

SENATE BILL No. 211

By Senators McGinn, Bowers, Dietrich, Doll, Faust Goudeau, Francisco, Haley, Holscher, Longbine, Pettey, Pittman, Reddi, Sykes and Ware

2-8

1 AN ACT concerning crimes, punishment and criminal procedure;
2 abolishing the death penalty; creating the crime of aggravated murder;
3 requiring a sentence of imprisonment for life without the possibility of
4 parole therefor; clarifying laws related to sentences of imprisonment for
5 life without the possibility of parole; amending K.S.A. 38-2255, 38-
6 2271, 38-2303, 38-2312, 38-2365, 39-970, 39-2009, 65-5117, 72-2165
7 and 75-52,148 and K.S.A. 2022 Supp. 21-5301, 21-5402, 21-5419, 21-
8 6328, 21-6614, 21-6618, 21-6620, 21-6622, 21-6628, 21-6629, 21-
9 6806, 22-2512, 22-3717, 22-4902, 22-4906 and 23-3222 and repealing
10 the existing sections; also repealing K.S.A. 2022 Supp. 21-5401, 21-
11 6614i, 21-6617 and 21-6619.

12

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

14 New Section 1. (a) No person shall be sentenced to death for a crime
15 committed on or after July 1, 2023.

16 (b) Any person who is sentenced to death for a crime committed prior
17 to July 1, 2023, may be put to death pursuant to the provisions of article 40
18 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

19 (c) This section shall be a part of and supplemental to the Kansas
20 criminal code.

21 New Sec. 2. (a) Aggravated murder is the:

22 (1) Intentional and premeditated killing of any person in the
23 commission of kidnapping, as defined in K.S.A. 2022 Supp. 21-5408, and
24 amendments thereto, or aggravating kidnapping, as defined in K.S.A. 2022
25 Supp. 21-5408(b), and amendments thereto, when the kidnapping or
26 aggravated kidnapping was committed with the intent to hold such person
27 for ransom;

28 (2) intentional and premeditated killing of any person pursuant to a
29 contract or agreement to kill such person or being a party to the contract or
30 agreement pursuant to which such person is killed;

31 (3) intentional and premeditated killing of any person by an inmate or
32 prisoner confined in a state correctional institution, community
33 correctional institution or jail or while in the custody of an officer or
34 employee of a state correctional institution, community correctional
35 institution or jail;

1 (4) intentional and premeditated killing of the victim of one of the
2 following crimes in the commission of, or subsequent to, such crime:
3 Rape, as defined in K.S.A. 2022 Supp. 21-5503, and amendments thereto,
4 criminal sodomy, as defined in K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4),
5 and amendments thereto, or aggravated criminal sodomy, as defined in
6 K.S.A. 2022 Supp. 21-5504(b), and amendments thereto, or any attempt
7 thereof, as defined in K.S.A. 2022 Supp. 21-5301, and amendments
8 thereto;

9 (5) intentional and premeditated killing of a law enforcement officer;

10 (6) intentional and premeditated killing of more than one person as a
11 part of the same act or transaction or in two or more acts or transactions
12 connected together or constituting parts of a common scheme or course of
13 conduct; or

14 (7) intentional and premeditated killing of a child under the age of 14
15 in the commission of kidnapping, as defined in K.S.A. 2022 Supp. 21-
16 5408(a), and amendments thereto, or aggravated kidnapping, as defined in
17 K.S.A. 2022 Supp. 21-5408(b), and amendments thereto, when the
18 kidnapping or aggravated kidnapping was committed with intent to
19 commit a sex offense upon or with the child or with intent that the child
20 commit or submit to a sex offense.

21 (b) For purposes of this section, "sex offense" means rape, as defined
22 in K.S.A. 2022 Supp. 21-5503, and amendments thereto, aggravated
23 indecent liberties with a child, as defined in K.S.A. 2022 Supp. 21-
24 5506(b), and amendments thereto, aggravated criminal sodomy, as defined
25 in K.S.A. 2022 Supp. 21-5504(b), and amendments thereto, selling sexual
26 relations, as defined in K.S.A. 2022 Supp. 21-6419, and amendments
27 thereto, promoting the sale of sexual relations, as defined in K.S.A. 2022
28 Supp. 21-6420, and amendments thereto, or sexual exploitation of a child,
29 as defined in K.S.A. 2022 Supp. 21-5510, and amendments thereto.

30 (c) Notwithstanding K.S.A. 2022 Supp. 21-5109(b)(1) or (b)(2), and
31 amendments thereto, when the same conduct of a defendant may establish
32 the commission of aggravated murder and the commission of another
33 crime under the laws of this state, the defendant may be prosecuted and
34 sentenced for each of such crimes.

35 (d) Aggravated murder or attempt to commit aggravated murder is an
36 off-grid person felony.

37 (e) The provisions of K.S.A. 2022 Supp. 21-5301(c), and
38 amendments thereto, shall not apply to a violation of attempting to commit
39 the crime of aggravated murder pursuant to this section.

40 (f) This section shall be a part of and supplemental to the Kansas
41 criminal code.

42 New Sec. 3. (a) When it is provided by law that a person shall be
43 sentenced pursuant to this section, such person shall be sentenced to

1 imprisonment for life without the possibility of parole. A defendant who is
2 sentenced to imprisonment for life without the possibility of parole shall
3 spend the remainder of the defendant's natural life incarcerated and in the
4 custody of the secretary of corrections. A defendant who is sentenced to
5 imprisonment for life without the possibility of parole shall not be eligible
6 for commutation of sentence, parole, probation, assignment to a
7 community correctional services program, conditional release, postrelease
8 supervision, functional incapacitation release pursuant to K.S.A. 22-3728,
9 and amendments thereto, or suspension, modification or reduction of
10 sentence. Upon sentencing a defendant to imprisonment for life without
11 the possibility of parole, the court shall commit the defendant to the
12 custody of the secretary of corrections and the court shall state in the
13 sentencing order of the judgment form or journal entry, whichever is
14 delivered with the defendant to the correctional institution, that the
15 defendant has been sentenced to imprisonment for life without the
16 possibility of parole.

17 (b) This section shall be a part of and supplemental to the Kansas
18 criminal code.

19 Sec. 4. K.S.A. 2022 Supp. 21-5301 is hereby amended to read as
20 follows: 21-5301. (a) An attempt is any overt act toward the perpetration
21 of a crime done by a person who intends to commit such crime but fails in
22 the perpetration thereof or is prevented or intercepted in executing such
23 crime.

24 (b) It shall not be a defense to a charge of attempt that the
25 circumstances under which the act was performed or the means employed
26 or the act itself were such that the commission of the crime was not
27 possible.

28 (c) (1) An attempt to commit an off-grid felony shall be ranked at
29 nondrug severity level 1. An attempt to commit any other nondrug felony
30 shall be ranked on the nondrug scale at two severity levels below the
31 appropriate level for the underlying or completed crime. The lowest
32 severity level for an attempt to commit a nondrug felony shall be a severity
33 level 10.

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

36 (A) Aggravated human trafficking, as defined in K.S.A. 2022 Supp.
37 21-5426(b), and amendments thereto, if the offender is 18 years of age or
38 older and the victim is less than 14 years of age;

39 (B) terrorism, as defined in K.S.A. 2022 Supp. 21-5421, and
40 amendments thereto;

41 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
42 2022 Supp. 21-5422, and amendments thereto;

43 (D) rape, as defined in K.S.A. 2022 Supp. 21-5503(a)(3), and

- 1 amendments thereto, if the offender is 18 years of age or older;
- 2 (E) aggravated indecent liberties with a child, as defined in K.S.A.
- 3 2022 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18
- 4 years of age or older;
- 5 (F) aggravated criminal sodomy, as defined in K.S.A. 2022 Supp. 21-
- 6 5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of
- 7 age or older;
- 8 (G) commercial sexual exploitation of a child, as defined in K.S.A.
- 9 2022 Supp. 21-6422, and amendments thereto, if the offender is 18 years
- 10 of age or older and the victim is less than 14 years of age;
- 11 (H) sexual exploitation of a child, as defined in K.S.A. 2022 Supp.
- 12 21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years
- 13 of age or older and the child is less than 14 years of age;
- 14 (I) aggravated internet trading in child pornography, as defined in
- 15 K.S.A. 2022 Supp. 21-5514(b), and amendments thereto, if the offender is
- 16 18 years of age or older and the child is less than 14 years of age; or
- 17 (J) ~~capital murder, as defined in K.S.A. 2022 Supp. 21-5401-~~
- 18 ~~aggravated murder, as defined in section 2,~~ and amendments thereto.
- 19 (d) (1) An attempt to commit a felony ~~which~~ *that* prescribes a
- 20 sentence on the drug grid shall reduce the prison term prescribed in the
- 21 drug grid block for an underlying or completed crime by six months.
- 22 (2) The provisions of this subsection shall not apply to a violation of
- 23 attempting to commit a violation of K.S.A. 2022 Supp. 21-5703, and
- 24 amendments thereto.
- 25 (e) An attempt to commit a class A person misdemeanor is a class B
- 26 person misdemeanor. An attempt to commit a class A nonperson
- 27 misdemeanor is a class B nonperson misdemeanor.
- 28 (f) An attempt to commit a class B or C misdemeanor is a class C
- 29 misdemeanor.
- 30 Sec. 5. K.S.A. 2022 Supp. 21-5402 is hereby amended to read as
- 31 follows: 21-5402. (a) Murder in the first degree is the killing of a human
- 32 being committed:
- 33 (1) Intentionally, and with premeditation; or
- 34 (2) in the commission of, attempt to commit, or flight from any
- 35 inherently dangerous felony.
- 36 (b) Murder in the first degree is an off-grid person felony.
- 37 (c) As used in this section, an "inherently dangerous felony" means:
- 38 (1) Any of the following felonies, whether such felony is so distinct
- 39 from the homicide alleged to be a violation of subsection (a)(2) as not to
- 40 be an ingredient of the homicide alleged to be a violation of subsection (a)
- 41 (2):
- 42 (A) Kidnapping, as defined in K.S.A. 2022 Supp. 21-5408(a), and
- 43 amendments thereto;

- 1 (B) aggravated kidnapping, as defined in K.S.A. 2022 Supp. 21-
2 5408(b), and amendments thereto;
- 3 (C) robbery, as defined in K.S.A. 2022 Supp. 21-5420(a), and
4 amendments thereto;
- 5 (D) aggravated robbery, as defined in K.S.A. 2022 Supp. 21-5420(b),
6 and amendments thereto;
- 7 (E) rape, as defined in K.S.A. 2022 Supp. 21-5503, and amendments
8 thereto;
- 9 (F) aggravated criminal sodomy, as defined in K.S.A. 2022 Supp. 21-
10 5504(b), and amendments thereto;
- 11 (G) abuse of a child, as defined in K.S.A. 2022 Supp. 21-5602, and
12 amendments thereto;
- 13 (H) felony theft of property, as defined in K.S.A. 2022 Supp. 21-
14 5801(a)(1) or (a)(3), and amendments thereto;
- 15 (I) burglary, as defined in K.S.A. 2022 Supp. 21-5807(a), and
16 amendments thereto;
- 17 (J) aggravated burglary, as defined in K.S.A. 2022 Supp. 21-5807(b),
18 and amendments thereto;
- 19 (K) arson, as defined in K.S.A. 2022 Supp. 21-5812(a), and
20 amendments thereto;
- 21 (L) aggravated arson, as defined in K.S.A. 2022 Supp. 21-5812(b),
22 and amendments thereto;
- 23 (M) treason, as defined in K.S.A. 2022 Supp. 21-5901, and
24 amendments thereto;
- 25 (N) any felony offense as provided in K.S.A. 2022 Supp. 21-5703,
26 21-5705 or 21-5706, and amendments thereto;
- 27 (O) any felony offense as provided in K.S.A. 2022 Supp. 21-6308(a)
28 or (b), and amendments thereto;
- 29 (P) endangering the food supply, as defined in K.S.A. 2022 Supp. 21-
30 6317(a), and amendments thereto;
- 31 (Q) aggravated endangering the food supply, as defined in K.S.A.
32 2022 Supp. 21-6317(b), and amendments thereto;
- 33 (R) fleeing or attempting to elude a police officer, as defined in
34 K.S.A. 8-1568(b), and amendments thereto;
- 35 (S) aggravated endangering a child, as defined in K.S.A. 2022 Supp.
36 21-5601(b)(1), and amendments thereto;
- 37 (T) abandonment of a child, as defined in K.S.A. 2022 Supp. 21-
38 5605(a), and amendments thereto;
- 39 (U) aggravated abandonment of a child, as defined in K.S.A. 2022
40 Supp. 21-5605(b), and amendments thereto; or
- 41 (V) mistreatment of a dependent adult or mistreatment of an elder
42 person, as defined in K.S.A. 2022 Supp. 21-5417, and amendments
43 thereto; and

1 (2) any of the following felonies, only when such felony is so distinct
2 from the homicide alleged to be a violation of subsection (a)(2) as to not
3 be an ingredient of the homicide alleged to be a violation of subsection (a)
4 (2):

5 (A) Murder in the first degree, as defined in subsection (a)(1);

6 (B) murder in the second degree, as defined in K.S.A. 2022 Supp. 21-
7 5403(a)(1), and amendments thereto;

8 (C) voluntary manslaughter, as defined in K.S.A. 2022 Supp. 21-
9 5404(a)(1), and amendments thereto;

10 (D) aggravated assault, as defined in K.S.A. 2022 Supp. 21-5412(b),
11 and amendments thereto;

12 (E) aggravated assault of a law enforcement officer, as defined in
13 K.S.A. 2022 Supp. 21-5412(d), and amendments thereto;

14 (F) aggravated battery, as defined in K.S.A. 2022 Supp. 21-5413(b)
15 (1), and amendments thereto; or

16 (G) aggravated battery against a law enforcement officer, as defined
17 in K.S.A. 2022 Supp. 21-5413(d), and amendments thereto.

18 (d) Murder in the first degree as defined in subsection (a)(2) is an
19 alternative method of proving murder in the first degree and is not a
20 separate crime from murder in the first degree as defined in subsection (a)
21 (1). The provisions of K.S.A. 2022 Supp. 21-5109, and amendments
22 thereto, are not applicable to murder in the first degree as defined in
23 subsection (a)(2). Murder in the first degree as defined in subsection (a)(2)
24 is not a lesser included offense of murder in the first degree as defined in
25 subsection (a)(1), and is not a lesser included offense of ~~capital~~
26 *aggravated* murder as defined in ~~K.S.A. 2022 Supp. 21-5401 section 2,~~
27 and amendments thereto. As set forth in ~~subsection (b) of K.S.A. 2022~~
28 *Supp. 21-5109(b)*, and amendments thereto, there are no lesser included
29 offenses of murder in the first degree under subsection (a)(2).

30 (e) The amendments to this section by chapter 96 of the 2013 Session
31 Laws of Kansas establish a procedural rule for the conduct of criminal
32 prosecutions and shall be construed and applied retroactively to all cases
33 currently pending.

34 Sec. 6. K.S.A. 2022 Supp. 21-5419 is hereby amended to read as
35 follows: 21-5419. (a) As used in this section:

36 (1) "Abortion" means an abortion as defined by K.S.A. 65-6701, and
37 amendments thereto; and

38 (2) "unborn child" means a living individual organism of the species
39 homo sapiens, in utero, at any stage of gestation from fertilization to birth.

40 (b) This section shall not apply to:

41 (1) Any act committed by the mother of the unborn child;

42 (2) any medical procedure, including abortion, performed by a
43 physician or other licensed medical professional at the request of the

1 pregnant woman or her legal guardian; or

2 (3) the lawful dispensation or administration of lawfully prescribed
3 medication.

4 (c) As used in K.S.A. 2022 Supp. ~~21-5401~~, 21-5402, 21-5403, 21-
5 5404, 21-5405, 21-5406 ~~and subsections (a) and (b) of~~, 21-5413(a) and (b)
6 and section 2, and amendments thereto, "person" and "human being" also
7 mean an unborn child.

8 (d) This section shall be known as Alexa's law.

9 Sec. 7. K.S.A. 2022 Supp. 21-6328 is hereby amended to read as
10 follows: 21-6328. As used in the Kansas racketeer influenced and corrupt
11 organization act:

12 (a) (1) "Beneficial interest" means the interest of a person:

13 (A) As a beneficiary under any trust arrangement pursuant to which a
14 trustee holds legal or record title to real property for the benefit of such
15 person; or

16 (B) under any other form of express fiduciary arrangement pursuant
17 to which any other person holds legal or record title to real property for the
18 benefit of such person.

19 (2) The term "beneficial interest" does not include the interest of a
20 stock holder in a corporation or the interest of a partner in either a general
21 partnership or a limited partnership. A beneficial interest shall be deemed
22 to be located where the real property owned by the trustee is located.

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

24 (1) Is a criminal street gang member or criminal street gang associate,
25 as defined in K.S.A. 2022 Supp. 21-6313, and amendments thereto;

26 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
27 2022 Supp. 21-5426, and amendments thereto, human trafficking or
28 aggravated human trafficking, or K.S.A. 2022 Supp. 21-6422, and
29 amendments thereto, commercial sexual exploitation of a child;

30 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.
31 2022 Supp. 21-5703, and amendments thereto, unlawful manufacturing of
32 controlled substances, or K.S.A. 2022 Supp. 21-5705, and amendments
33 thereto, unlawful cultivation or distribution of controlled substances; or

34 (4) has engaged in or is engaging in any conduct prohibited by K.S.A.
35 2022 Supp. 21-6107, and amendments thereto, identity theft or identity
36 fraud.

37 (c) "Documentary material" means any book, paper, document,
38 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,
39 computer printout, other data compilation from which information can be
40 obtained or from which information can be translated into usable form, or
41 other tangible item.

42 (d) "Enterprise" means any individual, sole proprietorship,
43 partnership, corporation, business trust, union chartered under the laws of

1 this state, or other legal entity, or any unchartered union, association, or
2 group of individuals associated in fact although not a legal entity; and it
3 includes illicit as well as licit enterprises and governmental, as well as
4 other, entities. A criminal street gang, as defined in K.S.A. 2022 Supp. 21-
5 6313, and amendments thereto, constitutes an enterprise.

6 (e) "Pattern of racketeering activity" means engaging in at least two
7 incidents of racketeering activity that have the same or similar intents,
8 results, accomplices, victims or methods of commission or that otherwise
9 are interrelated by distinguishing characteristics and are not isolated
10 incidents, provided at least one of such incidents occurred after the
11 effective date of this act and that the last of such incidents occurred within
12 five years, excluding any period of imprisonment, after a prior incident of
13 racketeering activity.

14 (f) "Racketeering activity" means to commit, attempt to commit,
15 conspire to commit or to solicit, coerce or intimidate another person to
16 commit any:

17 (1) Felony or misdemeanor violation of: The felony provisions of
18 K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a
19 police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas
20 money transmitter act; article 12a of chapter 17 of the Kansas Statutes
21 Annotated, and amendments thereto, Kansas uniform securities act; ~~K.S.A.~~
22 ~~2022 Supp. 21-5401 section 2~~, and amendments thereto, ~~capital~~
23 ~~aggravated~~ murder; K.S.A. 2022 Supp. 21-5402, and amendments thereto,
24 murder in the first degree; K.S.A. 2022 Supp. 21-5403, and amendments
25 thereto, murder in the second degree; K.S.A. 2022 Supp. 21-5408, and
26 amendments thereto, kidnapping or aggravated kidnapping; K.S.A. 2022
27 Supp. 21-5412, and amendments thereto; K.S.A. 2022 Supp. 21-5413, and
28 amendments thereto; K.S.A. 2022 Supp. 21-5414, and amendments
29 thereto, domestic battery; K.S.A. 2022 Supp. 21-5415, and amendments
30 thereto, criminal threat or aggravated criminal threat; K.S.A. 2022 Supp.
31 21-5420, and amendments thereto, robbery or aggravated robbery; K.S.A.
32 2022 Supp. 21-5421, and amendments thereto, terrorism; K.S.A. 2022
33 Supp. 21-5422, and amendments thereto, illegal use of weapons of mass
34 destruction; K.S.A. 2022 Supp. 21-5423, and amendments thereto; K.S.A.
35 2022 Supp. 21-5426, and amendments thereto, human trafficking or
36 aggravated human trafficking; K.S.A. 2022 Supp. 21-5428, and
37 amendments thereto, blackmail; K.S.A. 2022 Supp. 21-5510, and
38 amendments thereto, sexual exploitation of a child; K.S.A. 2022 Supp. 21-
39 5601, and amendments thereto, endangering a child or aggravated
40 endangering a child; K.S.A. 2022 Supp. 21-5602, and amendments thereto,
41 abuse of a child; K.S.A. 2022 Supp. 21-5603, and amendments thereto,
42 contributing to a child's misconduct or deprivation; K.S.A. 2022 Supp. 21-
43 5607(b), and amendments thereto, furnishing alcoholic beverages to a

1 minor for illicit purposes; article 57 of chapter 21 of the Kansas Statutes
2 Annotated, and amendments thereto, crimes involving controlled
3 substances; K.S.A. 2022 Supp. 21-5801, and amendments thereto, theft;
4 K.S.A. 2022 Supp. 21-5803, and amendments thereto, criminal deprivation
5 of property; K.S.A. 2022 Supp. 21-5805, and amendments thereto; K.S.A.
6 2022 Supp. 21-5807, and amendments thereto, burglary or aggravated
7 burglary; K.S.A. 2022 Supp. 21-5812, and amendments thereto, arson or
8 aggravated arson; K.S.A. 2022 Supp. 21-5813, and amendments thereto,
9 criminal damage to property; K.S.A. 2022 Supp. 21-5814, and
10 amendments thereto, criminal use of an explosive; K.S.A. 2022 Supp. 21-
11 5821, and amendments thereto, giving a worthless check; K.S.A. 2022
12 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2022 Supp. 21-
13 5824, and amendments thereto, making false information; K.S.A. 2022
14 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2022
15 Supp. 21-5826, and amendments thereto, destroying written instrument;
16 K.S.A. 2022 Supp. 21-5828, and amendments thereto, criminal use of a
17 financial card; K.S.A. 2022 Supp. 21-5838, and amendments thereto,
18 conducting a pyramid promotional scheme; K.S.A. 2022 Supp. 21-5839,
19 and amendments thereto; K.S.A. 2022 Supp. 21-5903, and amendments
20 thereto, perjury; K.S.A. 2022 Supp. 21-5904, and amendments thereto,
21 interference with law enforcement; K.S.A. 2022 Supp. 21-5905, and
22 amendments thereto, interference with the judicial process; K.S.A. 2022
23 Supp. 21-5909, and amendments thereto, intimidation of a witness or
24 victim or aggravated intimidation of a witness or victim; K.S.A. 2022
25 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2022
26 Supp. 21-5913, and amendments thereto, obstructing apprehension or
27 prosecution; K.S.A. 2022 Supp. 21-5918, and amendments thereto; K.S.A.
28 2022 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2022 Supp.
29 21-6002, and amendments thereto, official misconduct; K.S.A. 2022 Supp.
30 21-6107, and amendments thereto, identity theft or identity fraud; K.S.A.
31 2022 Supp. 21-6301, and amendments thereto, criminal use of weapons;
32 K.S.A. 2022 Supp. 21-6302, and amendments thereto, criminal carrying of
33 a weapon; K.S.A. 2022 Supp. 21-6303, and amendments thereto, criminal
34 distribution of firearms to a felon; K.S.A. 2022 Supp. 21-6304, and
35 amendments thereto, criminal possession of a weapon by a convicted
36 felon; K.S.A. 2022 Supp. 21-6305, and amendments thereto, aggravated
37 weapons violation by a convicted felon; K.S.A. 2022 Supp. 21-6306, and
38 amendments thereto, defacing identification marks of a firearm; K.S.A.
39 2022 Supp. 21-6308, and amendments thereto, criminal discharge of a
40 firearm; K.S.A. 2022 Supp. 21-6310, and amendments thereto, unlawful
41 endangerment; K.S.A. 2022 Supp. 21-6312, and amendments thereto;
42 K.S.A. 2022 Supp. 21-6314, and amendments thereto, recruiting criminal
43 street gang membership; K.S.A. 2022 Supp. 21-6315, and amendments

