class A, B or C felony, or for crimes committed on or after July
 8 1, 1993, ~~if convicted of an off-grid felony or any felony ranked in severity~~
 9 levels 1 through 5 of the nondrug grid, or for crimes committed on or after
 10 July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels
 11 1 through 3 of the drug grid, or for crimes committed on or after July 1,
 12 2012, any felony ranked in severity levels 1 through 4 of the drug grid;
 13 or;

14 ~~(1)(2)~~ vehicular homicide, as defined in K.S.A. 21-3405, prior to its
 15 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto, or as
 16 prohibited by any law of another state that is in substantial conformity
 17 with that statute;

18 ~~(2)(3)~~ driving while the privilege to operate a motor vehicle on the
 19 public highways of this state has been canceled, suspended or revoked, as
 20 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
 21 any law of another state that is in substantial conformity with that statute;

22 ~~(3)(4)~~ perjury resulting from a violation of K.S.A. 8-261a, and
 23 amendments thereto, or resulting from the violation of a law of another
 24 state that is in substantial conformity with that statute;

25 ~~(4)(5)~~ violating the provisions of K.S.A. 8-142 *Fifth*, and
 26 amendments thereto, relating to fraudulent applications or violating the
 27 provisions of a law of another state that is in substantial conformity with
 28 that statute;

29 ~~(5)(6)~~ any crime punishable as a felony wherein a motor vehicle was
 30 used in the perpetration of such crime;

31 ~~(6)(7)~~ failing to stop at the scene of an accident and perform the
 32 duties required by K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602 or
 33 8-1604, and amendments thereto, or required by a law of another state that
 34 is in substantial conformity with those statutes;

35 ~~(7)(8)~~ violating the provisions of K.S.A. 40-3104, and amendments
 36 thereto, relating to motor vehicle liability insurance coverage; or

37 ~~(8)(9)~~ a violation of K.S.A. 21-3405b, prior to its repeal.

38 (d) (1) ~~No person may petition for expungement until five or more~~
 39 ~~years have elapsed since the person satisfied the sentence imposed or the~~
 40 ~~terms of a diversion agreement or was discharged from probation, a~~
 41 ~~community correctional services program, parole, postrelease supervision,~~
 42 ~~conditional release or a suspended sentence, if such person was~~
 43 ~~Any person.~~ **No person may petition for expungement until five or more**

1 years have elapsed since the person satisfied the sentence imposed or
2 the terms of a diversion agreement or was discharged from probation,
3 a community correctional services program, parole, postrelease
4 supervision, conditional release or a suspended sentence, if such
5 person was convicted of a first violation of K.S.A. 8-1567, and
6 amendments thereto, ~~including any diversion for such violation or who~~
7 ~~entered into a diversion agreement in lieu of further criminal proceedings~~
8 ~~for such violation, shall not petition for expungement until five or more~~
9 ~~years have elapsed since the person was convicted of such violation or~~
10 ~~satisfied the terms of such diversion agreement including any diversion~~
11 **for such violation.**

12 (2) ~~No person may petition for expungement until 10 or more years~~
13 ~~have elapsed since the person satisfied the sentence imposed or was~~
14 ~~discharged from probation, a community correctional services program,~~
15 ~~parole, postrelease supervision, conditional release or a suspended~~
16 ~~sentence, if such person was.~~
17 **Any person No person may petition for**
18 **expungement until 10 or more years have elapsed since the person**
19 **satisfied the sentence imposed or was discharged from probation, a**
20 **community correctional services program, parole, postrelease**
21 **supervision, conditional release or a suspended sentence, if such**
22 **person was convicted of a second or subsequent violation of K.S.A. 8-**
23 **1567, and amendments thereto, shall not petition for expungement until 10**
24 **or more years have elapsed since the person was convicted of such**
25 **violation.**

26 (3) Except as provided further, the provisions of this subsection shall
27 apply to all violations committed on or after July 1, 2006. The provisions
28 of subsection (d)(2) shall not apply to violations committed on or after
29 July 1, 2014, but prior to July 1, 2015.