1 thereto, criminal street gang intimidation; K.S.A. 2022 Supp. 21-6401, and
2 amendments thereto, promoting obscenity or promoting obscenity to
3 minors; K.S.A. 2022 Supp. 21-6404, and amendments thereto, gambling;
4 K.S.A. 2022 Supp. 21-6405, and amendments thereto, illegal bingo
5 operation; K.S.A. 2022 Supp. 21-6406, and amendments thereto,
6 commercial gambling; K.S.A. 2022 Supp. 21-6407, and amendments
7 thereto, dealing in gambling devices; K.S.A. 2022 Supp. 21-6408, and
8 amendments thereto; K.S.A. 2022 Supp. 21-6409, and amendments
9 thereto, installing communication facilities for gamblers; K.S.A. 2022
10 Supp. 21-6414(a) or (b), and amendments thereto, unlawful conduct of dog
11 fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 2022
12 Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct of
13 cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.
14 2022 Supp. 21-6419, and amendments thereto, selling sexual relations;
15 K.S.A. 2022 Supp. 21-6420, and amendments thereto, promoting the sale
16 of sexual relations; K.S.A. 2022 Supp. 21-6422, and amendments thereto,
17 commercial sexual exploitation of a child; K.S.A. 2022 Supp. 21-6501,
18 and amendments thereto, extortion; K.S.A. 2022 Supp. 21-6502, and
19 amendments thereto, debt adjusting; K.S.A. 2022 Supp. 21-6504, and
20 amendments thereto, equity skimming; K.S.A. 2022 Supp. 21-6506, and
21 amendments thereto, commercial bribery; K.S.A. 2022 Supp. 21-6507, and
22 amendments thereto, sports bribery; K.S.A. 2022 Supp. 21-6508, and
23 amendments thereto, tampering with a sports contest; K.S.A. 39-720, and
24 amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and
25 amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and
26 amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and
27 amendments thereto, workers' compensation act; K.S.A. 65-1657, and
28 amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441,
29 and amendments thereto, hazardous waste; K.S.A. 65-4167, and
30 amendments thereto, trafficking in counterfeit drugs; article 88 of chapter
31 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas
32 parimutuel racing act; or K.S.A. 79-3321, and amendments thereto,
33 Kansas cigarette and tobacco products act; or

34 (2) conduct defined as "racketeering activity" under 18 U.S.C. §
35 1961(1).

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

39 (h) (1) "Trustee" means any:

40 (A) Person acting as trustee pursuant to a trust in which the trustee
41 holds legal or record title to real property;

42 (B) person who holds legal or record title to real property in which
43 any other person has a beneficial interest; or

1 (C) successor trustee or trustees to any or all of the foregoing persons.

2 (2) The term "trustee" does not include any person appointed or
3 acting as a personal representative as defined in K.S.A. 59-102, and
4 amendments thereto, or appointed or acting as a trustee of any
5 testamentary trust or as a trustee of any indenture of trust under which any
6 bonds have been or are to be issued.

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

11 (1) Violation of any of the following provisions of law: Article 88 of
12 chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
13 Kansas parimutuel racing act; K.S.A. 2022 Supp. 21-6404, and
14 amendments thereto, gambling; K.S.A. 2022 Supp. 21-6405, and
15 amendments thereto, illegal bingo operation; K.S.A. 2022 Supp. 21-6406,
16 and amendments thereto, commercial gambling; K.S.A. 2022 Supp. 21-
17 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2022
18 Supp. 21-6408, and amendments thereto, unlawful possession of a
19 gambling device; or K.S.A. 2022 Supp. 21-6409, and amendments
20 thereto, installing communication facilities for gamblers; or

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

23 Sec. 8. K.S.A. 2022 Supp. 21-6614 is hereby amended to read as
24 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
25 and (f), any person convicted in this state of a traffic infraction, cigarette
26 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
27 committed on or after July 1, 1993, any nongrid felony or felony ranked in
28 severity levels 6 through 10 of the nondrug grid, or for crimes committed
29 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
30 severity level 4 of the drug grid, or for crimes committed on or after July
31 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
32 the convicting court for the expungement of such conviction or related
33 arrest records if three or more years have elapsed since the person: (A)
34 Satisfied the sentence imposed; or (B) was discharged from probation, a
35 community correctional services program, parole, postrelease supervision,
36 conditional release or a suspended sentence.

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

42 (3) *Notwithstanding the provisions of subsection (a)(1), and except as*
43 *provided in subsections (b), (c), (d), (e) and (f), any person who has*

1 *completed the requirements of a specialty court program established*
2 *pursuant to K.S.A. 2022 Supp. 20-173, and amendments thereto, may*
3 *petition the district court for the expungement of the conviction and*
4 *related arrest records. The court may waive all or part of the docket fee*
5 *imposed for filing a petition pursuant to this subsection.*

6 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
7 3512, prior to its repeal, convicted of a violation of K.S.A. 2022 Supp. 21-
8 6419, and amendments thereto, or who entered into a diversion agreement
9 in lieu of further criminal proceedings for such violation, may petition the
10 convicting court for the expungement of such conviction or diversion
11 agreement and related arrest records if:

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

34 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
35 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto, or as
36 prohibited by any law of another state that is in substantial conformity
37 with that statute;

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

42 (3) perjury resulting from a violation of K.S.A. 8-261a, and
43 amendments thereto, or resulting from the violation of a law of another

1 state that is in substantial conformity with that statute;

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

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

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

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

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

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

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

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

31 (e) There shall be no expungement of convictions for the following
32 offenses or of convictions for an attempt to commit any of the following
33 offenses:

34 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
35 2022 Supp. 21-5503, and amendments thereto;

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

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

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

- 1 (5) indecent solicitation of a child or aggravated indecent solicitation
2 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
3 or K.S.A. 2022 Supp. 21-5508, and amendments thereto;
- 4 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
5 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;
- 6 (7) internet trading in child pornography or aggravated internet
7 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,
8 and amendments thereto;
- 9 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
10 repeal, or K.S.A. 2022 Supp. 21-5604, and amendments thereto;
- 11 (9) endangering a child or aggravated endangering a child, as defined
12 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2022 Supp.
13 21-5601, and amendments thereto;
- 14 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
15 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;
- 16 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
17 or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*;
- 18 (12) *aggravated murder, as defined in section 2*, and amendments
19 thereto;
- 20 ~~(12)~~(13) murder in the first degree, as defined in K.S.A. 21-3401,
21 prior to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments
22 thereto;
- 23 ~~(13)~~(14) murder in the second degree, as defined in K.S.A. 21-3402,
24 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
25 thereto;
- 26 ~~(14)~~(15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
27 to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;
- 28 ~~(15)~~(16) involuntary manslaughter, as defined in K.S.A. 21-3404,
29 prior to its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments
30 thereto;
- 31 ~~(16)~~(17) sexual battery, as defined in K.S.A. 21-3517, prior to its
32 repeal, or K.S.A. 2022 Supp. 21-5505, and amendments thereto, when the
33 victim was less than 18 years of age at the time the crime was committed;
- 34 ~~(17)~~(18) aggravated sexual battery, as defined in K.S.A. 21-3518,
35 prior to its repeal, or K.S.A. 2022 Supp. 21-5505, and amendments
36 thereto;
- 37 ~~(18)~~(19) a violation of K.S.A. 8-2,144, and amendments thereto,
38 including any diversion for such violation; or
- 39 ~~(19)~~(20) any conviction for any offense in effect at any time prior to
40 July 1, 2011, that is comparable to any offense as provided in this
41 subsection.
- 42 (f) Except as provided in K.S.A. 22-4908, and amendments thereto,
43 for any offender who is required to register as provided in the Kansas

1 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
2 there shall be no expungement of any conviction or any part of the
3 offender's criminal record while the offender is required to register as
4 provided in the Kansas offender registration act.

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

9 (A) Defendant's full name;

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

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

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

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

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

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

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

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

34 (1) (A) The petitioner has not been convicted of a felony in the past
35 two years and no proceeding involving any such crime is presently
36 pending or being instituted against the petitioner *if the petition is filed*
37 *under subsection (a)(1) or (a)(2); or*

38 (B) *no proceeding involving a felony is presently pending or being*
39 *instituted against the petitioner if the petition is filed under subsection (a)*
40 *(3);*

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

43 (3) the expungement is consistent with the public welfare; and

1 (4) with respect to petitions seeking expungement of a felony
2 conviction, possession of a firearm by the petitioner is not likely to pose a
3 threat to the safety of the public.

4 (i) When the court has ordered an arrest record, conviction or
5 diversion expunged, the order of expungement shall state the information
6 required to be contained in the petition. The clerk of the court shall send a
7 certified copy of the order of expungement to the Kansas bureau of
8 investigation that shall notify the federal bureau of investigation, the
9 secretary of corrections and any other criminal justice agency that may
10 have a record of the arrest, conviction or diversion. If the case was
11 appealed from municipal court, the clerk of the district court shall send a
12 certified copy of the order of expungement to the municipal court. The
13 municipal court shall order the case expunged once the certified copy of
14 the order of expungement is received. After the order of expungement is
15 entered, the petitioner shall be treated as not having been arrested,
16 convicted or diverted of the crime, except that:

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

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

22 (A) In any application for licensure as a private detective, private
23 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-
24 7b21, and amendments thereto, or employment as a detective with a
25 private detective agency, as defined by K.S.A. 75-7b01, and amendments
26 thereto; as security personnel with a private patrol operator, as defined by
27 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined
28 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
29 for aging and disability services;

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

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

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

42 (E) to aid in determining the petitioner's qualifications for the
43 following under the Kansas expanded lottery act: (i) Lottery gaming

1 facility manager or prospective manager, racetrack gaming facility
2 manager or prospective manager, licensee or certificate holder; or (ii) an
3 officer, director, employee, owner, agent or contractor thereof;

4 (F) upon application for a commercial driver's license under K.S.A.
5 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

16 (K) to aid in determining the petitioner's qualifications for a license to
17 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
18 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and
19 amendments thereto;

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

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

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

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

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

41 (2) A person whose arrest record, conviction or diversion of a crime
42 that resulted in such person being prohibited by state or federal law from
43 possessing a firearm has been expunged under this statute shall be deemed

1 to have had such person's right to keep and bear arms fully restored. This
2 restoration of rights shall include, but not be limited to, the right to use,
3 transport, receive, purchase, transfer and possess firearms. The provisions
4 of this paragraph shall apply to all orders of expungement, including any
5 orders issued prior to July 1, 2021.

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

11 (1) The person whose record was expunged;

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

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

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

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

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

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

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

39 (9) the governor or the Kansas racing and gaming commission, or a
40 designee of the commission, and the request is accompanied by a
41 statement that the request is being made to aid in determining
42 qualifications for executive director of the commission, for employment
43 with the commission, for work in sensitive areas in parimutuel racing as

1 deemed appropriate by the executive director of the commission or for
2 licensure, renewal of licensure or continued licensure by the commission;

3 (10) the Kansas racing and gaming commission, or a designee of the
4 commission, and the request is accompanied by a statement that the
5 request is being made to aid in determining qualifications of the following
6 under the Kansas expanded lottery act: (A) Lottery gaming facility
7 managers and prospective managers, racetrack gaming facility managers
8 and prospective managers, licensees and certificate holders; and (B) their
9 officers, directors, employees, owners, agents and contractors;

10 (11) the Kansas sentencing commission;

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

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

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

26 (15) a law enforcement agency and the request is accompanied by a
27 statement that the request is being made to aid in determining eligibility
28 for employment as a law enforcement officer as defined by K.S.A. 22-
29 2202, and amendments thereto;

30 (16) (A) the attorney general and the request is accompanied by a
31 statement that the request is being made to aid in determining
32 qualifications for a license to act as a bail enforcement agent pursuant to
33 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.
34 2022 Supp. 50-6,141, and amendments thereto; or

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

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

43 (m) (1) The provisions of subsection (l)(17) shall apply to records

1 created prior to, on and after July 1, 2011.

2 (2) Upon the issuance of an order of expungement that resulted in the
3 restoration of a person's right to keep and bear arms, the Kansas bureau of
4 investigation shall report to the federal bureau of investigation that such
5 expunged record be withdrawn from the national instant criminal
6 background check system. The Kansas bureau of investigation shall
7 include such order of expungement in the person's criminal history record
8 for purposes of documenting the restoration of such person's right to keep
9 and bear arms.

10 Sec. 9. K.S.A. 2022 Supp. 21-6618 is hereby amended to read as
11 follows: 21-6618. Upon conviction of a defendant of ~~capital~~ *aggravated*
12 murder and a finding that the defendant was less than 18 years of age at
13 the time of the commission thereof, the court shall sentence the defendant
14 as otherwise provided by law, and no sentence of ~~death~~ or life without the
15 possibility of parole shall be imposed ~~hereunder~~.

16 Sec. 10. K.S.A. 2022 Supp. 21-6620 is hereby amended to read as
17 follows: 21-6620. (a) (1) Except as provided in subsection (a)(2) and
18 K.S.A. 2022 Supp. 21-6618 and 21-6622, and amendments thereto, if a
19 defendant is convicted of the crime of ~~capital murder and a sentence of~~
20 ~~death is not imposed pursuant to K.S.A. 2022 Supp. 21-6617(e), and~~
21 ~~amendments thereto, or requested pursuant to K.S.A. 2022 Supp. 21-~~
22 ~~6617(a) or (b), and amendments thereto~~ *aggravated murder*, the defendant
23 shall be sentenced to life without the possibility of parole *pursuant to*
24 *section 3, and amendments thereto*.

25 (2) (A) Except as provided in subsection (a)(2)(B), a defendant
26 convicted of attempt to commit the crime of ~~capital~~ *aggravated* murder
27 shall be sentenced to imprisonment for life and shall not be eligible for
28 probation or suspension, modification or reduction of sentence. In
29 addition, the defendant shall not be eligible for parole prior to serving 25
30 years' imprisonment, and such 25 years' imprisonment shall not be reduced
31 by the application of good time credits. No other sentence shall be
32 permitted.

33 (B) The provisions of subsection (a)(2)(A) requiring the court to
34 impose a mandatory minimum term of imprisonment of 25 years shall not
35 apply if the court finds the defendant, because of the defendant's criminal
36 history classification, would be subject to presumptive imprisonment
37 pursuant to the sentencing guidelines grid for nondrug crimes and the
38 sentencing range would exceed 300 months if the sentence established for
39 a severity level 1 crime was imposed. In such case, the defendant is
40 required to serve a mandatory minimum term equal to the sentence
41 established for a severity level 1 crime pursuant to the sentencing range.
42 The defendant shall not be eligible for parole prior to serving such
43 mandatory minimum term of imprisonment, and such mandatory minimum

1 term of imprisonment shall not be reduced by the application of good time
2 credits. No other sentence shall be permitted.

3 (b) The provisions of this subsection shall apply only to the crime of
4 murder in the first degree as described in K.S.A. 2022 Supp. 21-5402(a)
5 (2), and amendments thereto, committed on or after July 1, 2014.

6 (1) Except as provided in subsection (b)(2), a defendant convicted of
7 murder in the first degree as described in K.S.A. 2022 Supp. 21-5402(a)
8 (2), and amendments thereto, shall be sentenced to imprisonment for life
9 and shall not be eligible for probation or suspension, modification or
10 reduction of sentence. In addition, the defendant shall not be eligible for
11 parole prior to serving 25 years' imprisonment, and such 25 years'
12 imprisonment shall not be reduced by the application of good time credits.
13 No other sentence shall be permitted.

14 (2) The provisions of subsection (b)(1) requiring the court to impose
15 a mandatory minimum term of imprisonment of 25 years shall not apply if
16 the court finds the defendant, because of the defendant's criminal history
17 classification, would be subject to presumptive imprisonment pursuant to
18 the sentencing guidelines grid for nondrug crimes and the sentencing range
19 would exceed 300 months if the sentence established for a severity level 1
20 crime was imposed. In such case, the defendant is required to serve a
21 mandatory minimum term equal to the sentence established for a severity
22 level 1 crime pursuant to the sentencing range. The defendant shall not be
23 eligible for parole prior to serving such mandatory minimum term of
24 imprisonment, and such mandatory minimum term of imprisonment shall
25 not be reduced by the application of good time credits. No other sentence
26 shall be permitted.

27 (c) The provisions of this subsection shall apply only to the crime of
28 murder in the first degree based upon the finding of premeditated murder
29 committed on or after July 1, 2014.

30 (1) (A) Except as provided in subsection (c)(1)(B), a defendant
31 convicted of murder in the first degree based upon the finding of
32 premeditated murder shall be sentenced pursuant to K.S.A. 2022 Supp. 21-
33 6623, and amendments thereto, unless the sentencing judge finds
34 substantial and compelling reasons, following a review of mitigating
35 circumstances, to impose the sentence specified in subsection (c)(2).

36 (B) The provisions of subsection (c)(1)(A) requiring the court to
37 impose the mandatory minimum term of imprisonment required by K.S.A.
38 2022 Supp. 21-6623, and amendments thereto, shall not apply if the court
39 finds the defendant, because of the defendant's criminal history
40 classification, would be subject to presumptive imprisonment pursuant to
41 the sentencing guidelines grid for nondrug crimes and the sentencing range
42 would exceed 600 months if the sentence established for a severity level 1
43 crime was imposed. In such case, the defendant is required to serve a

1 mandatory minimum term equal to the sentence established for a severity
2 level 1 crime pursuant to the sentencing range. The defendant shall not be
3 eligible for parole prior to serving such mandatory minimum term of
4 imprisonment, and such mandatory minimum term of imprisonment shall
5 not be reduced by the application of good time credits. No other sentence
6 shall be permitted.

7 (2) (A) If the sentencing judge does not impose the mandatory
8 minimum term of imprisonment required by K.S.A. 2022 Supp. 21-6623,
9 and amendments thereto, the judge shall state on the record at the time of
10 sentencing the substantial and compelling reasons therefor, and, except as
11 provided in subsection (c)(2)(B), the defendant shall be sentenced to
12 imprisonment for life and shall not be eligible for probation or suspension,
13 modification or reduction of sentence. In addition, the defendant shall not
14 be eligible for parole prior to serving 25 years' imprisonment, and such 25
15 years' imprisonment shall not be reduced by the application of good time
16 credits. No other sentence shall be permitted.

17 (B) The provisions of subsection (c)(2)(A) requiring the court to
18 impose a mandatory minimum term of imprisonment of 25 years shall not
19 apply if the court finds the defendant, because of the defendant's criminal
20 history classification, would be subject to presumptive imprisonment
21 pursuant to the sentencing guidelines grid for nondrug crimes and the
22 sentencing range would exceed 300 months if the sentence established for
23 a severity level 1 crime was imposed. In such case, the defendant is
24 required to serve a mandatory minimum term equal to the sentence
25 established for a severity level 1 crime pursuant to the sentencing range.
26 The defendant shall not be eligible for parole prior to serving such
27 mandatory minimum term of imprisonment, and such mandatory minimum
28 term of imprisonment shall not be reduced by the application of good time
29 credits. No other sentence shall be permitted.

30 (d) The provisions of this subsection shall apply only to the crime of
31 murder in the first degree based upon the finding of premeditated murder
32 committed on or after September 6, 2013, but prior to July 1, 2014.

33 (1) If a defendant is convicted of murder in the first degree based
34 upon the finding of premeditated murder, upon reasonable notice by the
35 prosecuting attorney, the court shall determine, in accordance with this
36 subsection, whether the defendant shall be required to serve a mandatory
37 minimum term of imprisonment of 50 years or sentenced as otherwise
38 provided by law.

39 (2) The court shall conduct a separate proceeding following the
40 determination of the defendant's guilt for the jury to determine whether
41 one or more aggravating circumstances exist. Such proceeding shall be
42 conducted by the court before a jury as soon as practicable. If any person
43 who served on the trial jury is unable to serve on the jury for the

1 proceeding, the court shall substitute an alternate juror who has been
2 impaneled for the trial jury. If there are insufficient alternate jurors to
3 replace trial jurors who are unable to serve at the proceeding, the court
4 may conduct such proceeding before a jury ~~which~~ *that* may have 12 or ~~less~~
5 *fewer* jurors, but at no time ~~less~~ *fewer* than six jurors. If the jury has been
6 discharged prior to the proceeding, a new jury shall be impaneled. Any
7 decision of the jury regarding the existence of an aggravating circumstance
8 shall be beyond a reasonable doubt. Jury selection procedures,
9 qualifications of jurors and grounds for exemption or challenge of
10 prospective jurors in criminal trials shall be applicable to the selection of
11 such jury. The jury at the proceeding may be waived in the manner
12 provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial
13 jury. If the jury at the proceeding has been waived, such proceeding shall
14 be conducted by the court.

15 (3) In the proceeding, evidence may be presented concerning any
16 matter relating to any of the aggravating circumstances enumerated in
17 K.S.A. 2022 Supp. 21-6624, and amendments thereto. Only such evidence
18 of aggravating circumstances as the prosecuting attorney has made known
19 to the defendant prior to the proceeding shall be admissible and no
20 evidence secured in violation of the constitution of the United States or of
21 the state of Kansas shall be admissible. No testimony by the defendant at
22 the time of the proceeding shall be admissible against the defendant at any
23 subsequent criminal proceeding. At the conclusion of the evidentiary
24 presentation, the court shall allow the parties a reasonable period of time in
25 which to present oral argument.

26 (4) At the conclusion of the evidentiary portion of the proceeding, the
27 court shall provide oral and written instructions to the jury to guide its
28 deliberations. If the prosecuting attorney relies on K.S.A. 2022 Supp. 21-
29 6624(a), and amendments thereto, as an aggravating circumstance, and the
30 court finds that one or more of the defendant's prior convictions satisfy
31 such subsection, the jury shall be instructed that a certified journal entry of
32 a prior conviction is presumed to prove the existence of such prior
33 conviction or convictions beyond a reasonable doubt.

34 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
35 that one or more of the aggravating circumstances enumerated in K.S.A.
36 2022 Supp. 21-6624, and amendments thereto, exist, the jury shall
37 designate, in writing, signed by the foreman of the jury, the statutory
38 aggravating circumstances ~~which~~ *that* it found. If, after a reasonable time
39 for deliberation, the jury is unable to reach a unanimous sentencing
40 decision, the court shall dismiss the jury and the defendant shall be
41 sentenced as provided by law. In nonjury cases, the court shall designate,
42 in writing, the specific circumstance or circumstances ~~which~~ *that* the court
43 found beyond a reasonable doubt.

1 (6) If one or more of the aggravating circumstances enumerated in
2 K.S.A. 2022 Supp. 21-6624, and amendments thereto, are found to exist
3 beyond a reasonable doubt pursuant to this subsection, the defendant shall
4 be sentenced pursuant to K.S.A. 2022 Supp. 21-6623, and amendments
5 thereto, unless the sentencing judge finds substantial and compelling
6 reasons, following a review of mitigating circumstances, to impose the
7 sentence specified in this paragraph. If the sentencing judge does not
8 impose the mandatory minimum term of imprisonment required by K.S.A.
9 2022 Supp. 21-6623, and amendments thereto, the judge shall state on the
10 record at the time of sentencing the substantial and compelling reasons
11 therefor, and the defendant shall be sentenced to imprisonment for life and
12 shall not be eligible for probation or suspension, modification or reduction
13 of sentence. In addition, the defendant shall not be eligible for parole prior
14 to serving 25 years' imprisonment, and such 25 years' imprisonment shall
15 not be reduced by the application of good time credits. No other sentence
16 shall be permitted.

17 (e) The provisions of this subsection shall apply only to the crime of
18 murder in the first degree based upon the finding of premeditated murder
19 committed prior to September 6, 2013.

20 (1) If a defendant is convicted of murder in the first degree based
21 upon the finding of premeditated murder, upon reasonable notice by the
22 prosecuting attorney, the court shall conduct a separate sentencing
23 proceeding in accordance with this subsection to determine whether the
24 defendant shall be required to serve a mandatory minimum term of
25 imprisonment of 40 years or for crimes committed on and after July 1,
26 1999, a mandatory minimum term of imprisonment of 50 years or
27 sentenced as otherwise provided by law.

28 (2) The sentencing proceeding shall be conducted by the court before
29 a jury as soon as practicable. If the trial jury has been discharged prior to
30 sentencing, a new jury shall be impaneled. Any decision to impose a
31 mandatory minimum term of imprisonment of 40 or 50 years shall be by a
32 unanimous jury. Jury selection procedures, qualifications of jurors and
33 grounds for exemption or challenge of prospective jurors in criminal trials
34 shall be applicable to the selection of such jury. The jury at the sentencing
35 proceeding may be waived in the manner provided by K.S.A. 22-3403, and
36 amendments thereto, for waiver of a trial jury. If the jury at the sentencing
37 proceeding has been waived, such proceeding shall be conducted by the
38 court.

39 (3) In the sentencing proceeding, evidence may be presented
40 concerning any matter that the court deems relevant to the question of
41 sentence and shall include matters relating to any of the aggravating
42 circumstances enumerated in K.S.A. 2022 Supp. 21-6624, and
43 amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.

1 21-4636, prior to its repeal, and any mitigating circumstances. Any such
2 evidence—~~which~~ *that* the court deems to have probative value may be
3 received regardless of its admissibility under the rules of evidence,
4 provided that the defendant is accorded a fair opportunity to rebut any
5 hearsay statements. Only such evidence of aggravating circumstances as
6 the prosecuting attorney has made known to the defendant prior to the
7 sentencing proceeding shall be admissible and no evidence secured in
8 violation of the constitution of the United States or of the state of Kansas
9 shall be admissible. Only such evidence of mitigating circumstances
10 subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto,
11 that the defendant has made known to the prosecuting attorney prior to the
12 sentencing proceeding shall be admissible. No testimony by the defendant
13 at the time of sentencing shall be admissible against the defendant at any
14 subsequent criminal proceeding. At the conclusion of the evidentiary
15 presentation, the court shall allow the parties a reasonable period of time in
16 which to present oral argument.

17 (4) At the conclusion of the evidentiary portion of the sentencing
18 proceeding, the court shall provide oral and written instructions to the jury
19 to guide its deliberations. If the prosecuting attorney relies on K.S.A. 2022
20 Supp. 21-6624(a), and amendments thereto, or for crimes committed prior
21 to July 1, 2011, K.S.A. 21-4636(a), prior to its repeal, as an aggravating
22 circumstance, and the court finds that one or more of the defendant's prior
23 convictions satisfy such subsection, the jury shall be instructed that a
24 certified journal entry of a prior conviction is presumed to prove the
25 existence of such prior conviction or convictions beyond a reasonable
26 doubt.

27 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
28 that one or more of the aggravating circumstances enumerated in K.S.A.
29 2022 Supp. 21-6624, and amendments thereto, or for crimes committed
30 prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further,
31 that the existence of such aggravating circumstances is not outweighed by
32 any mitigating circumstances—~~which~~ *that* are found to exist, the defendant
33 shall be sentenced pursuant to K.S.A. 2022 Supp. 21-6623, and
34 amendments thereto; otherwise, the defendant shall be sentenced as
35 provided by law. The sentencing jury shall designate, in writing, signed by
36 the foreman of the jury, the statutory aggravating circumstances—~~which~~
37 *that* it found. ~~The trier of fact may make the findings required by this~~
38 ~~subsection for the purpose of determining whether to sentence a defendant~~
39 ~~pursuant to K.S.A. 2022 Supp. 21-6623, and amendments thereto,~~
40 ~~notwithstanding contrary findings made by the jury or court pursuant to~~
41 ~~K.S.A. 2022 Supp. 21-6617(c), and amendments thereto, for the purpose~~
42 ~~of determining whether to sentence such defendant to death.~~ If, after a
43 reasonable time for deliberation, the jury is unable to reach a unanimous

1 sentencing decision, the court shall dismiss the jury and the defendant
2 shall be sentenced as provided by law. In nonjury cases, the court shall
3 designate in writing the specific circumstance or circumstances ~~which~~ *that*
4 the court found beyond a reasonable doubt.

5 (f) The amendments to subsection (e) by chapter 1 of the 2013
6 Session Laws of Kansas (Special Session):

7 (1) Establish a procedural rule for sentencing proceedings, and as
8 such shall be construed and applied retroactively to all crimes committed
9 prior to the effective date of this act, except as provided further in this
10 subsection;

11 (2) shall not apply to cases in which the defendant's conviction and
12 sentence were final prior to June 17, 2013, unless the conviction or
13 sentence has been vacated in a collateral proceeding, including, but not
14 limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and

15 (3) shall apply only in sentencing proceedings otherwise authorized
16 by law.

17 (g) Notwithstanding the provisions of subsection (h), for all cases on
18 appeal on or after September 6, 2013, if a sentence imposed under this
19 section, prior to amendment by chapter 1 of the 2013 Session Laws of
20 Kansas (Special Session), or under K.S.A. 21-4635, prior to its repeal, is
21 vacated for any reason other than sufficiency of the evidence as to all
22 aggravating circumstances, resentencing shall be required under this
23 section, as amended by chapter 1 of the 2013 Session Laws of Kansas
24 (Special Session), unless the prosecuting attorney chooses not to pursue
25 such a sentence.

26 (h) In the event any sentence imposed under this section is held to be
27 unconstitutional, the court having jurisdiction over a person previously
28 sentenced shall cause such person to be brought before the court and shall
29 sentence such person to the maximum term of imprisonment otherwise
30 provided by law.

31 (i) If any provision or provisions of this section or the application
32 thereof to any person or circumstance is held invalid, the invalidity shall
33 not affect other provisions or applications of this section ~~which~~ *that* can be
34 given effect without the invalid provision or provisions or application, and
35 to this end the provisions of this section are severable.

36 Sec. 11. K.S.A. 2022 Supp. 21-6622 is hereby amended to read as
37 follows: 21-6622. (a) ~~If, under K.S.A. 2022 Supp. 21-6617, and~~
38 ~~amendments thereto, the county or district attorney has filed a notice of~~
39 ~~intent to request a separate sentencing proceeding to determine whether~~
40 ~~the defendant should be sentenced to death and the defendant is convicted~~
41 ~~of the crime of capital murder, the defendant's counsel or the warden of the~~
42 ~~correctional institution or sheriff having custody of the defendant may~~
43 ~~request a determination by the court of whether the defendant is a person~~

1 with intellectual disability. If the court determines that there is not
2 sufficient reason to believe that the defendant is a person with intellectual
3 disability, the court shall so find and the defendant shall be sentenced in
4 accordance with K.S.A. 2022 Supp. 21-6617, 21-6619, 21-6624, 21-6625,
5 21-6628 and 21-6629, and amendments thereto. If the court determines
6 that there is sufficient reason to believe that the defendant is a person with
7 intellectual disability, the court shall conduct a hearing to determine
8 whether the defendant is a person with intellectual disability.

9 (b) If a defendant is convicted of the crime of capital murder and a
10 sentence of death is not imposed, or if a defendant is convicted of the
11 crime of *aggravated murder* or murder in the first degree based upon the
12 finding of premeditated murder, the defendant's counsel or the warden of
13 the correctional institution or sheriff having custody of the defendant may
14 request a determination by the court of whether the defendant is a person
15 with intellectual disability. If the court determines that there is not
16 sufficient reason to believe that the defendant is a person with intellectual
17 disability, the court shall so find and the defendant shall be sentenced in
18 accordance with K.S.A. 2022 Supp. 21-6620, 21-6623, 21-6624 and 21-
19 6625, and amendments thereto. If the court determines that there is
20 sufficient reason to believe that the defendant is a person with intellectual
21 disability, the court shall conduct a hearing to determine whether the
22 defendant is a person with intellectual disability.

23 (e)(b) At the hearing, the court shall determine whether the defendant
24 is a person with intellectual disability. The court shall order a psychiatric
25 or psychological examination of the defendant. For that purpose, the court
26 shall appoint two licensed physicians or licensed psychologists, or one of
27 each, qualified by training and practice to make such examination, to
28 examine the defendant and report their findings in writing to the judge
29 within 14 days after the order of examination is issued. The defendant
30 shall have the right to present evidence and cross-examine any witnesses at
31 the hearing. No statement made by the defendant in the course of any
32 examination provided for by this section, whether or not the defendant
33 consents to the examination, shall be admitted in evidence against the
34 defendant in any criminal proceeding.

35 (d) If, at the conclusion of a hearing pursuant to subsection (a), the
36 court determines that the defendant is not a person with intellectual
37 disability, the defendant shall be sentenced in accordance with K.S.A.
38 2022 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629,
39 and amendments thereto.

40 (e)(c) If, at the conclusion of a hearing pursuant to subsection (b) *this*
41 *section*, the court determines that the defendant is not a person with
42 intellectual disability, the defendant shall be sentenced in accordance with
43 K.S.A. 2022 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and

1 amendments thereto.

2 (f)(d) If, at the conclusion of a hearing pursuant to this section, the
3 court determines that the defendant is a person with intellectual disability,
4 the court shall sentence the defendant as otherwise provided by law, and
5 no sentence of ~~death~~, life without the possibility of parole, or mandatory
6 term of imprisonment pursuant to K.S.A. 2022 Supp. 21-6623, 21-6624
7 and 21-6625, and amendments thereto, shall be imposed hereunder.

8 ~~(g) Unless otherwise ordered by the court for good cause shown, the~~
9 ~~provisions of subsection (b) shall not apply if it has been determined,~~
10 ~~pursuant to a hearing granted under the provisions of subsection (a), that~~
11 ~~the defendant is not a person with intellectual disability.~~

12 (h)(e) As used in this section, "intellectual disability" means having
13 significantly subaverage general intellectual functioning, as defined by
14 K.S.A. 76-12b01, and amendments thereto, to an extent ~~which~~ *that*
15 substantially impairs one's capacity to appreciate the criminality of one's
16 conduct or to conform one's conduct to the requirements of law.

17 Sec. 12. K.S.A. 2022 Supp. 21-6628 is hereby amended to read as
18 follows: 21-6628. (a) In the event the term of imprisonment for life
19 without the possibility of parole or any provision of K.S.A. 2022 Supp. 21-
20 6626 or 21-6627, and amendments thereto, authorizing such term is held to
21 be unconstitutional by the supreme court of Kansas or the United States
22 supreme court, the court having jurisdiction over a person previously
23 sentenced shall cause such person to be brought before the court and shall
24 modify the sentence to require no term of imprisonment for life without
25 the possibility of parole and shall sentence the defendant to the maximum
26 term of imprisonment otherwise provided by law.

27 ~~(b) In the event a sentence of death or any provision of chapter 252 of~~
28 ~~the 1994 Session Laws of Kansas authorizing such sentence is held to be~~
29 ~~unconstitutional by the supreme court of Kansas or the United States~~
30 ~~supreme court, the court having jurisdiction over a person previously~~
31 ~~sentenced shall cause such person to be brought before the court and shall~~
32 ~~modify the sentence and resentence the defendant as otherwise provided~~
33 ~~by law.~~

34 (e) In the event the mandatory term of imprisonment or any provision
35 of chapter 341 of the 1994 Session Laws of Kansas authorizing such
36 mandatory term is held to be unconstitutional by the supreme court of
37 Kansas or the United States supreme court, the court having jurisdiction
38 over a person previously sentenced shall cause such person to be brought
39 before the court and shall modify the sentence to require no mandatory
40 term of imprisonment and shall sentence the defendant as otherwise
41 provided by law.

42 Sec. 13. K.S.A. 2022 Supp. 21-6629 is hereby amended to read as
43 follows: 21-6629. (a) The provisions of K.S.A. 21-4622 through 21-4630,

1 as they existed immediately prior to July 1, 1994, shall be applicable only
 2 to persons convicted of crimes committed on or after July 1, 1990, and
 3 before July 1, 1994.

4 (b) The provisions of K.S.A. 21-4622 through 21-4627~~and~~, 21-4629
 5 and 21-4630, as amended on July 1, 1994 and prior to their repeal, and
 6 K.S.A. 2022 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-
 7 6625 and ~~subsection (b) of 21-6628(b), and amendments thereto as they~~
 8 *existed immediately prior to July 1, 2023*, shall be applicable only to
 9 persons convicted of crimes committed on or after July 1, 1994, *and*
 10 *before July 1, 2023*.

11 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.
 12 2022 Supp. 21-6620 through 21-6625 and ~~subsection (c) of 21-6628(c),~~
 13 ~~and amendments thereto as they existed immediately prior to July 1, 2023,~~
 14 shall be applicable only to persons convicted of crimes committed on or
 15 after July 1, 1994, *and before July 1, 2023*.

16 (d) *The provisions of K.S.A. 2022 Supp. 21-6618, 21-6620, 21-6622*
 17 *and 21-6628, as amended on July 1, 2023, and K.S.A. 2022 Supp. 21-*
 18 *6621, 21-6623, 21-6624 and 21-6625, and amendments thereto, shall be*
 19 *applicable only to persons convicted of crimes committed on or after July*
 20 *1, 2023.*

21 Sec. 14. K.S.A. 2022 Supp. 21-6806 is hereby amended to read as
 22 follows: 21-6806. (a) Sentences of imprisonment shall represent the time a
 23 person shall actually serve, subject to a reduction of the primary sentence
 24 for good time as authorized by K.S.A. 2022 Supp. 21-6821, and
 25 amendments thereto.

26 (b) The sentencing court shall pronounce sentence in all felony cases.

27 (c) Violations of K.S.A. 2022 Supp. ~~21-5401,~~ 21-5402, 21-5421, 21-
 28 5422 and 21-5901, and amendments thereto, are off-grid crimes for the
 29 purpose of sentencing. Except as otherwise provided by K.S.A. 2022
 30 Supp. ~~21-6617,~~ 21-6618, ~~21-6619,~~ 21-6622, 21-6624, 21-6625, 21-6628
 31 and 21-6629, and amendments thereto, the sentence shall be imprisonment
 32 for life and shall not be subject to statutory provisions for suspended
 33 sentence, community service or probation.

34 (d) As identified in K.S.A. 2022 Supp. 21-5426, 21-5503, 21-5504,
 35 21-5506, 21-5510, 21-5514 and 21-6422, and amendments thereto, if the
 36 offender is 18 years of age or older and the victim is under 14 years of age,
 37 such violations are off-grid crimes for the purposes of sentencing. Except
 38 as provided in K.S.A. 2022 Supp. 21-6626, and amendments thereto, the
 39 sentence shall be imprisonment for life pursuant to K.S.A. 2022 Supp. 21-
 40 6627, and amendments thereto.

41 (e) *A violation of section 2, and amendments thereto, is an off-grid*
 42 *crime for the purposes of sentencing. Except as provided in K.S.A. 2022*
 43 *Supp. 21-6618 and 21-6622, and amendments thereto, the sentence shall*

1 *be imprisonment for life without the possibility of parole pursuant to*
2 *section 3, and amendments thereto.*

3 Sec. 15. K.S.A. 2022 Supp. 22-2512 is hereby amended to read as
4 follows: 22-2512. (a) Property seized under a search warrant or validly
5 seized without a warrant shall be safely kept by the agency seizing the
6 property unless otherwise directed by the magistrate, and shall be so kept
7 as long as necessary for the purpose of being produced as evidence on any
8 trial. If no criminal charges are filed or prosecution is declined, the
9 property shall be returned to its rightful owner or disposed of in
10 accordance with this section. The property seized may not be taken from
11 the agency having it in custody so long as it is or may be required as
12 evidence in any trial. The officer seizing the property shall give a receipt to
13 the person detained or arrested particularly describing each article of
14 property being held. When property is seized under a search warrant, the
15 officer seizing the property shall file a copy of such receipt with the
16 magistrate who issued the search warrant. Such copy may be filed
17 electronically in a manner and form prescribed by the court. When seized
18 property is no longer required as evidence in the prosecution of any
19 indictment or information, the court that has jurisdiction of such property
20 may transfer the property to the jurisdiction of any other court, including
21 courts of another state or federal courts, if it is shown to the satisfaction of
22 the court that such property is required as evidence in any prosecution in
23 such other court.

24 (b) (1) Notwithstanding the provisions of subsection (a) and with the
25 approval of the affected court, any law enforcement officer who seizes
26 dangerous drugs or hazardous materials as evidence related to a criminal
27 investigation may collect representative samples of such dangerous drugs
28 or hazardous materials and lawfully destroy or dispose of, or direct another
29 person to lawfully destroy or dispose of, the remaining quantity of such
30 dangerous drugs or hazardous materials.

31 (2) In any prosecution, representative samples of dangerous drugs or
32 hazardous materials accompanied by photographs, videotapes, laboratory
33 analysis reports or other means used to verify and document the identity
34 and quantity of the drugs or materials shall be deemed competent evidence
35 of such drugs or materials and shall be admissible in any proceeding,
36 hearing or trial as if such drugs or materials had been introduced as
37 evidence.

38 (3) As used in this section:

39 (A) "Dangerous drugs" means any drug, substance or immediate
40 precursor included in any of the schedules designated in K.S.A. 65-4105,
41 65-4107, 65-4109 and 65-4111, and amendments thereto;

42 (B) "hazardous materials" means any substance that is capable of
43 posing an unreasonable risk to health, safety and property. It shall include

1 any substance that by its nature is explosive, flammable, corrosive,
2 poisonous, radioactive, a biological hazard or a material that may cause
3 spontaneous combustion. It shall include, but not be limited to, substances
4 listed in the table of hazardous materials contained in the code of federal
5 regulations title 49 and national fire protection association's fire protection
6 guide on hazardous materials; and

7 (C) "representative sample" means an amount large enough to contain
8 a testable amount of a substance without destroying the sample
9 completely.

10 (4) The provisions of this subsection shall not apply to ammunition
11 and components thereof.

12 (c) When seized property is no longer required as evidence, it shall be
13 disposed of as follows:

14 (1) Property stolen, embezzled, obtained by false pretenses, or
15 otherwise obtained unlawfully from the rightful owner thereof shall be
16 restored to the owner;

17 (2) money shall be restored to the owner unless it was contained in a
18 slot machine or otherwise used in unlawful gambling or lotteries, in which
19 case it shall be forfeited and shall be paid to the state treasurer pursuant to
20 K.S.A. 20-2801, and amendments thereto;

21 (3) property that is unclaimed or the ownership of which is unknown
22 shall be sold at public auction to be held by the sheriff, or the sheriff's
23 designee, and the proceeds, less the cost of sale and any storage charges
24 incurred in preserving it, shall be paid to the state treasurer pursuant to
25 K.S.A. 20-2801, and amendments thereto;

26 (4) articles of contraband shall be destroyed, except that any such
27 articles the disposition of which is otherwise provided by law shall be
28 dealt with as so provided and any such articles the disposition of which is
29 not otherwise provided by law and ~~which~~ that may be capable of innocent
30 use may in the discretion of the court be sold and the proceeds disposed of
31 as provided in subsection (c)(3);

32 (5) explosives, bombs and like devices that have been used in the
33 commission of crime may be returned to the rightful owner or, in the
34 discretion of the court having jurisdiction of the property, destroyed or
35 forfeited to the Kansas bureau of investigation;

36 (6) (A) except as provided in subsections (c)(6)(B) and (d), any
37 weapon or ammunition, in the discretion of the court having jurisdiction of
38 the property, shall be:

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

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

4 (iii) forfeited to a county regional forensic science center or other
5 county forensic laboratory for testing, comparison or other forensic
6 science purposes; or

7 (iv) forfeited to the Kansas department of wildlife and parks for use
8 pursuant to the conditions set forth in K.S.A. 32-1047, and amendments
9 thereto;

10 (B) except as provided in subsection (d), any weapon that cannot be
11 forfeited pursuant to subsection (c)(6)(A) due to the condition of the
12 weapon, and any weapon that was used in the commission of a felony as
13 described in K.S.A. 2022 Supp. 21-5401, *prior to its repeal*, or K.S.A.
14 2022 Supp. 21-5402, 21-5403, 21-5404~~or~~, 21-5405 or section 2, and
15 amendments thereto, shall be destroyed;

16 (7) controlled substances forfeited for violations of K.S.A. 2022
17 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt
18 with as provided under K.S.A. 60-4101 through 60-4126, and amendments
19 thereto;

20 (8) unless otherwise provided by law, all other property shall be
21 disposed of in such manner as the court in its sound discretion shall direct.