30 (e) There shall be no expungement of convictions for the following
31 offenses:

32 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
33 2022 Supp. 21-5503, and amendments thereto;

34 (2) indecent liberties with a child or aggravated indecent liberties
35 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
36 or K.S.A. 2022 Supp. 21-5506, and amendments thereto;

37 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
38 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
39 amendments thereto;

40 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
41 to its repeal, or K.S.A. 2022 Supp. 21-5504, and amendments thereto;

42 (5) indecent solicitation of a child or aggravated indecent solicitation
43 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,

1 or K.S.A. 2022 Supp. 21-5508, and amendments thereto;

2 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
3 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;

4 (7) internet trading in child pornography or aggravated internet
5 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,
6 and amendments thereto;

7 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
8 repeal, or K.S.A. 2022 Supp. 21-5604, and amendments thereto;

9 (9) endangering a child or aggravated endangering a child, as defined
10 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2022 Supp.
11 21-5601, and amendments thereto;

12 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
13 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;

14 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
15 or K.S.A. 2022 Supp. 21-5401, and amendments thereto;

16 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to
17 its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;

18 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior
19 to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;

20 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
21 its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;

22 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
23 its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments thereto;

24 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
25 or K.S.A. 2022 Supp. 21-5505, and amendments thereto, when the victim
26 was less than 18 years of age at the time the crime was committed;

27 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
28 its repeal, or K.S.A. 2022 Supp. 21-5505, and amendments thereto;

29 (18) a violation of K.S.A. 8-2,144, and amendments thereto,
30 including any diversion for such violation; or

31 (19) any conviction for any offense in effect at any time prior to July
32 1, 2011, that is comparable to any offense as provided in this subsection.

33 (f) Except as provided in K.S.A. 22-4908, and amendments thereto,
34 for any offender who is required to register as provided in the Kansas
35 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
36 there shall be no expungement of any conviction or any part of the
37 offender's criminal record while the offender is required to register as
38 provided in the Kansas offender registration act.

39 (g) (1) When a petition for expungement is filed, the court shall set a
40 date for a hearing of such petition and shall cause notice of such hearing to
41 be given to the prosecutor and the arresting law enforcement agency. The
42 petition shall state the:

43 (A) Defendant's full name;

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

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

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

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

7 (F) identity of the convicting court, arresting law enforcement
8 authority or diverting authority.

9 (2) Except as otherwise provided by law, a petition for expungement
10 shall be accompanied by a docket fee in the amount of \$176. On and after
11 July 1, 2019, through June 30, 2025, the supreme court may impose a
12 charge, not to exceed \$19 per case, to fund the costs of non-judicial
13 personnel. The charge established in this section shall be the only fee
14 collected or moneys in the nature of a fee collected for the case. Such
15 charge shall only be established by an act of the legislature and no other
16 authority is established by law or otherwise to collect a fee.

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

23 (h) (1) At the hearing on the petition, the court shall order the
24 petitioner's arrest record, conviction or diversion expunged if the court
25 finds that:

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

29 (H)(B) the circumstances and behavior of the petitioner warrant the
30 expungement;

31 (H)(C) the expungement is consistent with the public welfare; and

32 (H)(D) with respect to petitions seeking expungement of a felony
33 conviction, possession of a firearm by the petitioner is not likely to pose a
34 threat to the safety of the public.

35 (2) *The court shall not deny the petition for expungement due to the*
36 *petitioner's inability to pay outstanding costs, fees, or fines or restitution.*
37 *The petitioner's unwillingness, rather than inability, to pay such costs,*
38 *fees, or fines or restitution may be considered as a factor in denying the*
39 *petition for expungement. **The court may grant a petition for***
40 **expungement when the petitioner owes outstanding restitution.**

41 (i) When the court has ordered an arrest record, conviction or
42 diversion expunged, the order of expungement shall state the information
43 required to be contained in the petition. The clerk of the court shall send a

1 certified copy of the order of expungement to the Kansas bureau of
2 investigation—~~that~~, *which* shall *then* notify the federal bureau of
3 investigation, the secretary of corrections and any other criminal justice
4 agency that may have a record of the arrest, conviction or diversion. If the
5 case was appealed from municipal court, the clerk of the district court shall
6 send a certified copy of the order of expungement to the municipal court.
7 The municipal court shall order the case expunged once the certified copy
8 of the order of expungement is received. After the order of expungement is
9 entered, the petitioner shall be treated as not having been arrested,
10 convicted or diverted of the crime, except that:

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

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

16 (A) In any application for licensure as a private detective, private
17 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-
18 7b21, and amendments thereto, or employment as a detective with a
19 private detective agency, as defined by K.S.A. 75-7b01, and amendments
20 thereto; as security personnel with a private patrol operator, as defined by
21 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined
22 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
23 for aging and disability services;

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

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

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

36 (E) to aid in determining the petitioner's qualifications for the
37 following under the Kansas expanded lottery act: (i) Lottery gaming
38 facility manager or prospective manager, racetrack gaming facility
39 manager or prospective manager, licensee or certificate holder; or (ii) an
40 officer, director, employee, owner, agent or contractor thereof;

41 (F) upon application for a commercial driver's license under K.S.A.
42 8-2,125 through 8-2,142, and amendments thereto;

43 (G) to aid in determining the petitioner's qualifications to be an

1 employee of the state gaming agency;

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

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

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

10 (K) to aid in determining the petitioner's qualifications for a license to
11 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
12 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and
13 amendments thereto;

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

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

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

23 (6) *the petitioner shall continue to be responsible for fully satisfying*
24 *any outstanding costs, fees, fines and restitution related to the arrest,*
25 *conviction or diversion. For the purpose of collecting such outstanding*
26 *costs, fees, fines or restitution, the following persons shall have access to*
27 *the expunged case file notwithstanding any expungement:*

28 (A) *The clerk of the court;*

29 (B) *a contracting agent as defined in K.S.A. ~~12-4119~~ 20-169, and*
30 *amendments thereto;*

31 (C) *the petitioner and the petitioner's attorney;*

32 (D) *the beneficiary under an order of restitution as defined in K.S.A.*
33 *~~12-4119~~ 20-169, and amendments thereto, and such beneficiary's attorney;*
34 *and*

35 (E) *any other person as authorized by a court order if the court finds*
36 *it is necessary for the person to have access to the expunged case file for*
37 *the purpose of collecting the outstanding costs, fees, fines or restitution.*

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

1 person shall be informed of the ability to expunge the diversion.

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

7 (2) A person whose arrest record, conviction or diversion of a crime
8 that resulted in such person being prohibited by state or federal law from
9 possessing a firearm has been expunged under this statute shall be deemed
10 to have had such person's right to keep and bear arms fully restored. This
11 restoration of rights shall include, but not be limited to, the right to use,
12 transport, receive, purchase, transfer and possess firearms. The provisions
13 of this paragraph shall apply to all orders of expungement, including any
14 orders issued prior to July 1, 2021.

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

20 (1) The person whose record was expunged;

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

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

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

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

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

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

43 (8) the Kansas lottery, and the request is accompanied by a statement

1 that the request is being made to aid in determining qualifications for
2 employment with the Kansas lottery or for work in sensitive areas within
3 the Kansas lottery as deemed appropriate by the executive director of the
4 Kansas lottery;

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

12 (10) the Kansas racing and gaming commission, or a designee of the
13 commission, and the request is accompanied by a statement that the
14 request is being made to aid in determining qualifications of the following
15 under the Kansas expanded lottery act: (A) Lottery gaming facility
16 managers and prospective managers, racetrack gaming facility managers
17 and prospective managers, licensees and certificate holders; and (B) their
18 officers, directors, employees, owners, agents and contractors;

19 (11) the Kansas sentencing commission;

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

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

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

35 (15) a law enforcement agency and the request is accompanied by a
36 statement that the request is being made to aid in determining eligibility
37 for employment as a law enforcement officer as defined by K.S.A. 22-
38 2202, and amendments thereto;

39 (16) (A) the attorney general and the request is accompanied by a
40 statement that the request is being made to aid in determining
41 qualifications for a license to act as a bail enforcement agent pursuant to
42 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.
43 2022 Supp. 50-6,141, and amendments thereto; or

1 (B) the attorney general for any other purpose authorized by law,
2 except that an expungement record shall not be the basis for denial of a
3 license to carry a concealed handgun under the personal and family
4 protection act; or

5 (17) the Kansas bureau of investigation, for the purpose of
6 completing a person's criminal history record information within the
7 central repository, in accordance with K.S.A. 22-4701 et seq., and
8 amendments thereto.

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

11 (2) Upon the issuance of an order of expungement that resulted in the
12 restoration of a person's right to keep and bear arms, the Kansas bureau of
13 investigation shall report to the federal bureau of investigation that such
14 expunged record be withdrawn from the national instant criminal
15 background check system. The Kansas bureau of investigation shall
16 include such order of expungement in the person's criminal history record
17 for purposes of documenting the restoration of such person's right to keep
18 and bear arms.