22 (d) (1) If a weapon is seized from an individual and the individual is
23 not convicted of the violation for which the weapon was seized, then
24 within 30 days after the declination or conclusion of prosecution of the
25 case against the individual, including any period of appeal, the law
26 enforcement agency that seized the weapon shall verify whether the
27 weapon is stolen. If the weapon is stolen or was seized from an individual
28 whom the agency knows is not the owner of the weapon, the law
29 enforcement agency shall notify the owner of the weapon that such
30 weapon may be retrieved. If the weapon was seized from a juvenile, the
31 agency shall notify the parent or legal guardian of the juvenile that such
32 weapon may be retrieved by the parent or legal guardian. If the agency
33 determines there is no other more appropriate person described in this
34 paragraph to retrieve the weapon, the agency shall notify the person from
35 whom the weapon was seized that such weapon may be retrieved. Such
36 notification shall include the location where such weapon may be
37 retrieved.

38 (2) If the law enforcement agency determines that the individual
39 authorized to retrieve a weapon pursuant to paragraph (1) is prohibited by
40 state or federal law from possessing the seized weapon, the agency shall
41 notify the individual that the weapon will not be returned due to the
42 disqualifying law, which shall be described in the notice. The law
43 enforcement agency shall not dispose of such weapon for 60 days after the

1 notice was given to provide a period for the individual to bring an action in
2 an appropriate court challenging the agency's determination. The law
3 enforcement agency may dispose of the weapon as provided by law 60
4 days after the notice described in paragraph (1) is given unless otherwise
5 directed by the court. An owner of a weapon who is prohibited by law
6 from possessing the weapon may either: (A) Request the law enforcement
7 agency to transfer the weapon to a properly licensed federal firearms
8 dealer designated by the owner; or (B) bring an action in an appropriate
9 court to request a court order to transfer the weapon as allowed by law.

10 (e) If weapons are sold as authorized by subsection (c)(6)(A), the
11 proceeds of the sale shall be credited to the asset seizure and forfeiture
12 fund of the seizing agency.

13 (f) For purposes of this section, the term "weapon" means a weapon
14 described in K.S.A. 2022 Supp. 21-6301, and amendments thereto.

15 Sec. 16. K.S.A. 2022 Supp. 22-3717 is hereby amended to read as
16 follows: 22-3717. (a) Except as otherwise provided by this section, K.S.A.
17 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
18 21-4638 and 21-4642, prior to their repeal; K.S.A. 2022 Supp. 21-6617,
19 *prior to its repeal*; K.S.A. 2022 Supp. 21-6620, 21-6623, 21-6624, 21-6625
20 and 21-6626, and amendments thereto;—~~and~~ K.S.A. 8-1567, and
21 amendments thereto; *and section 3, and amendments thereto*, an inmate,
22 including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its
23 repeal, or K.S.A. 2022 Supp. 21-6707, and amendments thereto, shall be
24 eligible for parole after serving the entire minimum sentence imposed by
25 the court, less good time credits.

26 (b) (1) An inmate sentenced to imprisonment for life without the
27 possibility of parole pursuant to K.S.A. 2022 Supp. 21-6617, and
28 amendments thereto, shall not be eligible for parole.

29 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
30 their repeal, and K.S.A. 2022 Supp. 21-6620, 21-6623, 21-6624 and 21-
31 6625, and amendments thereto, an inmate sentenced to imprisonment for
32 the crime of:

33 (A) Capital murder committed on or after July 1, 1994, shall be
34 eligible for parole after serving 25 years of confinement, without
35 deduction of any good time credits;

36 (B) murder in the first degree based upon a finding of premeditated
37 murder committed on or after July 1, 1994, but prior to July 1, 2014, shall
38 be eligible for parole after serving 25 years of confinement, without
39 deduction of any good time credits; and

40 (C) murder in the first degree as described in K.S.A. 2022 Supp. 21-
41 5402(a)(2), and amendments thereto, committed on or after July 1, 2014,
42 shall be eligible for parole after serving 25 years of confinement, without
43 deduction of any good time credits.

1 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
2 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
3 21-4638, prior to their repeal, and K.S.A. 2022 Supp. 21-6620, 21-6623,
4 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to
5 imprisonment for an off-grid offense committed on or after July 1, 1993,
6 but prior to July 1, 1999, shall be eligible for parole after serving 15 years
7 of confinement, without deduction of any good time credits and an inmate
8 sentenced to imprisonment for an off-grid offense committed on or after
9 July 1, 1999, shall be eligible for parole after serving 20 years of
10 confinement without deduction of any good time credits.

11 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
12 repeal, an inmate sentenced for a class A felony committed before July 1,
13 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
14 its repeal, or K.S.A. 2022 Supp. 21-6707, and amendments thereto, shall
15 be eligible for parole after serving 15 years of confinement, without
16 deduction of any good time credits.

17 (5) An inmate sentenced to imprisonment for a violation of K.S.A.
18 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but
19 prior to July 1, 1999, shall be eligible for parole after serving 10 years of
20 confinement without deduction of any good time credits.

21 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
22 4643, prior to its repeal, or K.S.A. 2022 Supp. 21-6627, and amendments
23 thereto, committed on or after July 1, 2006, shall be eligible for parole
24 after serving the mandatory term of imprisonment without deduction of
25 any good time credits.

26 (7) *An inmate sentenced to imprisonment for life without the*
27 *possibility of parole pursuant to section 3, and amendments thereto, shall*
28 *not be eligible for parole.*

29 (c) (1) Except as provided in subsection (e), if an inmate is sentenced
30 to imprisonment for more than one crime and the sentences run
31 consecutively, the inmate shall be eligible for parole after serving the total
32 of:

33 (A) The aggregate minimum sentences, as determined pursuant to
34 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2022 Supp. 21-6606, and
35 amendments thereto, less good time credits for those crimes ~~which~~ *that* are
36 not class A felonies; and

37 (B) an additional 15 years, without deduction of good time credits,
38 for each crime ~~which~~ *that* is a class A felony.

39 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
40 4643, prior to its repeal, or K.S.A. 2022 Supp. 21-6627, and amendments
41 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
42 eligible for parole after serving the mandatory term of imprisonment.

43 (d) (1) Persons sentenced for crimes, other than off-grid crimes,

1 committed on or after July 1, 1993, or persons subject to subparagraph
2 (G), will not be eligible for parole, but will be released to a mandatory
3 period of postrelease supervision upon completion of the prison portion of
4 their sentence as follows:

5 (A) Except as provided in subparagraphs (D) and (E), persons
6 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
7 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
8 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
9 July 1, 2012, must serve 36 months on postrelease supervision.

10 (B) Except as provided in subparagraphs (D) and (E), persons
11 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
12 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
13 drug severity level 4 crimes committed on or after July 1, 2012, must serve
14 24 months on postrelease supervision.

15 (C) Except as provided in subparagraphs (D) and (E), persons
16 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
17 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
18 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
19 must serve 12 months on postrelease supervision.

20 (D) Persons sentenced to a term of imprisonment that includes a
21 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
22 amendments thereto, committed on or after July 1, 1993, but prior to July
23 1, 2006, a sexually motivated crime ~~in~~ *for* which the offender has been
24 ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and
25 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its
26 repeal, or K.S.A. 2022 Supp. 21-5509, and amendments thereto, or
27 unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A.
28 2022 Supp. 21-5512, and amendments thereto, shall serve the period of
29 postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or
30 (d)(1)(C), plus the amount of good time and program credit earned and
31 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2022
32 Supp. 21-6821, and amendments thereto, on postrelease supervision.

33 (i) If the sentencing judge finds substantial and compelling reasons to
34 impose a departure based upon a finding that the current crime of
35 conviction was sexually motivated, departure may be imposed to extend
36 the postrelease supervision to a period of up to 60 months.

37 (ii) If the sentencing judge departs from the presumptive postrelease
38 supervision period, the judge shall state on the record at the time of
39 sentencing the substantial and compelling reasons for the departure.
40 Departures in this section are subject to appeal pursuant to K.S.A. 21-
41 4721, prior to its repeal, or K.S.A. 2022 Supp. 21-6820, and amendments
42 thereto.

43 (iii) In determining whether substantial and compelling reasons exist,

1 the court shall consider:

2 (a) Written briefs or oral arguments submitted by either the defendant
3 or the state;

4 (b) any evidence received during the proceeding;

5 (c) the presentence report, the victim's impact statement and any
6 psychological evaluation as ordered by the court pursuant to K.S.A. 21-
7 4714(e), prior to its repeal, or K.S.A. 2022 Supp. 21-6813(e), and
8 amendments thereto; and

9 (d) any other evidence the court finds trustworthy and reliable.

10 (iv) The sentencing judge may order that a psychological evaluation
11 be prepared and the recommended programming be completed by the
12 offender. The department of corrections or the prisoner review board shall
13 ensure that court ordered sex offender treatment be carried out.

14 (v) In carrying out the provisions of subsection (d)(1)(D), the court
15 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2022 Supp. 21-
16 6817, and amendments thereto.

17 (vi) Upon petition and payment of any restitution ordered pursuant to
18 K.S.A. 2022 Supp. 21-6604, and amendments thereto, the prisoner review
19 board may provide for early discharge from the postrelease supervision
20 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of
21 court ordered programs and completion of the presumptive postrelease
22 supervision period, as determined by the crime of conviction, pursuant to
23 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
24 postrelease supervision is at the discretion of the board.

25 (vii) Persons convicted of crimes deemed sexually violent or sexually
26 motivated shall be registered according to the offender registration act,
27 K.S.A. 22-4901 through 22-4910, and amendments thereto.

28 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
29 repeal, or K.S.A. 2022 Supp. 21-5508, and amendments thereto, shall be
30 required to participate in a treatment program for sex offenders during the
31 postrelease supervision period.

32 (E) The period of postrelease supervision provided in subparagraphs
33 (A) and (B) may be reduced by up to 12 months and the period of
34 postrelease supervision provided in subparagraph (C) may be reduced by
35 up to six months based on the offender's compliance with conditions of
36 supervision and overall performance while on postrelease supervision. The
37 reduction in the supervision period shall be on an earned basis pursuant to
38 rules and regulations adopted by the secretary of corrections.

39 (F) In cases where sentences for crimes from more than one severity
40 level have been imposed, the offender shall serve the longest period of
41 postrelease supervision as provided by this section available for any crime
42 upon which sentence was imposed irrespective of the severity level of the
43 crime. Supervision periods will not aggregate.

1 (G) (i) Except as provided in subsection (u), persons sentenced to
2 imprisonment for a sexually violent crime committed on or after July 1,
3 2006, when the offender was 18 years of age or older, and who are
4 released from prison, shall be released to a mandatory period of
5 postrelease supervision for the duration of the person's natural life.

6 (ii) Persons sentenced to imprisonment for a sexually violent crime
7 committed on or after the effective date of this act, when the offender was
8 under 18 years of age, and who are released from prison, shall be released
9 to a mandatory period of postrelease supervision for 60 months, plus the
10 amount of good time and program credit earned and retained pursuant to
11 K.S.A. 21-4722, prior to its repeal, or K.S.A. 2022 Supp. 21-6821, and
12 amendments thereto.

13 (2) Persons serving a period of postrelease supervision pursuant to
14 subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner
15 review board for early discharge. Upon payment of restitution, the prisoner
16 review board may provide for early discharge.

17 (3) Persons serving a period of incarceration for a supervision
18 violation shall not have the period of postrelease supervision modified
19 until such person is released and returned to postrelease supervision.

20 (4) Offenders whose crime of conviction was committed on or after
21 July 1, 2013, and whose probation, assignment to a community
22 correctional services program, suspension of sentence or nonprison
23 sanction is revoked pursuant to K.S.A. 22-3716(c), and amendments
24 thereto, or whose underlying prison term expires while serving a sanction
25 pursuant to K.S.A. 22-3716(c), and amendments thereto, shall serve a
26 period of postrelease supervision upon the completion of the underlying
27 prison term.

28 (5) As used in this subsection, "sexually violent crime" means:

29 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp.
30 21-5503, and amendments thereto;

31 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
32 or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;

33 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
34 to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and amendments thereto;

35 (D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its
36 repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) and (a)(4), and amendments
37 thereto;

38 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
39 or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;

40 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
41 or K.S.A. 2022 Supp. 21-5508(a), and amendments thereto;

42 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
43 to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments thereto;

- 1 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
2 or K.S.A. 2022 Supp. 21-5510, and amendments thereto;
- 3 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
4 K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;
- 5 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A.
6 2022 Supp. 21-5604(b), and amendments thereto;
- 7 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,
8 prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments
9 thereto, if committed in whole or in part for the purpose of the sexual
10 gratification of the defendant or another;
- 11 (L) internet trading in child pornography, as defined in K.S.A. 2022
12 Supp. 21-5514(a), and amendments thereto;
- 13 (M) aggravated internet trading in child pornography, as defined in
14 K.S.A. 2022 Supp. 21-5514(b), and amendments thereto;
- 15 (N) commercial sexual exploitation of a child, as defined in K.S.A.
16 2022 Supp. 21-6422, and amendments thereto; or
- 17 (O) an attempt, conspiracy or criminal solicitation, as defined in
18 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
19 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
20 sexually violent crime as defined in this section.
- 21 (6) As used in this subsection, "sexually motivated" means that one of
22 the purposes for which the defendant committed the crime was for the
23 purpose of the defendant's sexual gratification.
- 24 (e) If an inmate is sentenced to imprisonment for a crime committed
25 while on parole or conditional release, the inmate shall be eligible for
26 parole as provided by subsection (c), except that the prisoner review board
27 may postpone the inmate's parole eligibility date by assessing a penalty not
28 exceeding the period of time ~~which~~ *that* could have been assessed if the
29 inmate's parole or conditional release had been violated for reasons other
30 than conviction of a crime.
- 31 (f) If a person is sentenced to prison for a crime committed on or after
32 July 1, 1993, while on probation, parole, conditional release or in a
33 community corrections program, for a crime committed prior to July 1,
34 1993, and the person is not eligible for retroactive application of the
35 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
36 4724, prior to its repeal, the new sentence shall not be aggregated with the
37 old sentence, but shall begin when the person is paroled or reaches the
38 conditional release date on the old sentence. If the offender was past the
39 offender's conditional release date at the time the new offense was
40 committed, the new sentence shall not be aggregated with the old sentence
41 but shall begin when the person is ordered released by the prisoner review
42 board or reaches the maximum sentence expiration date on the old
43 sentence, whichever is earlier. The new sentence shall then be served as

1 otherwise provided by law. The period of postrelease supervision shall be
2 based on the new sentence, except that those offenders whose old sentence
3 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
4 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
5 term of life imprisonment, for which there is no conditional release or
6 maximum sentence expiration date, shall remain on postrelease
7 supervision for life or until discharged from supervision by the prisoner
8 review board.

9 (g) Subject to the provisions of this section, the prisoner review board
10 may release on parole those persons confined in institutions who are
11 eligible for parole when: (1) The board believes that the inmate should be
12 released for hospitalization, deportation or to answer the warrant or other
13 process of a court and is of the opinion that there is reasonable probability
14 that the inmate can be released without detriment to the community or to
15 the inmate; or (2) the secretary of corrections has reported to the board in
16 writing that the inmate has satisfactorily completed the programs required
17 by any agreement entered under K.S.A. 75-5210a, and amendments
18 thereto, or any revision of such agreement, and the board believes that the
19 inmate is able and willing to fulfill the obligations of a law abiding citizen
20 and is of the opinion that there is reasonable probability that the inmate
21 can be released without detriment to the community or to the inmate.
22 Parole shall not be granted as an award of clemency and shall not be
23 considered a reduction of sentence or a pardon.

24 (h) The prisoner review board shall hold a parole hearing at least the
25 month prior to the month an inmate will be eligible for parole under
26 subsections (a), (b) and (c). At least one month preceding the parole
27 hearing, the county or district attorney of the county where the inmate was
28 convicted shall give written notice of the time and place of the public
29 comment sessions for the inmate to any victim of the inmate's crime who
30 is alive and whose address is known to the county or district attorney or, if
31 the victim is deceased, to the victim's family if the family's address is
32 known to the county or district attorney. Except as otherwise provided,
33 failure to notify pursuant to this section shall not be a reason to postpone a
34 parole hearing. In the case of any inmate convicted of an off-grid felony or
35 a class A felony, the secretary of corrections shall give written notice of the
36 time and place of the public comment session for such inmate at least one
37 month preceding the public comment session to any victim of such
38 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
39 amendments thereto. If notification is not given to such victim or such
40 victim's family in the case of any inmate convicted of an off-grid felony or
41 a class A felony, the board shall postpone a decision on parole of the
42 inmate to a time at least 30 days after notification is given as provided in
43 this section. Nothing in this section shall create a cause of action against

1 the state or an employee of the state acting within the scope of the
2 employee's employment as a result of the failure to notify pursuant to this
3 section. If granted parole, the inmate may be released on parole on the date
4 specified by the board, but not earlier than the date the inmate is eligible
5 for parole under subsections (a), (b) and (c). At each parole hearing and, if
6 parole is not granted, at such intervals thereafter as it determines
7 appropriate, the board shall consider: (1) Whether the inmate has
8 satisfactorily completed the programs required by any agreement entered
9 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
10 agreement; and (2) all pertinent information regarding such inmate,
11 including, but not limited to, the circumstances of the offense of the
12 inmate; the presentence report; the previous social history and criminal
13 record of the inmate; the conduct, employment, and attitude of the inmate
14 in prison; the reports of such physical and mental examinations as have
15 been made, including, but not limited to, risk factors revealed by any risk
16 assessment of the inmate; comments of the victim and the victim's family
17 including in person comments, contemporaneous comments and
18 prerecorded comments made by any technological means; comments of
19 the public; official comments; any recommendation by the staff of the
20 facility where the inmate is incarcerated; proportionality of the time the
21 inmate has served to the sentence a person would receive under the Kansas
22 sentencing guidelines for the conduct that resulted in the inmate's
23 incarceration; and capacity of state correctional institutions.

24 (i) In those cases involving inmates sentenced for a crime committed
25 after July 1, 1993, the prisoner review board will review the inmate's
26 proposed release plan. The board may schedule a hearing if they desire.
27 The board may impose any condition they deem necessary to insure public
28 safety, aid in the reintegration of the inmate into the community, or items
29 not completed under the agreement entered into under K.S.A. 75-5210a,
30 and amendments thereto. The board may not advance or delay an inmate's
31 release date. Every inmate while on postrelease supervision shall remain in
32 the legal custody of the secretary of corrections and is subject to the orders
33 of the secretary.

34 (j) (1) Before ordering the parole of any inmate, the prisoner review
35 board shall have the inmate appear either in person or via a video
36 conferencing format and shall interview the inmate unless impractical
37 because of the inmate's physical or mental condition or absence from the
38 institution. Every inmate while on parole shall remain in the legal custody
39 of the secretary of corrections and is subject to the orders of the secretary.
40 Whenever the board formally considers placing an inmate on parole and
41 no agreement has been entered into with the inmate under K.S.A. 75-
42 5210a, and amendments thereto, the board shall notify the inmate in
43 writing of the reasons for not granting parole. If an agreement has been

1 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
2 has not satisfactorily completed the programs specified in the agreement,
3 or any revision of such agreement, the board shall notify the inmate in
4 writing of the specific programs the inmate must satisfactorily complete
5 before parole will be granted. If parole is not granted only because of a
6 failure to satisfactorily complete such programs, the board shall grant
7 parole upon the secretary's certification that the inmate has successfully
8 completed such programs. If an agreement has been entered under K.S.A.
9 75-5210a, and amendments thereto, and the secretary of corrections has
10 reported to the board in writing that the inmate has satisfactorily
11 completed the programs required by such agreement, or any revision
12 thereof, the board shall not require further program participation.
13 However, if the board determines that other pertinent information
14 regarding the inmate warrants the inmate's not being released on parole,
15 the board shall state in writing the reasons for not granting the parole. If
16 parole is denied for an inmate sentenced for a crime other than a class A or
17 class B felony or an off-grid felony, the board shall hold another parole
18 hearing for the inmate not later than one year after the denial unless the
19 board finds that it is not reasonable to expect that parole would be granted
20 at a hearing if held in the next three years or during the interim period of a
21 deferral. In such case, the board may defer subsequent parole hearings for
22 up to three years but any such deferral by the board shall require the board
23 to state the basis for its findings. If parole is denied for an inmate
24 sentenced for a class A or class B felony or an off-grid felony, the board
25 shall hold another parole hearing for the inmate not later than three years
26 after the denial unless the board finds that it is not reasonable to expect
27 that parole would be granted at a hearing if held in the next 10 years or
28 during the interim period of a deferral. In such case, the board may defer
29 subsequent parole hearings for up to 10 years, but any such deferral shall
30 require the board to state the basis for its findings.

31 (2) Inmates sentenced for a class A or class B felony who have not
32 had a board hearing in the five years prior to July 1, 2010, shall have such
33 inmates' cases reviewed by the board on or before July 1, 2012. Such
34 review shall begin with the inmates with the oldest deferral date and
35 progress to the most recent. Such review shall be done utilizing existing
36 resources unless the board determines that such resources are insufficient.
37 If the board determines that such resources are insufficient, then the
38 provisions of this paragraph are subject to appropriations therefor.

39 (k) (1) Parolees and persons on postrelease supervision shall be
40 assigned, upon release, to the appropriate level of supervision pursuant to
41 the criteria established by the secretary of corrections.

42 (2) Parolees and persons on postrelease supervision are, and shall
43 agree in writing to be, subject to searches of the person and the person's

1 effects, vehicle, residence and property by a parole officer or a department
2 of corrections enforcement, apprehension and investigation officer, at any
3 time of the day or night, with or without a search warrant and with or
4 without cause. Nothing in this subsection shall be construed to authorize
5 such officers to conduct arbitrary or capricious searches or searches for the
6 sole purpose of harassment.