19 Sec. 3. K.S.A. 38-2312 is hereby amended to read as follows: 38-
20 2312. (a) Except as provided in subsections (b) and (c), any records or files
21 specified in this code concerning a juvenile may be expunged upon
22 application to a judge of the court of the county in which the records or
23 files are maintained. The application for expungement may be made by the
24 juvenile, if 18 years of age or older or, if the juvenile is less than 18 years
25 of age, by the juvenile's parent or next friend.

26 (b) There shall be no expungement of records or files concerning acts
27 committed by a juvenile which, if committed by an adult, would constitute
28 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022 Supp. 21-
29 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,
30 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
31 thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal,
32 or K.S.A. 2022 Supp. 21-5404, and amendments thereto, voluntary
33 manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2022 Supp.
34 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-
35 3439, prior to its repeal, or K.S.A. 2022 Supp. 21-5401, and amendments
36 thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 2022
37 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto, involuntary
38 manslaughter while driving under the influence of alcohol or drugs; K.S.A.
39 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and
40 amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A.
41 2022 Supp. 21-5506(a), and amendments thereto, indecent liberties with a
42 child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-
43 5506(b), and amendments thereto, aggravated indecent liberties with a

1 child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2022 Supp. 21-
2 5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.
3 21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and
4 amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior
5 to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments thereto,
6 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its
7 repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, sexual
8 exploitation of a child; K.S.A. 2022 Supp. 21-5514(a), and amendments
9 thereto, internet trading in child pornography; K.S.A. 2022 Supp. 21-
10 5514(b), and amendments thereto, aggravated internet trading in child
11 pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2022 Supp. 21-
12 5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608,
13 prior to its repeal, or K.S.A. 2022 Supp. 21-5601(a), and amendments
14 thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.
15 2022 Supp. 21-5602, and amendments thereto, abuse of a child; or which
16 would constitute an attempt to commit a violation of any of the offenses
17 specified in this subsection.

18 (c) Notwithstanding any other law to the contrary, for any offender
19 who is required to register as provided in the Kansas offender registration
20 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
21 expungement of any conviction or any part of the offender's criminal
22 record while the offender is required to register as provided in the Kansas
23 offender registration act.

24 (d) (1) When a petition for expungement is filed, the court shall set a
25 date for a hearing on the petition and shall give notice thereof to the
26 county or district attorney. The petition shall state *the*:

27 ~~(1) The~~(A) Juvenile's full name;
28 ~~(2) the~~(B) full name of the juvenile as reflected in the court record, if
29 different than ~~(1)~~ subparagraph (A);
30 ~~(3) the~~(C) juvenile's sex and date of birth;
31 ~~(4) the~~(D) offense for which the juvenile was adjudicated;
32 ~~(5) the~~(E) date of the trial; and
33 ~~(6) the~~(F) identity of the trial court.

34 (2) Except as otherwise provided by law, a petition for expungement
35 shall be accompanied by a docket fee in the amount of \$176. On and after
36 July 1, 2019, through June 30, 2025, the supreme court may impose a
37 charge, not to exceed \$19 per case, to fund the costs of non-judicial
38 personnel. All petitions for expungement shall be docketed in the original
39 action.

40 (3) Any person who may have relevant information about the
41 petitioner may testify at the hearing. The court may inquire into the
42 background of the petitioner.

43 (e) (1) After hearing, the court shall order the expungement of the

1 records and files if the court finds that:

2 (A) (i) The juvenile has reached 23 years of age or that two years
3 have elapsed since the final ~~discharge adjudication~~ **discharge**;

4 (ii) one year has elapsed since the final ~~discharge for an~~ **discharge**
5 **for an** adjudication concerning acts committed by a juvenile which, if
6 committed by an adult, would constitute a violation of K.S.A. 2022 Supp.
7 21-6419, and amendments thereto; or

8 (iii) the juvenile is a victim of human trafficking, aggravated human
9 trafficking or commercial sexual exploitation of a child, the adjudication
10 concerned acts committed by the juvenile as a result of such victimization,
11 including, but not limited to, acts which, if committed by an adult, would
12 constitute a violation of K.S.A. 2022 Supp. 21-6203 or 21-6419, and
13 amendments thereto, and the hearing on expungement occurred on or after
14 the date of final ~~discharge adjudication~~ **discharge**. The provisions of this
15 clause shall not allow an expungement of records or files concerning acts
16 described in subsection (b);

17 (B) ~~since the final discharge of the juvenile in the past two years, the~~
18 juvenile has not been convicted of a felony ~~or of a misdemeanor other than~~
19 ~~a traffic offense~~ or adjudicated as a juvenile offender under the revised
20 Kansas juvenile justice code *for a felony* and no proceedings are pending
21 seeking such a conviction or adjudication; and

22 (C) the circumstances and behavior of the petitioner warrant
23 expungement.

24 (2) (A) The court ~~may require that all court costs, fees and restitution~~
25 ~~shall be paid shall not deny the petition for expungement due to the~~
26 ~~juvenile's inability to pay outstanding costs, fees; or fines or restitution.~~
27 *The petitioner's unwillingness, rather than inability, to pay such costs,*
28 *fees; or fines or restitution may be considered as a factor in denying the*
29 *petition for expungement. Unless the court orders otherwise, expungement*
30 *shall not release the juvenile from the obligation to pay outstanding costs,*
31 *fees; or fines or restitution. The court may grant a petition for*
32 **expungement when the juvenile owes outstanding restitution.**

33 (B) For the purpose of collecting such outstanding costs, fees,
34 fines or restitution, the following persons shall have access to the
35 expunged case file notwithstanding any expungement:

36 (i) The clerk of the court;

37 (ii) a contracting agent as defined in K.S.A. 20-169, and
38 amendments thereto;

39 (iii) the petitioner and the petitioner's attorney;

40 (iv) the beneficiary under an order of restitution as defined in
41 K.S.A. 20-169, and amendments thereto, and such beneficiary's
42 attorney; and

43 (v) any other person as authorized by a court order if the court

1 **finds it is necessary for the person to have access to the expunged case**
2 **file for the purpose of collecting the outstanding costs, fees, fines or**
3 **restitution.**

4 (f) Upon entry of an order expunging records or files, the offense
5 which the records or files concern shall be treated as if it never occurred,
6 except that upon conviction of a crime or adjudication in a subsequent
7 action under this code the offense may be considered in determining the
8 sentence to be imposed. The petitioner, the court and all law enforcement
9 officers and other public offices and agencies shall properly reply on
10 inquiry that no record or file exists with respect to the juvenile. Inspection
11 of the expunged files or records thereafter may be permitted by order of
12 the court upon petition by the person who is the subject thereof. The
13 inspection shall be limited to inspection by the person who is the subject of
14 the files or records and the person's designees.

15 (g) A certified copy of any order made pursuant to subsection (a) or
16 (d) shall be sent to the Kansas bureau of investigation, which shall *then*
17 notify every juvenile or criminal justice agency which may possess records
18 or files ordered to be expunged. If the agency fails to comply with the
19 order within a reasonable time after its receipt, such agency may be
20 adjudged in contempt of court and punished accordingly.

21 (h) The court shall inform any juvenile who has been adjudicated a
22 juvenile offender of the provisions of this section.

23 (i) Nothing in this section shall be construed to prohibit the
24 maintenance of information relating to an offense after records or files
25 concerning the offense have been expunged if the information is kept in a
26 manner that does not enable identification of the juvenile.

27 (j) Nothing in this section shall be construed to permit or require
28 expungement of files or records related to a child support order registered
29 pursuant to the revised Kansas juvenile justice code.

30 (k) Whenever the records or files of any adjudication have been
31 expunged under the provisions of this section, the custodian of the records
32 or files of adjudication relating to that offense shall not disclose the
33 existence of such records or files, except when requested by:

34 (1) The person whose record was expunged;

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

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

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

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

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

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

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

17 (8) the Kansas sentencing commission; or

18 (9) the Kansas bureau of investigation, for the purposes of:

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

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

25 (l) The provisions of subsection (k)(9) shall apply to all records
26 created prior to, on and after July 1, 2011.

27 Sec. 4. K.S.A. 12-4516 and 38-2312 and K.S.A. 2022 Supp. 21-6614
28 are hereby repealed.

29 Sec. 5. This act shall take effect and be in force from and after its
30 publication in the statute book.