7 (3) Parolees and persons on postrelease supervision are, and shall
8 agree in writing to be, subject to searches of the person and the person's
9 effects, vehicle, residence and property by any law enforcement officer
10 based on reasonable suspicion of the person violating conditions of parole
11 or postrelease supervision or reasonable suspicion of criminal activity. Any
12 law enforcement officer who conducts such a search shall submit a written
13 report to the appropriate parole officer no later than the close of the next
14 business day after such search. The written report shall include the facts
15 leading to such search, the scope of such search and any findings resulting
16 from such search.

17 (l) The prisoner review board shall promulgate rules and regulations
18 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not
19 inconsistent with the law and as it may deem proper or necessary, with
20 respect to the conduct of parole hearings, postrelease supervision reviews,
21 revocation hearings, orders of restitution, reimbursement of expenditures
22 by the state board of indigents' defense services and other conditions to be
23 imposed upon parolees or releasees. Whenever an order for parole or
24 postrelease supervision is issued it shall recite the conditions thereof.

25 (m) Whenever the prisoner review board orders the parole of an
26 inmate or establishes conditions for an inmate placed on postrelease
27 supervision, the board:

28 (1) Unless it finds compelling circumstances that would render a plan
29 of payment unworkable, shall order as a condition of parole or postrelease
30 supervision that the parolee or the person on postrelease supervision pay
31 any transportation expenses resulting from returning the parolee or the
32 person on postrelease supervision to this state to answer criminal charges
33 or a warrant for a violation of a condition of probation, assignment to a
34 community correctional services program, parole, conditional release or
35 postrelease supervision;

36 (2) to the extent practicable, shall order as a condition of parole or
37 postrelease supervision that the parolee or the person on postrelease
38 supervision make progress towards or successfully complete the
39 equivalent of a secondary education if the inmate has not previously
40 completed such educational equivalent and is capable of doing so;

41 (3) may order that the parolee or person on postrelease supervision
42 perform community or public service work for local governmental
43 agencies, private corporations organized not-for-profit or charitable or

1 social service organizations performing services for the community;

2 (4) may order the parolee or person on postrelease supervision to pay
3 the administrative fee imposed pursuant to K.S.A. 22-4529, and
4 amendments thereto, unless the board finds compelling circumstances that
5 would render payment unworkable;

6 (5) unless it finds compelling circumstances that would render a plan
7 of payment unworkable, shall order that the parolee or person on
8 postrelease supervision reimburse the state for all or part of the
9 expenditures by the state board of indigents' defense services to provide
10 counsel and other defense services to the person. In determining the
11 amount and method of payment of such sum, the prisoner review board
12 shall take account of the financial resources of the person and the nature of
13 the burden that the payment of such sum will impose. Such amount shall
14 not exceed the amount claimed by appointed counsel on the payment
15 voucher for indigents' defense services or the amount prescribed by the
16 board of indigents' defense services reimbursement tables as provided in
17 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
18 previous payments for such services;

19 (6) shall order that the parolee or person on postrelease supervision
20 agree in writing to be subject to searches of the person and the person's
21 effects, vehicle, residence and property by a parole officer or a department
22 of corrections enforcement, apprehension and investigation officer, at any
23 time of the day or night, with or without a search warrant and with or
24 without cause. Nothing in this subsection shall be construed to authorize
25 such officers to conduct arbitrary or capricious searches or searches for the
26 sole purpose of harassment; and

27 (7) shall order that the parolee or person on postrelease supervision
28 agree in writing to be subject to searches of the person and the person's
29 effects, vehicle, residence and property by any law enforcement officer
30 based on reasonable suspicion of the person violating conditions of parole
31 or postrelease supervision or reasonable suspicion of criminal activity.

32 (n) If the court that sentenced an inmate specified at the time of
33 sentencing the amount and the recipient of any restitution ordered as a
34 condition of parole or postrelease supervision, the prisoner review board
35 shall order as a condition of parole or postrelease supervision that the
36 inmate pay restitution in the amount and manner provided in the journal
37 entry unless the board finds compelling circumstances that would render a
38 plan of restitution unworkable.

39 (o) Whenever the prisoner review board grants the parole of an
40 inmate, the board, within 14 days of the date of the decision to grant
41 parole, shall give written notice of the decision to the county or district
42 attorney of the county where the inmate was sentenced.

43 (p) When an inmate is to be released on postrelease supervision, the

1 secretary, within 30 days prior to release, shall provide the county or
2 district attorney of the county where the inmate was sentenced written
3 notice of the release date.

4 (q) Inmates shall be released on postrelease supervision upon the
5 termination of the prison portion of their sentence. Time served while on
6 postrelease supervision will vest.

7 (r) An inmate who is allocated regular good time credits as provided
8 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
9 good time credits in increments of not more than 90 days per meritorious
10 act. These credits may be awarded by the secretary of corrections when an
11 inmate has acted in a heroic or outstanding manner in coming to the
12 assistance of another person in a life-threatening situation, preventing
13 injury or death to a person, preventing the destruction of property or taking
14 actions that result in a financial savings to the state.

15 (s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and
16 (d)(1)(E) shall be applied retroactively as provided in subsection (t).

17 (t) For offenders sentenced prior to July 1, 2014, who are eligible for
18 modification of their postrelease supervision obligation, the department of
19 corrections shall modify the period of postrelease supervision as provided
20 for by this section:

21 (1) On or before September 1, 2013, for offenders convicted of:

22 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid
23 for nondrug crimes;

24 (B) severity level 4 crimes on the sentencing guidelines grid for drug
25 crimes committed prior to July 1, 2012; and

26 (C) severity level 5 crimes on the sentencing guidelines grid for drug
27 crimes committed on and after July 1, 2012;

28 (2) on or before November 1, 2013, for offenders convicted of:

29 (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines
30 grid for nondrug crimes;

31 (B) *severity* level 3 crimes on the sentencing guidelines grid for drug
32 crimes committed prior to July 1, 2012; and

33 (C) *severity* level 4 crimes on the sentencing guidelines grid for drug
34 crimes committed on or after July 1, 2012; and

35 (3) on or before January 1, 2014, for offenders convicted of:

36 (A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing
37 guidelines grid for nondrug crimes;

38 (B) severity levels 1 and 2 crimes on the sentencing guidelines grid
39 for drug crimes committed at any time; and

40 (C) severity level 3 crimes on the sentencing guidelines grid for drug
41 crimes committed on or after July 1, 2012.

42 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
43 4643, prior to its repeal, or K.S.A. 2022 Supp. 21-6627, and amendments

1 thereto, for crimes committed on or after July 1, 2006, shall be placed on
2 parole for life and shall not be discharged from supervision by the prisoner
3 review board. When the board orders the parole of an inmate pursuant to
4 this subsection, the board shall order as a condition of parole that the
5 inmate be electronically monitored for the duration of the inmate's natural
6 life.

7 (v) Whenever the prisoner review board orders a person to be
8 electronically monitored pursuant to this section, or the court orders a
9 person to be electronically monitored pursuant to K.S.A. 2022 Supp. 21-
10 6604(r), and amendments thereto, the board shall order the person to
11 reimburse the state for all or part of the cost of such monitoring. In
12 determining the amount and method of payment of such sum, the board
13 shall take account of the financial resources of the person and the nature of
14 the burden that the payment of such sum will impose.

15 (w) (1) On and after July 1, 2012, for any inmate who is a sex
16 offender, as defined in K.S.A. 22-4902, and amendments thereto,
17 whenever the prisoner review board orders the parole of such inmate or
18 establishes conditions for such inmate placed on postrelease supervision,
19 such inmate shall agree in writing to not possess pornographic materials.

20 (A) As used in this subsection, "pornographic materials" means any
21 obscene material or performance depicting sexual conduct, sexual contact
22 or a sexual performance; and any visual depiction of sexually explicit
23 conduct.

24 (B) As used in this subsection, all other terms have the meanings
25 provided by K.S.A. 2022 Supp. 21-5510, and amendments thereto.

26 (2) The provisions of this subsection shall be applied retroactively to
27 every sex offender, as defined in K.S.A. 22-4902, and amendments
28 thereto, who is on parole or postrelease supervision on July 1, 2012. The
29 prisoner review board shall obtain the written agreement required by this
30 subsection from such offenders as soon as practicable.

31 Sec. 17. K.S.A. 2022 Supp. 22-4902 is hereby amended to read as
32 follows: 22-4902. As used in the Kansas offender registration act, unless
33 the context otherwise requires:

34 (a) "Offender" means:

35 (1) A sex offender;

36 (2) a violent offender;

37 (3) a drug offender;

38 (4) any person who has been required to register under out-of-state
39 law or is otherwise required to be registered; and

40 (5) any person required by court order to register for an offense not
41 otherwise required as provided in the Kansas offender registration act.

42 (b) "Sex offender" includes any person who:

43 (1) On or after April 14, 1994, is convicted of any sexually violent

1 crime;

2 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for
3 an act which, if committed by an adult, would constitute the commission
4 of a sexually violent crime, unless the court, on the record, finds that the
5 act involved non-forcible sexual conduct, the victim was at least 14 years
6 of age and the offender was not more than four years older than the victim;

7 (3) has been determined to be a sexually violent predator;

8 (4) on or after July 1, 1997, is convicted of any of the following
9 crimes when one of the parties involved is less than 18 years of age:

10 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
11 K.S.A. 2022 Supp. 21-5511, and amendments thereto;

12 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
13 repeal, or K.S.A. 2022 Supp. 21-5504(a)(1) or (a)(2), and amendments
14 thereto;

15 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
16 repeal, or K.S.A. 2012 Supp. 21-6420, prior to its amendment by section
17 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

18 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
19 repeal, or K.S.A. 2012 Supp. 21-6421, prior to its amendment by section
20 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

21 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
22 to its repeal, or K.S.A. 2022 Supp. 21-5513, and amendments thereto;

23 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
24 to its repeal, or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto;

25 (6) is convicted of sexual extortion, as defined in K.S.A. 2022 Supp.
26 21-5515, and amendments thereto;

27 (7) is convicted of breach of privacy, as defined in K.S.A. 2022 Supp.
28 21-6101(a)(6), (a)(7) or (a)(8), and amendments thereto;

29 (8) is convicted of an attempt, conspiracy or criminal solicitation, as
30 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
31 K.S.A. 2022 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
32 of an offense defined in this subsection; or

33 (9) has been convicted of an offense that is comparable to any crime
34 defined in this subsection, or any out-of-state conviction for an offense that
35 under the laws of this state would be an offense defined in this subsection.

36 (c) "Sexually violent crime" means:

37 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
38 2022 Supp. 21-5503, and amendments thereto;

39 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
40 to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;

41 (3) aggravated indecent liberties with a child, as defined in K.S.A.
42 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
43 amendments thereto;

- 1 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
2 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
3 amendments thereto;
- 4 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
5 to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;
- 6 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
7 prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments
8 thereto;
- 9 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
10 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and
11 amendments thereto;
- 12 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
13 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;
- 14 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
15 its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;
- 16 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
17 repeal, or K.S.A. 2022 Supp. 21-5604(b), and amendments thereto;
- 18 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
19 repeal, and K.S.A. 2022 Supp. 21-5509, and amendments thereto;
- 20 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
21 its repeal, or K.S.A. 2022 Supp. 21-5512, and amendments thereto;
- 22 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
23 prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments
24 thereto, if committed in whole or in part for the purpose of the sexual
25 gratification of the defendant or another;
- 26 (14) commercial sexual exploitation of a child, as defined in K.S.A.
27 2022 Supp. 21-6422, and amendments thereto;
- 28 (15) promoting the sale of sexual relations, as defined in K.S.A. 2022
29 Supp. 21-6420, and amendments thereto;
- 30 (16) internet trading in child pornography or aggravated internet
31 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,
32 and amendments thereto;
- 33 (17) any conviction or adjudication for an offense that is comparable
34 to a sexually violent crime as defined in this subsection, or any out-of-state
35 conviction or adjudication for an offense that under the laws of this state
36 would be a sexually violent crime as defined in this subsection;
- 37 (18) an attempt, conspiracy or criminal solicitation, as defined in
38 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
39 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
40 violent crime, as defined in this subsection; or
- 41 (19) any act that has been determined beyond a reasonable doubt to
42 have been sexually motivated, unless the court, on the record, finds that
43 the act involved non-forcible sexual conduct, the victim was at least 14

1 years of age and the offender was not more than four years older than the
 2 victim. As used in this paragraph, "sexually motivated" means that one of
 3 the purposes for which the defendant committed the crime was for the
 4 purpose of the defendant's sexual gratification.

5 (d) "Sexually violent predator" means any person who, on or after
 6 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
 7 59-29a01 et seq., and amendments thereto.

8 (e) "Violent offender" includes any person who:

9 (1) On or after July 1, 1997, is convicted of any of the following
 10 crimes:

11 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
 12 or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*;

13 (B) *aggravated murder, as defined in section 2, and amendments*
 14 *thereto*;

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

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

20 ~~(D)~~(E) 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 ~~(E)~~(F) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
 23 to its repeal, or K.S.A. 2022 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
 24 amendments thereto. The provisions of this paragraph shall not apply to
 25 violations of K.S.A. 2022 Supp. 21-5405(a)(3), and amendments thereto,
 26 that occurred on or after July 1, 2011, through July 1, 2013;

27 ~~(F)~~(G) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,
 28 or K.S.A. 2022 Supp. 21-5408(a), and amendments thereto;

29 ~~(G)~~(H) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to
 30 its repeal, or K.S.A. 2022 Supp. 21-5408(b), and amendments thereto;

31 ~~(H)~~(I) criminal restraint, as defined in K.S.A. 21-3424, prior to its
 32 repeal, or K.S.A. 2022 Supp. 21-5411, and amendments thereto, except by
 33 a parent, and only when the victim is less than 18 years of age; or

34 ~~(I)~~(J) aggravated human trafficking, as defined in K.S.A. 21-3447,
 35 prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments
 36 thereto, if not committed in whole or in part for the purpose of the sexual
 37 gratification of the defendant or another;

38 (2) on or after July 1, 2006, is convicted of any person felony and the
 39 court makes a finding on the record that a deadly weapon was used in the
 40 commission of such person felony;

41 (3) has been convicted of an offense that is comparable to any crime
 42 defined in this subsection, any out-of-state conviction for an offense that
 43 under the laws of this state would be an offense defined in this subsection;

1 or

2 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
3 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
4 K.S.A. 2022 Supp. 21-5301, 21-5302 and 21-5303, and amendments
5 thereto, of an offense defined in this subsection.

6 (f) "Drug offender" includes any person who, on or after July 1, 2007:

7 (1) Is convicted of any of the following crimes:

8 (A) Unlawful manufacture or attempting such of any controlled
9 substance or controlled substance analog, as defined in K.S.A. 65-4159,
10 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
11 K.S.A. 2022 Supp. 21-5703, and amendments thereto;

12 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
13 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
14 ammonia or phenylpropanolamine, or their salts, isomers or salts of
15 isomers with intent to use the product to manufacture a controlled
16 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
17 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2022 Supp. 21-5709(a),
18 and amendments thereto;

19 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
20 36a05(a)(1), prior to its transfer, or K.S.A. 2022 Supp. 21-5705(a)(1), and
21 amendments thereto. The provisions of this paragraph shall not apply to
22 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b) that
23 occurred on or after July 1, 2009, through April 15, 2010;

24 (2) has been convicted of an offense that is comparable to any crime
25 defined in this subsection, any out-of-state conviction for an offense that
26 under the laws of this state would be an offense defined in this subsection;
27 or

28 (3) is or has been convicted of an attempt, conspiracy or criminal
29 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
30 their repeal, or K.S.A. 2022 Supp. 21-5301, 21-5302 and 21-5303, and
31 amendments thereto, of an offense defined in this subsection.

32 (g) Convictions or adjudications that result from or are connected
33 with the same act, or result from crimes committed at the same time, shall
34 be counted for the purpose of this section as one conviction or
35 adjudication. Any conviction or adjudication set aside pursuant to law is
36 not a conviction or adjudication for purposes of this section. A conviction
37 or adjudication from any out-of-state court shall constitute a conviction or
38 adjudication for purposes of this section.

39 (h) "School" means any public or private educational institution,
40 including, but not limited to, postsecondary school, college, university,
41 community college, secondary school, high school, junior high school,
42 middle school, elementary school, trade school, vocational school or
43 professional school providing training or education to an offender for three

1 or more consecutive days or parts of days, or for 10 or more
2 nonconsecutive days in a period of 30 consecutive days.

3 (i) "Employment" means any full-time, part-time, transient, day-labor
4 employment or volunteer work, with or without compensation, for three or
5 more consecutive days or parts of days, or for 10 or more nonconsecutive
6 days in a period of 30 consecutive days.

7 (j) "Reside" means to stay, sleep or maintain with regularity or
8 temporarily one's person and property in a particular place other than a
9 location where the offender is incarcerated. It shall be presumed that an
10 offender resides at any and all locations where the offender stays, sleeps or
11 maintains the offender's person for three or more consecutive days or parts
12 of days, or for ten or more nonconsecutive days in a period of 30
13 consecutive days.

14 (k) "Residence" means a particular and definable place where an
15 individual resides. Nothing in the Kansas offender registration act shall be
16 construed to state that an offender may only have one residence for the
17 purpose of such act.

18 (l) "Transient" means having no fixed or identifiable residence.

19 (m) "Law enforcement agency having initial jurisdiction" means the
20 registering law enforcement agency of the county or location of
21 jurisdiction where the offender expects to most often reside upon the
22 offender's discharge, parole or release.

23 (n) "Registering law enforcement agency" means the sheriff's office
24 or tribal police department responsible for registering an offender.

25 (o) "Registering entity" means any person, agency or other
26 governmental unit, correctional facility or registering law enforcement
27 agency responsible for obtaining the required information from, and
28 explaining the required registration procedures to, any person required to
29 register pursuant to the Kansas offender registration act. "Registering
30 entity" includes, but is not limited to, sheriff's offices, tribal police
31 departments and correctional facilities.

32 (p) "Treatment facility" means any public or private facility or
33 institution providing inpatient mental health, drug or alcohol treatment or
34 counseling, but does not include a hospital, as defined in K.S.A. 65-425,
35 and amendments thereto.

36 (q) "Correctional facility" means any public or private correctional
37 facility, juvenile detention facility, prison or jail.

38 (r) "Out-of-state" means: the District of Columbia; any federal,
39 military or tribal jurisdiction, including those within this state; any foreign
40 jurisdiction; or any state or territory within the United States, other than
41 this state.

42 (s) "Duration of registration" means the length of time ~~during which~~
43 *when* an offender is required to register for a specified offense or violation.

1 (t) (1) Notwithstanding any other provision of this section, "offender"
2 ~~shall~~ *does* not include any person who is:

3 (A) Convicted of unlawful transmission of a visual depiction of a
4 child, as defined in K.S.A. 2022 Supp. 21-5611(a), and amendments
5 thereto, aggravated unlawful transmission of a visual depiction of a child,
6 as defined in K.S.A. 2022 Supp. 21-5611(b), and amendments thereto, or
7 unlawful possession of a visual depiction of a child, as defined in K.S.A.
8 2022 Supp. 21-5610, and amendments thereto;

9 (B) adjudicated as a juvenile offender for an act which, if committed
10 by an adult, would constitute the commission of a crime defined in
11 subsection (t)(1)(A);

12 (C) adjudicated as a juvenile offender for an act which, if committed
13 by an adult, would constitute the commission of sexual extortion as
14 defined in K.S.A. 2022 Supp. 21-5515, and amendments thereto; or

15 (D) adjudicated as a juvenile offender for an act which, if committed
16 by an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6101(a)
17 (6), (a)(7) or (a)(8), and amendments thereto.

18 (2) Notwithstanding any other provision of law, a court shall not
19 order any person to register under the Kansas offender registration act for
20 the offenses described in subsection (t)(1).

21 Sec. 18. K.S.A. 2022 Supp. 22-4906 is hereby amended to read as
22 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted
23 of any of the following offenses, an offender's duration of registration shall
24 be, if confined, 15 years after the date of parole, discharge or release,
25 whichever date is most recent, or, if not confined, 15 years from the date of
26 conviction:

27 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
28 or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto;

29 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
30 K.S.A. 2022 Supp. 21-5511, and amendments thereto, when one of the
31 parties involved is less than 18 years of age;

32 (C) promoting the sale of sexual relations, as defined in K.S.A. 2022
33 Supp. 21-6420, and amendments thereto;

34 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
35 repeal, or K.S.A. 2012 Supp. 21-6421, prior to its amendment by section 18
36 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, when
37 one of the parties involved is less than 18 years of age;

38 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
39 to its repeal, or K.S.A. 2022 Supp. 21-5513, and amendments thereto,
40 when one of the parties involved is less than 18 years of age;

41 (F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
42 or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*;

43 (G) *aggravated murder, as defined in section 2*, and amendments

1 thereto;

2 ~~(G)~~(H) murder in the first degree, as defined in K.S.A. 21-3401, prior
3 to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;

4 ~~(H)~~(I) murder in the second degree, as defined in K.S.A. 21-3402,
5 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
6 thereto;

7 ~~(I)~~(J) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
8 its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;

9 ~~(J)~~(K) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
10 to its repeal, or K.S.A. 2022 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
11 amendments thereto;

12 ~~(K)~~(L) criminal restraint, as defined in K.S.A. 21-3424, prior to its
13 repeal, or K.S.A. 2022 Supp. 21-5411, and amendments thereto, except by
14 a parent, and only when the victim is less than 18 years of age;

15 ~~(L)~~(M) sexual extortion, as defined in K.S.A. 2022 Supp. 21-5515,
16 and amendments thereto, when one of the parties involved is less than 18
17 years of age;

18 ~~(M)~~(N) breach of privacy, as defined in K.S.A. 2022 Supp. 21-
19 6101(a)(6), (a)(7) or (a)(8), and amendments thereto;

20 ~~(N)~~(O) any act that has been determined beyond a reasonable doubt
21 to have been sexually motivated, unless the court, on the record, finds that
22 the act involved non-forcible sexual conduct, the victim was at least 14
23 years of age and the offender was not more than four years older than the
24 victim;

25 ~~(O)~~(P) conviction of any person required by court order to register for
26 an offense not otherwise required as provided in the Kansas offender
27 registration act;

28 ~~(P)~~(Q) conviction of any person felony and the court makes a finding
29 on the record that a deadly weapon was used in the commission of such
30 person felony;

31 ~~(Q)~~(R) unlawful manufacture or attempting such of any controlled
32 substance or controlled substance analog, as defined in K.S.A. 65-4159,
33 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
34 K.S.A. 2022 Supp. 21-5703, and amendments thereto;

35 ~~(R)~~(S) possession of ephedrine, pseudoephedrine, red phosphorus,
36 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
37 ammonia or phenylpropanolamine, or their salts, isomers or salts of
38 isomers with intent to use the product to manufacture a controlled
39 substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.
40 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2022 Supp. 21-
41 5709(a), and amendments thereto;

42 ~~(S)~~(T) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
43 36a05(a)(1), prior to its transfer, or K.S.A. 2022 Supp. 21-5705(a)(1), and

1 amendments thereto; or

2 ~~(F)~~(U) any attempt, conspiracy or criminal solicitation, as defined in
3 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
4 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
5 offense defined in this subsection.

6 (2) Except as otherwise provided by the Kansas offender registration
7 act, the duration of registration terminates, if not confined, at the
8 expiration of 15 years from the date of conviction. Any period of time
9 ~~during which~~ when any offender is incarcerated in any jail or correctional
10 facility or ~~during which~~ when the offender does not comply with any and
11 all requirements of the Kansas offender registration act shall not count
12 toward the duration of registration.

13 (b) (1) Except as provided in subsection (c), if convicted of any of the
14 following offenses, an offender's duration of registration shall be, if
15 confined, 25 years after the date of parole, discharge or release, whichever
16 date is most recent, or, if not confined, 25 years from the date of
17 conviction:

18 (A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
19 repeal, or K.S.A. 2022 Supp. 21-5504(a)(1) or (a)(2), and amendments
20 thereto, when one of the parties involved is less than 18 years of age;

21 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
22 prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments
23 thereto;

24 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
25 repeal, or K.S.A. 2022 Supp. 21-5509, and amendments thereto;

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

28 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
29 to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;

30 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
31 its repeal, or K.S.A. 2022 Supp. 21-5512, and amendments thereto;

32 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
33 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, if
34 the victim is 14 or more years of age but less than 18 years of age;

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

37 (I) internet trading in child pornography, as defined in K.S.A. 2022
38 Supp. 21-5514, and amendments thereto;

39 (J) aggravated internet trading in child pornography, as defined in
40 K.S.A. 2022 Supp. 21-5514, and amendments thereto, if the victim is 14 or
41 more years of age but less than 18 years of age;

42 (K) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
43 repeal, or K.S.A. 2012 Supp. 21-6420, prior to its amendment by section

1 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
2 the person selling sexual relations is 14 or more years of age but less than
3 18 years of age; or

4 (L) any attempt, conspiracy or criminal solicitation, as defined in
5 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
6 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
7 offense defined in this subsection.

8 (2) Except as otherwise provided by the Kansas offender registration
9 act, the duration of registration terminates, if not confined, at the
10 expiration of 25 years from the date of conviction. Any period of time
11 ~~during which~~ when any offender is incarcerated in any jail or correctional
12 facility or ~~during which~~ when the offender does not comply with any and
13 all requirements of the Kansas offender registration act shall not count
14 toward the duration of registration.

15 (c) Upon a second or subsequent conviction of an offense requiring
16 registration, an offender's duration of registration shall be for such
17 offender's lifetime.

18 (d) The duration of registration for any offender who has been
19 convicted of any of the following offenses shall be for such offender's
20 lifetime:

21 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
22 2022 Supp. 21-5503, and amendments thereto;

23 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
24 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and
25 amendments thereto;

26 (3) aggravated indecent liberties with a child, as defined in K.S.A.
27 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
28 amendments thereto;

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

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

34 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
35 to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments thereto;

36 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
37 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, if
38 the victim is less than 14 years of age;

39 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
40 repeal, or K.S.A. 2012 Supp. 21-6420, prior to its amendment by section
41 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
42 the person selling sexual relations is less than 14 years of age;

43 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or

1 K.S.A. 2022 Supp. 21-5408(a), and amendments thereto;

2 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
3 repeal, or K.S.A. 2022 Supp. 21-5408(b), and amendments thereto;

4 (11) aggravated internet trading in child pornography, as defined in
5 K.S.A. 2022 Supp. 21-5514, and amendments thereto, if the victim is less
6 than 14 years of age;

7 (12) commercial sexual exploitation of a child, as defined in K.S.A.
8 2022 Supp. 21-6422, and amendments thereto; or

9 (13) any attempt, conspiracy or criminal solicitation, as defined in
10 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
11 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
12 offense defined in this subsection.

13 (e) Any person who has been declared a sexually violent predator
14 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall
15 register for such person's lifetime.

16 (f) Notwithstanding any other provisions of this section, for an
17 offender less than 14 years of age who is adjudicated as a juvenile offender
18 for an act which, if committed by an adult, would constitute a sexually
19 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the
20 court shall:

21 (1) Require registration until such offender reaches 18 years of age, at
22 the expiration of five years from the date of adjudication or, if confined,
23 from release from confinement, whichever date occurs later. Any period of
24 time ~~during which~~ when the offender is incarcerated in any jail, juvenile
25 facility or correctional facility or ~~during which~~ when the offender does not
26 comply with any and all requirements of the Kansas offender registration
27 act shall not count toward the duration of registration;

28 (2) not require registration if the court, on the record, finds substantial
29 and compelling reasons therefor; or

30 (3) require registration, but such registration information shall not be
31 open to inspection by the public or posted on any internet website, as
32 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
33 registration but such registration is not open to the public, such offender
34 shall provide a copy of such court order to the registering law enforcement
35 agency at the time of registration. The registering law enforcement agency
36 shall forward a copy of such court order to the Kansas bureau of
37 investigation.

38 If such offender violates a condition of release during the term of the
39 conditional release, the court may require such offender to register
40 pursuant to ~~paragraph (1)~~ subsection (f).

41 (g) Notwithstanding any other provisions of this section, for an
42 offender 14 years of age or more who is adjudicated as a juvenile offender
43 for an act which, if committed by an adult, would constitute a sexually

1 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and
2 such crime is not an off-grid felony or a felony ranked in severity level 1
3 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or
4 K.S.A. 2022 Supp. 21-6804, and amendments thereto, the court shall:

5 (1) Require registration until such offender reaches 18 years of age, at
6 the expiration of five years from the date of adjudication or, if confined,
7 from release from confinement, whichever date occurs later. Any period of
8 time ~~during which~~ when the offender is incarcerated in any jail, juvenile
9 facility or correctional facility or ~~during which~~ when the offender does not
10 comply with any and all requirements of the Kansas offender registration
11 act shall not count toward the duration of registration;

12 (2) not require registration if the court, on the record, finds substantial
13 and compelling reasons therefor; or

14 (3) require registration, but such registration information shall not be
15 open to inspection by the public or posted on any internet website, as
16 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
17 registration but such registration is not open to the public, such offender
18 shall provide a copy of such court order to the registering law enforcement
19 agency at the time of registration. The registering law enforcement agency
20 shall forward a copy of such court order to the Kansas bureau of
21 investigation.

22 If such offender violates a condition of release during the term of the
23 conditional release, the court may require such offender to register
24 pursuant to ~~paragraph (1)~~ subsection (g).

25 (h) Notwithstanding any other provisions of this section, an offender
26 14 or more years of age ~~or more~~ who is adjudicated as a juvenile offender
27 for an act which, if committed by an adult, would constitute a sexually
28 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and
29 such crime is an off-grid felony or a felony ranked in severity level 1 of
30 the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or
31 K.S.A. 2022 Supp. 21-6804, and amendments thereto, shall be required to
32 register for such offender's lifetime.

33 (i) Notwithstanding any other provision of law, if a diversionary
34 agreement or probation order, either adult or juvenile, or a juvenile
35 offender sentencing order, requires registration under the Kansas offender
36 registration act for an offense that would not otherwise require registration
37 as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all
38 provisions of the Kansas offender registration act shall apply, except that
39 the duration of registration shall be controlled by such diversionary
40 agreement, probation order or juvenile offender sentencing order.

41 (j) The duration of registration does not terminate if the convicted or
42 adjudicated offender again becomes liable to register as provided by the
43 Kansas offender registration act during the required period of registration.

1 (k) For any person moving to Kansas who has been convicted or
2 adjudicated in an out-of-state court, or who was required to register under
3 an out-of-state law, the duration of registration shall be the length of time
4 required by the out-of-state jurisdiction or by the Kansas offender
5 registration act, whichever length of time is longer. The provisions of this
6 subsection shall apply to convictions or adjudications prior to June 1,
7 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
8 convictions or adjudications on or after June 1, 2006, and to persons who
9 moved to Kansas on or after June 1, 2006.

10 (l) For any person residing, maintaining employment or attending
11 school in this state who has been convicted or adjudicated by an out-of-
12 state court of an offense that is comparable to any crime requiring
13 registration pursuant to the Kansas offender registration act, but who was
14 not required to register in the jurisdiction of conviction or adjudication, the
15 duration of registration shall be the duration required for the comparable
16 offense pursuant to the Kansas offender registration act.

17 Sec. 19. K.S.A. 2022 Supp. 23-3222 is hereby amended to read as
18 follows: 23-3222. (a) Except as provided in subsection (d), a parent
19 entitled to legal custody or residency of or parenting time with a child
20 under this article shall give written notice to the other parent not less than
21 30 days prior to: (1) Changing the residence of the child; or (2) removing
22 the child from this state for a period of time exceeding 90 days. Such
23 notice shall be sent by restricted mail, return receipt requested, to the last
24 known address of the other parent.

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

30 (c) A change of the residence or the removal of a child as described in
31 subsection (a) may be considered a material change of circumstances
32 ~~which~~ that justifies modification of a prior order of legal custody,
33 residency, child support or parenting time. In determining any motion
34 seeking a modification of a prior order based on change of residence or
35 removal as described in (a), the court shall consider all factors the court
36 deems appropriate including, but not limited to: (1) The effect of the move
37 on the best interests of the child; (2) the effect of the move on any party
38 having rights granted under this article; and (3) the increased cost the
39 move will impose on any party seeking to exercise rights granted under
40 this article.

41 (d) A parent entitled to the legal custody or residency of a child under
42 this article shall not be required to give the notice required by this section
43 to the other parent when the other parent has been convicted of any crime

1 specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes
2 Annotated *or K.S.A. 2022 Supp. 21-5401*, prior to their repeal, or K.S.A.
3 2022 Supp. ~~21-5401~~ 21-5402 through 21-5609, *section 2*, 21-6104, 21-
4 6325, 21-6326 or 21-6419 through 21-6422, and amendments thereto, in
5 which the child is the victim of such crime.

6 Sec. 20. K.S.A. 38-2255 is hereby amended to read as follows: 38-
7 2255. (a) *Considerations*. Prior to entering an order of disposition, the
8 court shall give consideration to:

- 9 (1) The child's physical, mental and emotional condition;
- 10 (2) the child's need for assistance;
- 11 (3) the manner in which the parent participated in the abuse, neglect
12 or abandonment of the child;
- 13 (4) any relevant information from the intake and assessment process;
- 14 and

15 (5) the evidence received at the dispositional hearing.

16 (b) *Custody with a parent*. The court may place the child in the
17 custody of either of the child's parents subject to terms and conditions
18 ~~which~~ *that* the court prescribes to assure the proper care and protection of
19 the child, including, but not limited to:

- 20 (1) Supervision of the child and the parent by a court services officer;
- 21 (2) participation by the child and the parent in available programs
22 operated by an appropriate individual or agency; and
- 23 (3) any special treatment or care ~~which~~ *that* the child needs for the
24 child's physical, mental or emotional health and safety.

25 (c) *Removal of a child from custody of a parent*. The court shall not
26 enter the initial order removing a child from the custody of a parent
27 pursuant to this section unless the court first finds probable cause that:

- 28 (1) (A) The child is likely to sustain harm if not immediately removed
29 from the home;
- 30 (B) allowing the child to remain in home is contrary to the welfare of
31 the child; or
- 32 (C) immediate placement of the child is in the best interest of the
33 child; and

34 (2) reasonable efforts have been made to maintain the family unit and
35 prevent the unnecessary removal of the child from the child's home or that
36 an emergency exists ~~which~~ *that* threatens the safety to the child.

37 The court shall not enter an order removing a child from the custody of
38 a parent pursuant to this section based solely on the finding that the parent
39 is homeless.

40 (d) *Custody of a child removed from the custody of a parent*. If the
41 court has made the findings required by subsection (c), the court shall
42 enter an order awarding custody to: A relative of the child or to a person
43 with whom the child has close emotional ties who shall not be required to

1 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
2 and amendments thereto; any other suitable person; a shelter facility; a
3 youth residential facility; a staff secure facility, notwithstanding any other
4 provision of law, if the child has been subjected to human trafficking or
5 aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426,
6 and amendments thereto, or commercial sexual exploitation of a child, as
7 defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or the
8 child committed an act which, if committed by an adult, would constitute a
9 violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto; or, if
10 the child is 15 years of age or younger, or 16 or 17 years of age if the child
11 has no identifiable parental or family resources or shows signs of physical,
12 mental, emotional or sexual abuse, to the secretary. Custody awarded
13 under this subsection shall continue until further order of the court.

14 (1) When custody is awarded to the secretary, the secretary shall
15 consider any placement recommendation by the court and notify the court
16 of the placement or proposed placement of the child within 10 days of the
17 order awarding custody. After providing the parties or interested parties
18 notice and opportunity to be heard, the court may determine whether the
19 secretary's placement or proposed placement is contrary to the welfare or
20 in the best interests of the child. In making that determination the court
21 shall consider the health and safety needs of the child and the resources
22 available to meet the needs of children in the custody of the secretary. If
23 the court determines that the placement or proposed placement is contrary
24 to the welfare or not in the best interests of the child, the court shall notify
25 the secretary, who shall then make an alternative placement.

26 (2) The custodian designated under this subsection shall notify the
27 court in writing at least 10 days prior to any planned placement with a
28 parent. The written notice shall state the basis for the custodian's belief that
29 placement with a parent is no longer contrary to the welfare or best interest
30 of the child. Upon reviewing the notice, the court may allow the custodian
31 to proceed with the planned placement or may set the date for a hearing to
32 determine if the child shall be allowed to return home. If the court sets a
33 hearing on the matter, the custodian shall not return the child home without
34 written consent of the court.

35 (3) The court may grant any person reasonable rights to visit the child
36 upon motion of the person and a finding that the visitation rights would be
37 in the best interests of the child.

38 (4) The court may enter an order restraining any alleged perpetrator
39 of physical, mental or emotional abuse or sexual abuse of the child from
40 residing in the child's home; visiting, contacting, harassing or intimidating
41 the child, other family member or witness; or attempting to visit, contact,
42 harass or intimidate the child, other family member or witness. Such
43 restraining order shall be served by personal service pursuant to K.S.A.

1 38-2237(a), and amendments thereto, on any alleged perpetrator to whom
 2 the order is directed.

3 (5) The court shall provide a copy of any orders entered within 10
 4 days of entering the order to the custodian designated under this
 5 subsection.

6 (e) *Further determinations regarding a child removed from the home.*
 7 If custody has been awarded under subsection (d) to a person other than a
 8 parent, a permanency plan shall be provided or prepared pursuant to
 9 K.S.A. 38-2264, and amendments thereto. If a permanency plan is
 10 provided at the dispositional hearing, the court may determine whether
 11 reintegration is a viable alternative or, if reintegration is not a viable
 12 alternative, whether the child should be placed for adoption or a permanent
 13 custodian appointed. In determining whether reintegration is a viable
 14 alternative, the court shall consider:

15 (1) Whether a parent has been found by a court to have committed
 16 one of the following crimes or to have violated the law of another state
 17 prohibiting such crimes or to have aided and abetted, attempted, conspired
 18 or solicited the commission of one of these crimes:

19 (A) *Capital murder; K.S.A. 21-3439, prior to its repeal, or K.S.A.*
 20 *2022 Supp. 21-5401, prior to its repeal;*

21 (B) *aggravated murder, section 2, and amendments thereto;*

22 (C) *murder in the first degree, K.S.A. 21-3401, prior to its repeal, or*
 23 *K.S.A. 2022 Supp. 21-5402, and amendments thereto;*

24 ~~(B)(D) murder in the second degree, K.S.A. 21-3402, prior to its~~
 25 ~~repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;~~ ~~(C)~~
 26 ~~capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022 Supp.~~
 27 ~~21-5401, and amendments thereto;~~

28 ~~(D)(E) voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or~~
 29 ~~K.S.A. 2022 Supp. 21-5404, and amendments thereto; or~~

30 ~~(E)(F) a felony battery that resulted in bodily injury;~~

31 (2) whether a parent has subjected the child or another child to
 32 aggravated circumstances;

33 (3) whether a parent has previously been found to be an unfit parent
 34 in proceedings under this code or in comparable proceedings under the
 35 laws of another state or the federal government;

36 (4) whether the child has been in the custody of the secretary and
 37 placed with neither parent for 15 of the most recent 22 months beginning
 38 60 days after the date ~~on which~~ *when* a child in the secretary's custody was
 39 removed from the child's home;

40 (5) whether the parents have failed to work diligently toward
 41 reintegration;

42 (6) whether the secretary has provided the family with services
 43 necessary for the safe return of the child to the home; and

1 (7) whether it is reasonable to expect reintegration to occur within a
2 time frame consistent with the child's developmental needs.

3 (f) *Proceedings if reintegration is not a viable alternative.* If the court
4 determines that reintegration is not a viable alternative, proceedings to
5 terminate parental rights and permit placement of the child for adoption or
6 appointment of a permanent custodian shall be initiated unless the court
7 finds that compelling reasons have been documented in the case plan why
8 adoption or appointment of a permanent custodian would not be in the best
9 interests of the child. If compelling reasons have not been documented, the
10 county or district attorney shall file a motion within 30 days to terminate
11 parental rights or a motion to appoint a permanent custodian within 30
12 days and the court shall hold a hearing on the motion within 90 days of its
13 filing. No hearing is required when the parents voluntarily relinquish
14 parental rights or consent to the appointment of a permanent custodian.

15 (g) *Additional orders.* In addition to or in lieu of any other order
16 authorized by this section:

17 (1) The court may order the child and the parents of any child who
18 has been adjudicated a child in need of care to attend counseling sessions
19 as the court directs. The expense of the counseling may be assessed as an
20 expense in the case. No mental health provider shall charge a greater fee
21 for court-ordered counseling than the provider would have charged to the
22 person receiving counseling if the person had requested counseling on the
23 person's own initiative.

24 (2) If the court has reason to believe that a child is before the court
25 due, in whole or in part, to the use or misuse of alcohol or a violation of
26 K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto, by
27 the child, a parent of the child, or another person responsible for the care
28 of the child, the court may order the child, parent of the child or other
29 person responsible for the care of the child to submit to and complete an
30 alcohol and drug evaluation by a qualified person or agency and comply
31 with any recommendations. If the evaluation is performed by a
32 community-based alcohol and drug safety program certified pursuant to
33 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
34 other person responsible for the care of the child shall pay a fee not to
35 exceed the fee established by that statute. If the court finds that the child
36 and those legally liable for the child's support are indigent, the fee may be
37 waived. In no event shall the fee be assessed against the secretary.

38 (3) If child support has been requested and the parent or parents have
39 a duty to support the child, the court may order one or both parents to pay
40 child support and, when custody is awarded to the secretary, the court shall
41 order one or both parents to pay child support. The court shall determine,
42 for each parent separately, whether the parent is already subject to an order
43 to pay support for the child. If the parent is not presently ordered to pay

1 support for any child who is subject to the jurisdiction of the court and the
2 court has personal jurisdiction over the parent, the court shall order the
3 parent to pay child support in an amount determined under K.S.A. 38-
4 2277, and amendments thereto. Except for good cause shown, the court
5 shall issue an immediate income withholding order pursuant to K.S.A. 23-
6 3101 et seq., and amendments thereto, for each parent ordered to pay
7 support under this subsection, regardless of whether a payor has been
8 identified for the parent. A parent ordered to pay child support under this
9 subsection shall be notified, at the hearing or otherwise, that the child
10 support order may be registered pursuant to K.S.A. 38-2279, and
11 amendments thereto. The parent shall also be informed that, after
12 registration, the income withholding order may be served on the parent's
13 employer without further notice to the parent and the child support order
14 may be enforced by any method allowed by law. Failure to provide this
15 notice shall not affect the validity of the child support order.

16 Sec. 21. K.S.A. 38-2271 is hereby amended to read as follows: 38-
17 2271. (a) It is presumed in the manner provided in K.S.A. 60-414, and
18 amendments thereto, that a parent is unfit by reason of conduct or
19 condition ~~which~~ that renders the parent unable to fully care for a child, if
20 the state establishes, by clear and convincing evidence, that:

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

24 (2) a parent has twice before been convicted of a crime specified in
25 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
26 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
27 Annotated, or K.S.A. 2022 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
28 through 21-6421, and amendments thereto, or comparable offenses under
29 the laws of another jurisdiction, or an attempt or attempts to commit such
30 crimes and the victim was under the age of 18 years;

31 (3) on two or more prior occasions a child in the physical custody of
32 the parent has been adjudicated a child in need of care as defined by
33 K.S.A. 38-2202(d)(1), (d)(3), (d)(5) or (d)(11), and amendments thereto, or
34 comparable proceedings under the laws of another jurisdiction;

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

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

42 (6) (A) the child has been in an out-of-home placement, under court
43 order for a cumulative total period of two years or longer; (B) the parent

1 has failed to carry out a reasonable plan, approved by the court, directed
2 toward reintegration of the child into the parental home; and (C) there is a
3 substantial probability that the parent will not carry out such plan in the
4 near future;

5 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
6 prior to its repeal, or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*,
7 *aggravated murder, section 2*, and amendments thereto, murder in the first
8 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022 Supp. 21-5402,
9 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
10 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
11 thereto, voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or
12 K.S.A. 2022 Supp. 21-5404, and amendments thereto, human trafficking
13 or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their
14 repeal, or K.S.A. 2022 Supp. 21-5426, and amendments thereto, or
15 commercial sexual exploitation of a child, K.S.A. 2022 Supp. 21-6422,
16 and amendments thereto, or comparable proceedings under the laws of
17 another jurisdiction or, has been adjudicated a juvenile offender because of
18 an act which, if committed by an adult, would be an offense as provided in
19 this subsection, and the victim of such murder was the other parent of the
20 child;

21 (8) a parent abandoned or neglected the child after having knowledge
22 of the child's birth or either parent has been granted immunity from
23 prosecution for abandonment of the child under K.S.A. 21-3604(b), prior
24 to its repeal, or K.S.A. 2022 Supp. 21-5605(d), and amendments thereto;
25 or

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

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

31 (11) a father abandoned the mother after having knowledge of the
32 pregnancy;

33 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
34 repeal, or K.S.A. 2022 Supp. 21-5503, and amendments thereto, or
35 comparable proceedings under the laws of another jurisdiction resulting in
36 the conception of the child; or

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

41 (b) The burden of proof is on the parent to rebut the presumption of
42 unfitness by a preponderance of the evidence. In the absence of proof that
43 the parent is presently fit and able to care for the child or that the parent

1 will be fit and able to care for the child in the foreseeable future, the court
2 shall terminate parental rights in proceedings pursuant to K.S.A. 38-2266
3 et seq., and amendments thereto.

4 Sec. 22. K.S.A. 38-2303 is hereby amended to read as follows: 38-
5 2303. (a) Proceedings under this code involving acts committed by a
6 juvenile which, if committed by an adult, would constitute a violation of
7 any of the following statutes may be commenced at any time: (1) Rape as
8 defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-
9 5503, and amendments thereto; (2) aggravated criminal sodomy as defined
10 in K.S.A. 21-3506, prior to its repeal, or ~~subsection (b) of K.S.A. 2022~~
11 ~~Supp. 21-5504(b)~~, and amendments thereto; (3) murder as described in
12 K.S.A. 21-3401, 21-3402 or 21-3439, prior to their repeal, or K.S.A. 2022
13 Supp. 21-5401, *prior to its repeal, or K.S.A. 2022 Supp. 21-5402 or*, 21-
14 5403 *or section 2*, and amendments thereto; (4) terrorism as defined in
15 K.S.A. 21-3449, prior to its repeal, or K.S.A. 2022 Supp. 21-5421, and
16 amendments thereto; or (5) illegal use of weapons of mass destruction as
17 defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2022 Supp. 21-
18 5422, and amendments thereto.

19 (b) Except as provided by subsections (c) and (e), a proceeding under
20 this code for any act committed by a juvenile which, if committed by an
21 adult, would constitute a violation of any of the following statutes shall be
22 commenced within five years after its commission if the victim is less than
23 16 years of age: (1) Lewd and lascivious behavior as defined in K.S.A. 21-
24 3508, prior to its repeal, or K.S.A. 2022 Supp. 21-5513, and amendments
25 thereto; (2) unlawful voluntary sexual relations as defined in K.S.A. 21-
26 3522, prior to its repeal, or K.S.A. 2022 Supp. 21-5507, and amendments
27 thereto; or (3) aggravated incest as defined in K.S.A. 21-3603, prior to its
28 repeal, or ~~subsection (b) of K.S.A. 2022 Supp. 21-5604(b)~~, and
29 amendments thereto.

30 (c) Except as provided in subsection (e), a proceeding under this code
31 for any act committed by a juvenile which, if committed by an adult,
32 would constitute a sexually violent crime as defined in K.S.A. 22-3717,
33 and amendments thereto:

34 (1) When the victim is 18 years of age or older shall be commenced
35 within 10 years or one year from the date on which the identity of the
36 suspect is conclusively established by DNA testing, whichever is later; or

37 (2) when the victim is under 18 years of age shall be commenced
38 within 10 years of the date the victim turns 18 years of age or one year
39 from the date on which the identity of the suspect is conclusively
40 established by DNA testing, whichever is later.

41 (3) For the purposes of this subsection, "DNA" means
42 deoxyribonucleic acid.

43 (d) Except as provided by subsection (e), proceedings under this code

1 not governed by ~~subsections~~ *subsection* (a), (b) or (c) shall be commenced
2 within two years after the act giving rise to the proceedings is committed.

3 (e) The period within which the proceedings—~~must~~ *shall* be
4 commenced shall not include any period in which:

5 (1) The accused is absent from the state;

6 (2) the accused is so concealed within the state that process cannot be
7 served upon the accused;

8 (3) the fact of the offense is concealed; or

9 (4) whether or not the fact of the offense is concealed by the active
10 act or conduct of the accused, there is substantial competent evidence to
11 believe two or more of the following factors are present: (A) The victim
12 was a child under 15 years of age at the time of the offense; (B) the victim
13 was of such age or intelligence that the victim was unable to determine
14 that the acts constituted an offense; (C) the victim was prevented by a
15 parent or other legal authority from making known to law enforcement
16 authorities the fact of the offense whether or not the parent or other legal
17 authority is the accused; and (D) there is substantial competent expert
18 testimony indicating the victim psychologically repressed such victim's
19 memory of the fact of the offense, and in the expert's professional opinion
20 the recall of such memory is accurate, free of undue manipulation, and
21 substantial corroborating evidence can be produced in support of the
22 allegations contained in the complaint or information; but in no event may
23 a proceeding be commenced as provided in subsection (e)(4) later than the
24 date the victim turns 28 years of age. Corroborating evidence may include,
25 but is not limited to, evidence the alleged juvenile offender committed
26 similar acts against other persons or evidence of contemporaneous
27 physical manifestations of the offense. Parent or other legal authority shall
28 include, but not be limited to, natural and stepparents, grandparents, aunts,
29 uncles or siblings.

30 (f) An offense is committed either when every element occurs, or, if a
31 legislative purpose to prohibit a continuing offense plainly appears, at the
32 time when the course of conduct or the alleged juvenile offender's
33 complicity therein is terminated. Time starts to run on the day after the
34 offense is committed.

35 (g) A proceeding under this code is commenced when a complaint or
36 information is filed, or an indictment returned, and a warrant thereon is
37 delivered to the sheriff or other officer for execution. No such proceeding
38 shall be deemed to have been commenced if the warrant so issued is not
39 executed without unreasonable delay.

40 Sec. 23. K.S.A. 38-2312 is hereby amended to read as follows: 38-
41 2312. (a) Except as provided in subsections (b) and (c), any records or files
42 specified in this code concerning a juvenile may be expunged upon
43 application to a judge of the court of the county ~~in which~~ *where* the records

1 or files are maintained. The application for expungement may be made by
2 the juvenile, if 18 years of age or older or, if the juvenile is less than 18
3 years of age, by the juvenile's parent or next friend.

4 (b) There shall be no expungement of records or files concerning acts
5 committed by a juvenile which, if committed by an adult, would constitute
6 a violation of *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022 Supp. 21-*
7 *5401, prior to its repeal, capital murder; section 2, and amendments*
8 *thereto, aggravated murder; K.S.A. 21-3401, prior to its repeal, or K.S.A.*
9 *2022 Supp. 21-5402, and amendments thereto, murder in the first degree;*
10 *K.S.A. 21-3402, prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and*
11 *amendments thereto, murder in the second degree; K.S.A. 21-3403, prior*
12 *to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto,*
13 *voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A.*
14 *2022 Supp. 21-5405, and amendments thereto, involuntary manslaughter;*
15 ~~*K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022 Supp. 21-5401, and*~~
16 ~~*amendments thereto, capital murder;*~~ *K.S.A. 21-3442, prior to its repeal, or*
17 *K.S.A. 2022 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto,*
18 *involuntary manslaughter while driving under the influence of alcohol or*
19 *drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503,*
20 *and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or*
21 *K.S.A. 2022 Supp. 21-5506(a), and amendments thereto, indecent liberties*
22 *with a child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-*
23 *5506(b), and amendments thereto, aggravated indecent liberties with a*
24 *child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2022 Supp. 21-*
25 *5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.*
26 *21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and*
27 *amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior*
28 *to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments thereto,*
29 *aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its*
30 *repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, sexual*
31 *exploitation of a child; K.S.A. 2022 Supp. 21-5514(a), and amendments*
32 *thereto, internet trading in child pornography; K.S.A. 2022 Supp. 21-*
33 *5514(b), and amendments thereto, aggravated internet trading in child*
34 *pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2022 Supp. 21-*
35 *5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608,*
36 *prior to its repeal, or K.S.A. 2022 Supp. 21-5601(a), and amendments*
37 *thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.*
38 *2022 Supp. 21-5602, and amendments thereto, abuse of a child; or which*
39 *would constitute an attempt to commit a violation of any of the offenses*
40 *specified in this subsection.*

41 (c) Notwithstanding any other law to the contrary, for any offender
42 who is required to register as provided in the Kansas offender registration
43 act, *K.S.A. 22-4901 et seq.*, and amendments thereto, there shall be no

1 expungement of any conviction or any part of the offender's criminal
2 record while the offender is required to register as provided in the Kansas
3 offender registration act.

4 (d) When a petition for expungement is filed, the court shall set a date
5 for a hearing on the petition and shall give notice thereof to the county or
6 district attorney. The petition shall state: (1) The juvenile's full name; (2)
7 the full name of the juvenile as reflected in the court record, if different
8 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
9 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
10 of the trial court. Except as otherwise provided by law, a petition for
11 expungement shall be accompanied by a docket fee in the amount of \$176.
12 On and after July 1, 2019, through June 30, 2025, the supreme court may
13 impose a charge, not to exceed \$19 per case, to fund the costs of non-
14 judicial personnel. All petitions for expungement shall be docketed in the
15 original action. Any person who may have relevant information about the
16 petitioner may testify at the hearing. The court may inquire into the
17 background of the petitioner.

18 (e) (1) After hearing, the court shall order the expungement of the
19 records and files if the court finds that:

20 (A) (i) The juvenile has reached 23 years of age or that two years
21 have elapsed since the final discharge;

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

26 (iii) the juvenile is a victim of human trafficking, aggravated human
27 trafficking or commercial sexual exploitation of a child, the adjudication
28 concerned acts committed by the juvenile as a result of such victimization,
29 including, but not limited to, acts which, if committed by an adult, would
30 constitute a violation of K.S.A. 2022 Supp. 21-6203 or 21-6419, and
31 amendments thereto, and the hearing on expungement occurred on or after
32 the date of final discharge. The provisions of this clause shall not allow an
33 expungement of records or files concerning acts described in subsection
34 (b);

35 (B) since the final discharge of the juvenile, the juvenile has not been
36 convicted of a felony or of a misdemeanor other than a traffic offense or
37 adjudicated as a juvenile offender under the revised Kansas juvenile justice
38 code and no proceedings are pending seeking such a conviction or
39 adjudication; and

40 (C) the circumstances and behavior of the petitioner warrant
41 expungement.

42 (2) The court may require that all court costs, fees and restitution
43 shall be paid.

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

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

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

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

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

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

32 (1) The person whose record was expunged;

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

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

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

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

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

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

15 (8) the Kansas sentencing commission; or

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

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

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

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

25 Sec. 24. K.S.A. 38-2365 is hereby amended to read as follows: 38-
26 2365. (a) When a juvenile offender has been placed in the custody of the
27 secretary, the secretary shall have a reasonable time to make a placement.
28 If the juvenile offender has not been placed, any party who believes that
29 the amount of time elapsed without placement has exceeded a reasonable
30 time may file a motion for review with the court. In determining what is a
31 reasonable amount of time, matters considered by the court shall include,
32 but not be limited to, the nature of the underlying offense, efforts made for
33 placement of the juvenile offender and the availability of a suitable
34 placement. The secretary shall notify the court, the juvenile's attorney of
35 record and the juvenile's parent, in writing, of the initial placement and any
36 subsequent change of placement as soon as the placement has been
37 accomplished. The notice to the juvenile offender's parent shall be sent to
38 such parent's last known address or addresses. The court shall have no
39 power to direct a specific placement by the secretary, but may make
40 recommendations to the secretary. The secretary may place the juvenile
41 offender in an institution operated by the secretary, a youth residential
42 facility or any other appropriate placement. If the court has recommended
43 an out-of-home placement, the secretary may not return the juvenile

1 offender to the home from which removed without first notifying the court
2 of the plan.

3 (b) If a juvenile is in the custody of the secretary, the secretary shall
4 prepare and present a permanency plan at sentencing or within 30 days
5 thereafter. If the juvenile is 14 years of age or older and the juvenile is
6 able, the secretary shall prepare the permanency plan in consultation with
7 the juvenile. If a permanency plan is already in place under a child in need
8 of care proceeding, the court may adopt the plan under the present
9 proceeding. The written permanency plan shall provide for reintegration of
10 the juvenile into such juvenile's family or, if reintegration is not a viable
11 alternative, for other permanent placement of the juvenile. Reintegration
12 may not be a viable alternative when:

13 (1) The parent has been found by a court to have committed *capital*
14 *murder*, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022 Supp. 21-5401,
15 *prior to its repeal, aggravated murder, section 2, and amendments thereto*,
16 murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A.
17 2022 Supp. 21-5402, and amendments thereto, murder in the second
18 degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2022 Supp. 21-5403,
19 and amendments thereto, ~~capital murder, K.S.A. 21-3439, prior to its~~
20 ~~repeal, or K.S.A. 2022 Supp. 21-5401, and amendments thereto~~; voluntary
21 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2022 Supp.
22 21-5404, and amendments thereto, of a child or violated a law of another
23 state ~~which~~ *that* prohibits such murder or manslaughter of a child;

24 (2) the parent aided or abetted, attempted, conspired or solicited to
25 commit such murder or voluntary manslaughter of a child;

26 (3) the parent committed a felony battery that resulted in bodily
27 injury to the juvenile who is the subject of this proceeding or another
28 child;

29 (4) the parent has subjected the juvenile who is the subject of this
30 proceeding or another child to aggravated circumstances as defined in
31 K.S.A. 38-1502, and amendments thereto;

32 (5) the parental rights of the parent to another child have been
33 terminated involuntarily; or

34 (6) the juvenile has been in extended out-of-home placement as
35 defined in K.S.A. 38-2202, and amendments thereto.

36 (c) If the juvenile is placed in the custody of the secretary, the plan
37 shall be prepared and submitted by the secretary. If the juvenile is placed
38 in the custody of a facility or person other than the secretary, the plan shall
39 be prepared and submitted by a court services officer. If the permanency
40 goal is reintegration into the family, the permanency plan shall include
41 measurable objectives and time schedules for reintegration.

42 (d) During the time a juvenile remains in the custody of the secretary,
43 the secretary shall submit to the court, at least every six months, a written

1 report of the progress being made toward the goals of the permanency plan
2 submitted pursuant to subsections (b) and (c) and the specific actions taken
3 to achieve the goals of the permanency plan. If the juvenile is placed in
4 foster care, the court may request the foster parent to submit to the court,
5 at least every six months, a report in regard to the juvenile's adjustment,
6 progress and condition. Such report shall be made a part of the juvenile's
7 court social file. The court shall review the plan submitted by the secretary
8 and the report, if any, submitted by the foster parent and determine
9 whether reasonable efforts and progress have been made to achieve the
10 goals of the permanency plan. If the court determines that progress is
11 inadequate or that the permanency plan is no longer viable, the court shall
12 hold a hearing pursuant to subsection (e).

13 (e) When the secretary has custody of the juvenile, a permanency
14 hearing shall be held no more than 12 months after the juvenile is first
15 placed outside such juvenile's home and at least every 12 months
16 thereafter. Juvenile offenders who have been in extended out-of-home
17 placement shall be provided a permanency hearing within 30 days of a
18 request from the secretary. The court may appoint a guardian ad litem to
19 represent the juvenile offender at the permanency hearing. At the
20 permanency hearing, the court shall determine whether and, if applicable,
21 when the juvenile will be:

22 (1) Reintegrated with the juvenile's parents;
23 (2) placed for adoption;
24 (3) placed with a permanent custodian; or
25 (4) if the juvenile is 16 years of age or older and the secretary has
26 documented compelling reasons why it would not be in the juvenile's best
27 interests for a placement in one of the placements pursuant to ~~paragraphs~~
28 *paragraph* (1), (2) or (3), placed in another planned permanent
29 arrangement.

30 (f) At each permanency hearing, the court shall:

31 (1) Make a written finding as to whether reasonable efforts have been
32 made to accomplish the permanency goal and whether continued out-of-
33 home placement is necessary for the juvenile's safety;

34 (2) make a written finding as to whether the reasonable and prudent
35 parenting standard has been met and whether the juvenile has regular,
36 ongoing opportunities to engage in age or developmentally appropriate
37 activities. The secretary shall report to the court the steps the secretary is
38 taking to ensure that the reasonable and prudent parenting standard is
39 being met and that the juvenile has regular, ongoing opportunities to
40 engage in age or developmentally appropriate activities, including
41 consultation with the juvenile in an age-appropriate manner about the
42 opportunities of the juvenile to participate in the activities; and

43 (3) if the juvenile is 14 years of age or older, document the efforts

1 made by the secretary to help the juvenile prepare for the transition from
2 custody to a successful adulthood. The secretary shall report to the court
3 the programs and services that are being provided to the juvenile—~~which~~
4 *that* will help the juvenile prepare for the transition from custody to a
5 successful adulthood.

6 (g) The requirements of this subsection shall apply only if the
7 permanency goal in place at the time of the hearing is another planned
8 permanent arrangement as described in subsection (e)(4). At each
9 permanency hearing held with respect to the juvenile, in addition to the
10 requirements of subsection (f), the court shall:

11 (1) Ask the juvenile, if the juvenile is able, by attendance at the
12 hearing or by report to the court, about the desired permanency outcome
13 for the juvenile;

14 (2) document the intensive, ongoing and, as of the date of the hearing,
15 unsuccessful permanency efforts made by the secretary to return the
16 juvenile home or secure a placement for the juvenile with a fit and willing
17 relative, a legal guardian or an adoptive parent. The secretary shall report
18 to the court the intensive, ongoing and, as of the date of the hearing,
19 unsuccessful efforts made by the secretary to return the juvenile home or
20 secure a placement for the juvenile with a fit and willing relative, a legal
21 guardian or an adoptive parent, including efforts that utilize search
22 technology, including social media, to find biological family members of
23 the children; and

24 (3) make a judicial determination explaining why, as of the date of
25 the hearing, another planned permanent living arrangement is the best
26 permanency plan for the juvenile and provide compelling reasons why it
27 continues to not be in the best interests of the juvenile to return home, be
28 placed for adoption, be placed with a legal guardian or be placed with a fit
29 and willing relative.

30 (h) Whenever a hearing is required under subsection (e), the court
31 shall notify all interested parties of the hearing date, the secretary, foster
32 parent and preadoptive parent or relatives providing care for the juvenile
33 and hold a hearing. If the juvenile is 14 years of age or older, the court
34 shall require notice of the time and place of the permanency hearing be
35 given to the juvenile. Such notice shall request the juvenile's participation
36 in the hearing by attendance or by report to the court. Individuals receiving
37 notice pursuant to this subsection shall not be made a party to the action
38 solely on the basis of this notice and opportunity to be heard. After
39 providing the persons receiving notice an opportunity to be heard, the
40 court shall determine whether the juvenile's needs are being adequately
41 met; whether services set out in the permanency plan necessary for the
42 safe return of the juvenile have been made available to the parent with
43 whom reintegration is planned; and whether reasonable efforts and

1 progress have been made to achieve the goals of the permanency plan.

2 (i) If the court finds reintegration continues to be a viable alternative,
3 the court shall determine whether and, if applicable, when the juvenile will
4 be returned to the parent. The court may rescind any of its prior
5 dispositional orders and enter any dispositional order authorized by this
6 code or may order that a new plan for the reintegration be prepared and
7 submitted to the court. If reintegration cannot be accomplished as
8 approved by the court, the court shall be informed and shall schedule a
9 hearing pursuant to subsection (j). No such hearing is required when the
10 parent voluntarily relinquishes parental rights or agrees to appointment of
11 a permanent guardian.

12 (j) When the court finds any of the following conditions exist, the
13 county or district attorney or the county or district attorney's designee shall
14 file a petition alleging the juvenile to be a child in need of care and
15 requesting termination of parental rights pursuant to the Kansas code for
16 care of children:

17 (1) The court determines that reintegration is not a viable alternative
18 and either adoption or permanent guardianship might be in the best
19 interests of the juvenile;

20 (2) the goal of the permanency plan is reintegration into the family
21 and the court determines after 12 months from the time such plan is first
22 submitted that progress is inadequate; or

23 (3) the juvenile has been in out-of-home placement for a cumulative
24 total of 15 of the last 22 months, excluding trial home visits and juvenile in
25 runaway status.

26 Nothing in this subsection shall be interpreted to prohibit termination of
27 parental rights prior to the expiration of 12 months.

28 (k) A petition to terminate parental rights is not required to be filed if
29 one of the following exceptions is documented to exist:

30 (1) The juvenile is in a stable placement with relatives;

31 (2) services set out in the case plan necessary for the safe return of
32 the juvenile have not been made available to the parent with whom
33 reintegration is planned; or

34 (3) there are one or more documented reasons why such filing would
35 not be in the best interests of the juvenile. Documented reasons may
36 include, but are not limited to: The juvenile has close emotional bonds
37 with a parent ~~which~~ *that* should not be broken; the juvenile is 14 years of
38 age or older and, after advice and counsel, refuses to be adopted;
39 insufficient grounds exist for termination of parental rights; the juvenile is
40 an unaccompanied refugee minor; or there are international legal or
41 compelling foreign policy reasons precluding termination of parental
42 rights.

43 Sec. 25. K.S.A. 39-970 is hereby amended to read as follows: 39-970.

1 (a) As used in this section:

2 (1) "Adult care home" means any nursing facility, nursing facility for
3 mental health, intermediate care facility for people with intellectual
4 disability, assisted living facility, residential health care facility, home plus,
5 boarding care home or adult day care facility that is required to be licensed
6 to operate by the secretary for aging and disability services.

7 (2) "Applicant" means an individual who applies for employment
8 with an adult care home or applies to work for an employment agency or
9 as an independent contractor who provides staff to an adult care home.

10 (3) "Completion of the sentence" means the last day of the entire term
11 of incarceration imposed by a sentence, including any term that is
12 deferred, suspended or subject to parole, probation, diversion, community
13 corrections, fines, fees, restitution or any other imposed sentencing
14 requirements.

15 (4) "Department" means the Kansas department for aging and
16 disability services.

17 (5) "Direct access" means work that involves an actual or reasonable
18 expectation of one-on-one interaction with a consumer or a consumer's
19 property, personally identifiable information, medical records, treatment
20 information or financial information.

21 (6) "Direct supervision" means that a supervisor is physically present
22 within an immediate distance to a supervisee and is available to provide
23 constant direction, feedback and assistance to a client and the supervisee.

24 (7) "Employment agency" means an organization or entity that has a
25 contracted relationship with an adult care home to provide staff with direct
26 access to consumers.

27 (8) "Independent contractor" means an organization, entity, agency or
28 individual that provides contracted workers or services to an adult care
29 home.

30 (9) "Secretary" means the secretary for aging and disability services.

31 (b) (1) No person shall knowingly operate an adult care home if, in
32 the adult care home, there works any person who has adverse findings on
33 any state or national registry, as defined in rules and regulations adopted
34 by the secretary for aging and disability services, or has been convicted of
35 or has been adjudicated a juvenile offender because of having committed
36 an act that if done by an adult would constitute the commission of capital
37 murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022
38 Supp. 21-5401, *prior to its repeal, aggravated murder, pursuant to section*
39 *2, and amendments thereto, first degree murder, pursuant to K.S.A. 21-*
40 *3401, prior to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments*
41 *thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its*
42 *repeal, or K.S.A. 2022 Supp. 21-5403(a), and amendments thereto,*
43 *voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or*

1 K.S.A. 2022 Supp. 21-5404, and amendments thereto, assisting suicide,
2 pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2022 Supp. 21-
3 5407, and amendments thereto, mistreatment of a dependent adult or
4 mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its
5 repeal, or K.S.A. 2022 Supp. 21-5417, and amendments thereto, human
6 trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 2022
7 Supp. 21-5426(a), and amendments thereto, aggravated human trafficking,
8 pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 2022 Supp. 21-
9 5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior
10 to its repeal, or K.S.A. 2022 Supp. 21-5503, and amendments thereto,
11 indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its
12 repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto,
13 aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504,
14 prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and amendments
15 thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to
16 its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto,
17 indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its
18 repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments thereto,
19 aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511,
20 prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments
21 thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to
22 its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, sexual
23 battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 2022
24 Supp. 21-5505(a), and amendments thereto, aggravated sexual battery,
25 pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 2022 Supp. 21-
26 5505(b), and amendments thereto, commercial sexual exploitation of a
27 child, pursuant to K.S.A. 2022 Supp. 21-6422, and amendments thereto, an
28 attempt to commit any of the crimes listed in this paragraph, pursuant to
29 K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022 Supp. 21-5301, and
30 amendments thereto, a conspiracy to commit any of the crimes listed in
31 this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A.
32 2022 Supp. 21-5302, and amendments thereto, or criminal solicitation of
33 any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303,
34 prior to its repeal, or K.S.A. 2022 Supp. 21-5303, and amendments
35 thereto, or similar statutes of other states or the federal government. The
36 provisions of subsection (b)(2)(C) shall not apply to any person who is
37 employed by an adult care home on or before July 1, 2010, and while
38 continuously employed by the same adult care home or to any person
39 during or upon successful completion of a diversion agreement.

40 (2) (A) A person operating an adult care home may employ an
41 applicant who has been convicted of any of the following if six or more
42 years have elapsed since completion of the sentence imposed or the
43 applicant was discharged from probation, a community correctional

1 services program, parole, postrelease supervision, conditional release or a
2 suspended sentence; if six or more years have elapsed since the applicant
3 has been finally discharged from the custody of the commissioner of
4 juvenile justice or from probation or has been adjudicated a juvenile
5 offender, whichever time is longer; or if the applicant has been granted a
6 waiver of such six-year disqualification: A felony conviction for a crime
7 that is described in:

8 ~~(A)~~(i) Article 34 of chapter 21 of the Kansas Statutes Annotated,
9 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes
10 Annotated, and amendments thereto, except those crimes listed in
11 subsection (b)(1);

12 ~~(B)~~(ii) articles 35 or 36 of chapter 21 of the Kansas Statutes
13 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
14 Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6420, and
15 amendments thereto, except those crimes listed in subsection (b)(1) and
16 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2022 Supp. 21-5606, and
17 amendments thereto;

18 ~~(C)~~(iii) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2022 Supp. 21-
19 5801, and amendments thereto;

20 ~~(D)~~(iv) an attempt to commit any of the crimes listed in this
21 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
22 Supp. 21-5301, and amendments thereto;

23 ~~(E)~~(v) a conspiracy to commit any of the crimes listed in this
24 paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2022
25 Supp. 21-5302, and amendments thereto;

26 ~~(F)~~(vi) criminal solicitation of any of the crimes listed in this
27 paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022
28 Supp. 21-5303, and amendments thereto; or

29 ~~(G)~~(vii) similar statutes of other states or the federal government.

30 (B) An individual who has been disqualified for employment due to
31 conviction or adjudication of an offense listed in this paragraph~~(2)~~ may
32 apply to the secretary for aging and disability services for a waiver of such
33 disqualification if five years have elapsed since completion of the sentence
34 for such conviction. The secretary shall adopt rules and regulations
35 establishing the waiver process and criteria to be considered by the
36 secretary in evaluating any such waiver request.

37 (3) (A) A person operating an adult care home may employ an
38 applicant who has been convicted of any of the following if six or more
39 years have elapsed since completion of the sentence imposed or the
40 applicant was discharged from probation, a community correctional
41 services program, parole, postrelease supervision, conditional release or a
42 suspended sentence; if six or more years have elapsed since the applicant
43 has been finally discharged from the custody of the commissioner of

1 juvenile justice or from probation or has been adjudicated a juvenile
2 offender, whichever time is longer; or if the applicant has been granted a
3 waiver of such six-year disqualification:

4 (i) Interference with custody of a committed person pursuant to
5 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2022 Supp. 21-5410, and
6 amendments thereto; mistreatment of a confined person pursuant to K.S.A.
7 21-3425, prior to its repeal, or K.S.A. 2022 Supp. 21-5416, and
8 amendments thereto; unlawful administration of a substance pursuant to
9 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2022 Supp. 21-5425, and
10 amendments thereto; violation of a protective order pursuant to K.S.A. 21-
11 3843, prior to its repeal, or K.S.A. 2022 Supp. 21-5924, and amendments
12 thereto; promoting obscenity or promoting obscenity to minors pursuant to
13 K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2022 Supp.
14 21-6401, and amendments thereto; or cruelty to animals pursuant to
15 K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 2022
16 Supp. 21-6412, and amendments thereto; or

17 (ii) any felony conviction of: Unlawful manufacture of a controlled
18 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
19 K.S.A. 2022 Supp. 21-5703, and amendments thereto; unlawful cultivation
20 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
21 36a05, prior to its repeal, or K.S.A. 2022 Supp. 21-5705, and amendments
22 thereto; unlawful manufacture, distribution, cultivation or possession of a
23 controlled substance using a communication facility pursuant to K.S.A.
24 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2022 Supp. 21-5707,
25 and amendments thereto; unlawful obtainment or sale of a prescription-
26 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or
27 K.S.A. 2022 Supp. 21-5708, and amendments thereto; unlawful
28 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.
29 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2022 Supp. 21-5710,
30 and amendments thereto; unlawful distribution or possession of a
31 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,
32 prior to its repeal, or K.S.A. 2022 Supp. 21-5713, and amendments
33 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.
34 2022 Supp. 21-5823, and amendments thereto; criminal use of a financial
35 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2022 Supp.
36 21-5828, and amendments thereto; any violation of the Kansas medicaid
37 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,
38 or K.S.A. 2022 Supp. 21-5925 et seq., and amendments thereto; making a
39 false claim, statement or representation to the medicaid program pursuant
40 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2022 Supp. 21-5927, and
41 amendments thereto; unlawful acts relating to the medicaid program
42 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2022 Supp. 21-
43 5928, and amendments thereto; obstruction of a medicaid fraud

1 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.
2 2022 Supp. 21-5929, and amendments thereto; identity theft or identity
3 fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A.
4 2022 Supp. 21-6107, and amendments thereto; or social welfare fraud
5 pursuant to K.S.A. 39-720, and amendments thereto.

6 (B) The provisions of this paragraph~~(3)~~ shall not apply to any person
7 who is employed by an adult care home on or before July 1, 2018, and is
8 continuously employed by the same adult care home or to any person
9 during or upon successful completion of a diversion agreement.

10 (C) An individual who has been disqualified for employment due to
11 conviction or adjudication of an offense listed in this paragraph~~(3)~~ may
12 apply to the secretary for aging and disability services for a waiver of such
13 disqualification if five years have elapsed since completion of the sentence
14 for such conviction. The secretary shall adopt rules and regulations
15 establishing the waiver process and criteria to be considered by the
16 secretary in evaluating any such waiver request.

17 (c) No person shall operate an adult care home if such person has
18 been found to be in need of a guardian or conservator, or both as provided
19 in the act for obtaining a guardian or a conservator, or both. The provisions
20 of this subsection shall not apply to an individual who, as a minor, was
21 found to be in need of a guardian or conservator for reasons other than
22 impairment.

23 (d) (1) The Kansas bureau of investigation shall release all records of
24 adult and juvenile convictions and adjudications and adult and juvenile
25 convictions and adjudications of any other state or country concerning
26 persons working in an adult care home to the secretary for aging and
27 disability services. The Kansas bureau of investigation may charge to the
28 Kansas department for aging and disability services a reasonable fee for
29 providing criminal history record information under this subsection.

30 (2) The department shall require an applicant to be fingerprinted and
31 to submit to a state and national criminal history record check. The
32 fingerprints shall be used to identify the individual and to determine
33 whether the individual has a record of criminal history in this state or other
34 jurisdiction. The department is authorized to submit the fingerprints to the
35 Kansas bureau of investigation and the federal bureau of investigation for
36 a state and national criminal history record check. The department may use
37 the information obtained from fingerprinting and the criminal history
38 record check for purposes of verifying the identification of the person and
39 for making an official determination of the qualifications and fitness of the
40 person to work in the adult care home.

41 (3) An applicant for employment in an adult care home shall have 20
42 calendar days after receipt of authorization to submit the applicant's
43 fingerprints through an authorized collection site in order to be eligible for

1 provisional employment or the applicant's application shall be deemed
2 withdrawn.

3 (4) (A) The current or prospective employer of an applicant shall pay
4 a fee not to exceed \$19 of the total cost for criminal history record
5 information to the department for each applicant submitted.

6 (B) The prospective employer, employee or independent contractor
7 shall pay the fingerprint collection fee at the time of fingerprinting to the
8 authorized collection site.

9 (5) If an applicant disputes the contents of a criminal history record
10 check, then the applicant may file an appeal with the Kansas bureau of
11 investigation.

12 (6) Individuals who have been disqualified for employment by reason
13 of their criminal history records and who have met the requirements of this
14 subsection may apply for a waiver with the department within 30 days of
15 the receipt of the notice of employment prohibition.

16 (7) The department shall adopt rules and regulations specifying the
17 criteria and procedure for issuing a waiver of the employment prohibition.
18 The secretary shall consider the following criteria when rendering a
19 decision on such a waiver request: Passage of time; extenuating
20 circumstances; demonstration of rehabilitation; and relevancy of the
21 criminal history record information to the position for which the applicant
22 is applying. Any employment prohibition issued shall remain in effect
23 unless or until a waiver is granted.

24 (e) For the purpose of complying with this section, the operator of an
25 adult care home shall request from the Kansas department for aging and
26 disability services an eligibility determination regarding adult and juvenile
27 convictions and adjudications. For the purpose of complying with this
28 section, the operator of an adult care home shall receive from any
29 employment agency or independent contractor that provides employees to
30 work in the adult care home written certification that such employees are
31 not prohibited from working in the adult care home under this section. For
32 the purpose of complying with this section, a person who operates an adult
33 care home may hire an applicant for provisional employment on a one-
34 time basis of 60 calendar days pending the results from the Kansas
35 department for aging and disability services of a request for information
36 under this subsection. A provisional employee may only be supervised by
37 an employee that has completed all training required by federal
38 regulations, rules and regulations of the department and the adult care
39 home's policies and procedures. No adult care home, the operator or
40 employees of an adult care home or an employment agency or an
41 independent contractor shall be liable for civil damages resulting from any
42 decision to employ, to refuse to employ or to discharge from employment
43 any person based on such adult care home's compliance with the

1 provisions of this section if such adult care home or employment agency
2 acts in good faith to comply with this section.

3 (f) The secretary for aging and disability services shall provide each
4 operator requesting information under this section with a pass or fail
5 determination after review of any criminal history record information in
6 writing and within three working days of receipt of such information from
7 the Kansas bureau of investigation or the federal bureau of investigation.

8 (g) A person who volunteers in an adult care home shall not be
9 subject to the provisions of this section unless the volunteer performs
10 equivalent functions to those performed by direct access employees.

11 (h) No person who has been continuously employed by the same
12 adult care home since July 1, 1992, shall be subject to the provisions of
13 this section while employed by such adult care home.

14 (i) The operator of an adult care home shall not be required under this
15 section to conduct a criminal history record check on an applicant for
16 employment with the adult care home if the applicant has been the subject
17 of a criminal history record check under this act within one year prior to
18 the application for employment with the adult care home.

19 (j) No person who is in the custody of the secretary of corrections and
20 who provides services, under direct supervision in nonpatient areas, on the
21 grounds or other areas designated by the superintendent of the Kansas
22 soldiers' home or the Kansas veterans' home shall be subject to the
23 provisions of this section while providing such services.

24 (k) (1) All fees charged by the secretary for criminal history record
25 checks conducted pursuant to this section shall be established by rules and
26 regulations of the secretary.

27 (2) All moneys collected and remitted to the Kansas department for
28 aging and disability services for fees charged for criminal history record
29 checks conducted pursuant to this section shall be remitted to the state
30 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.
31 Upon receipt of each such remittance, the state treasurer shall deposit the
32 entire amount into the state treasury to the credit of the state licensure fee
33 fund created by K.S.A. 39-930, and amendments thereto.

34 (l) The Kansas department for aging and disability services may
35 implement the amendments made to this section by this act in phases for
36 different categories of employers. The department shall adopt rules and
37 regulations establishing dates and procedures for the implementation of the
38 criminal history record checks required by this section, and such dates may
39 be staggered to facilitate implementation of the criminal history record
40 checks required by this section.

41 (m) Upon authorization by the secretary for aging and disability
42 services, other state agencies may access an internet-based application
43 portal that is operated and maintained by the Kansas department for aging

1 and disability services for purposes of processing criminal history record
2 information requests in accordance with this section. Agencies may not
3 share criminal history record information or the resulting pass or fail
4 determinations with any other agency. The secretary for aging and
5 disability services may charge an authorized agency the amount of \$1 per
6 request made pursuant to this subsection.

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

9 Sec. 26. K.S.A. 39-2009 is hereby amended to read as follows: 39-
10 2009. (a) As used in this section:

11 (1) "Applicant" means an individual who applies for employment
12 with a center, facility, hospital or a provider of services or applies to work
13 for an employment agency or as an independent contractor that provides
14 staff to a center, facility, hospital or a provider of services.

15 (2) "Completion of the sentence" means the last day of the entire term
16 of incarceration imposed by a sentence, including any term that is
17 deferred, suspended or subject to parole, probation, diversion, community
18 corrections, fines, fees, restitution or any other imposed sentencing
19 requirements.

20 (3) "Department" means the Kansas department for aging and
21 disability services.

22 (4) "Direct access" means work that involves an actual or reasonable
23 expectation of one-on-one interaction with a consumer or a consumer's
24 property, personally identifiable information, medical records, treatment
25 information or financial information.

26 (5) "Direct supervision" means that a supervisor is physically present
27 within an immediate distance to a supervisee and is available to provide
28 constant direction, feedback and assistance to a client and the supervisee.

29 (6) "Employment agency" means an organization or entity that has a
30 contracted relationship with a center, hospital, facility or provider of
31 services to provide staff with direct access to consumers.

32 (7) "Independent contractor" means an organization, entity, agency or
33 individual that provides contracted workers or services to a center, facility,
34 hospital or provider of services.

35 (b) (1) No licensee shall knowingly operate a center, facility, hospital
36 or be a provider of services if any person who works in the center, facility,
37 hospital or for a provider of services has adverse findings on any state or
38 national registry, as defined in rules and regulations adopted by the
39 secretary for aging and disability services, or has been convicted of or has
40 been adjudicated a juvenile offender because of having ~~committing~~
41 ~~committed~~ an act that if done by an adult would constitute the commission
42 of capital murder, pursuant to K.S.A. 21-3439 or K.S.A. 2022 Supp. 21-
43 5401, prior to its *their* repeal, or K.S.A. 2022 Supp. 21-5401 aggravated

1 *murder, pursuant to section 2, and amendments thereto, first degree*
2 *murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022*
3 *Supp. 21-5402, and amendments thereto, second degree murder, pursuant*
4 *to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2022 Supp. 21-5403(a),*
5 *and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-*
6 *3403, prior to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments*
7 *thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or*
8 *K.S.A. 2022 Supp. 21-5407, and amendments thereto, mistreatment of a*
9 *dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-*
10 *3437, prior to its repeal, or K.S.A. 2022 Supp. 21-5417, and amendments*
11 *thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,*
12 *or K.S.A. 2022 Supp. 21-5426(a), and amendments thereto, aggravated*
13 *human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or*
14 *K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, rape, pursuant to*
15 *K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and*
16 *amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-*
17 *3503, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and*
18 *amendments thereto, aggravated indecent liberties with a child, pursuant to*
19 *K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and*
20 *amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-*
21 *3506, prior to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and*
22 *amendments thereto, indecent solicitation of a child, pursuant to K.S.A.*
23 *21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and*
24 *amendments thereto, aggravated indecent solicitation of a child, pursuant*
25 *to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b),*
26 *and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.*
27 *21-3516, prior to its repeal, or K.S.A. 2022 Supp. 21-5510, and*
28 *amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to*
29 *its repeal, or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto,*
30 *aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,*
31 *or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto, commercial*
32 *sexual exploitation of a child, pursuant to K.S.A. 2022 Supp. 21-6422, and*
33 *amendments thereto, an attempt to commit any of the crimes listed in this*
34 *paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022*
35 *Supp. 21-5301, and amendments thereto, a conspiracy to commit any of*
36 *the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its*
37 *repeal, or K.S.A. 2022 Supp. 21-5302, and amendments thereto, or*
38 *criminal solicitation of any of the crimes listed in this paragraph, pursuant*
39 *to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022 Supp. 21-5303, and*
40 *amendments thereto, or similar statutes of other states or the federal*
41 *government.*

42 (2) (A) A licensee operating a center, facility or hospital or as a
43 provider of services may employ an applicant who has been convicted of

1 any of the following if six or more years have elapsed since completion of
 2 the sentence imposed or the applicant was discharged from probation, a
 3 community correctional services program, parole, postrelease supervision,
 4 conditional release or a suspended sentence; if six or more years have
 5 elapsed since a community correctional services program, parole,
 6 postrelease supervision, conditional release or a suspended sentence; or if
 7 the applicant has been granted a waiver of such six-year disqualification: A
 8 felony conviction for a crime that is described in:

9 ~~(A)~~(i) Article 34 of chapter 21 of the Kansas Statutes Annotated,
 10 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes
 11 Annotated, and amendments thereto, except those crimes listed in
 12 paragraph (1);

13 ~~(B)~~(ii) article 35 or 36 of chapter 21 of the Kansas Statutes
 14 Annotated, and amendments thereto, prior to their repeal, or article 55 or
 15 56 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2022 Supp.
 16 21-6420, and amendments thereto, except those crimes listed in paragraph
 17 (1);

18 ~~(C)~~(iii) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2022 Supp. 21-
 19 5801, and amendments thereto;

20 ~~(D)~~(iv) an attempt to commit any of the crimes listed in this
 21 paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
 22 Supp. 21-5301, and amendments thereto;

23 ~~(E)~~(v) a conspiracy to commit any of the crimes listed in this
 24 paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2022
 25 Supp. 21-5302, and amendments thereto;

26 ~~(F)~~(vi) criminal solicitation of any of the crimes listed in this
 27 paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022
 28 Supp. 21-5303, and amendments thereto; or

29 ~~(G)~~(vii) similar statutes of other states or the federal government.

30 (B) An individual who has been disqualified for employment due to
 31 conviction or adjudication of an offense listed in this paragraph~~(2)~~ may
 32 apply to the secretary for aging and disability services for a waiver of such
 33 disqualification if five years have elapsed since completion of the sentence
 34 for such conviction. The secretary shall adopt rules and regulations
 35 establishing the waiver process and the criteria to be utilized by the
 36 secretary in evaluating any such waiver request.

37 (3) (A) A licensee operating a center, facility, hospital or as a provider
 38 of services may employ an applicant who has been convicted of any of the
 39 following if six or more years have elapsed since completion of the
 40 sentence imposed or the applicant was discharged from probation, a
 41 community correctional services program, parole, postrelease supervision,
 42 conditional release or a suspended sentence; if six or more years have
 43 elapsed since the applicant has been finally discharged from the custody of

1 the commissioner of juvenile justice or from probation or has been
2 adjudicated a juvenile offender, whichever time is longer; or if the
3 applicant has been granted a waiver of such six-year disqualification:

4 (i) Interference with custody of a committed person pursuant to
5 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2022 Supp. 21-5410, and
6 amendments thereto; mistreatment of a confined person pursuant to K.S.A.
7 21-3425, prior to its repeal, or K.S.A. 2022 Supp. 21-5416, and
8 amendments thereto; unlawful administration of a substance pursuant to
9 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2022 Supp. 21-5425, and
10 amendments thereto; violation of a protective order pursuant to K.S.A. 21-
11 3843, prior to its repeal, or K.S.A. 2022 Supp. 21-5924; promoting
12 obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or
13 21-4301a, prior to their repeal, or K.S.A. 2022 Supp. 21-6401, and
14 amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-
15 4310 or 21-4311, prior to their repeal, or K.S.A. 2022 Supp. 21-6412, and
16 amendments thereto; or

17 (ii) any felony conviction of: Unlawful manufacture of a controlled
18 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
19 K.S.A. 2022 Supp. 21-5703, and amendments thereto; unlawful cultivation
20 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
21 36a05, prior to its repeal, or K.S.A. 2022 Supp. 21-5705, and amendments
22 thereto; unlawful manufacture, distribution, cultivation or possession of a
23 controlled substance using a communication facility pursuant to K.S.A.
24 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2022 Supp. 21-5707,
25 and amendments thereto; unlawful obtainment or sale of a prescription-
26 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or
27 K.S.A. 2022 Supp. 21-5708, and amendments thereto; unlawful
28 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.
29 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2022 Supp. 21-5710,
30 and amendments thereto; unlawful distribution or possession of a
31 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,
32 prior to its repeal, or K.S.A. 2022 Supp. 21-5713, and amendments
33 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.
34 2022 Supp. 21-5823, and amendments thereto; criminal use of a financial
35 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2022 Supp.
36 21-5828, and amendments thereto; any violation of the Kansas medicaid
37 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,
38 or K.S.A. 2022 Supp. 21-5925 et seq., and amendments thereto; making a
39 false claim, statement or representation to the medicaid program pursuant
40 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2022 Supp. 21-5927, and
41 amendments thereto; unlawful acts relating to the medicaid program
42 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2022 Supp. 21-
43 5928, and amendments thereto; obstruction of a medicaid fraud

1 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.
2 2022 Supp. 21-5929, and amendments thereto; identity theft or identity
3 fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A.
4 2022 Supp. 21-6107, and amendments thereto; or social welfare fraud
5 pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this
6 paragraph shall not apply to any person who is employed by a center,
7 facility, hospital or provider of services on or before July 1, 2018, and is
8 continuously employed by the same center, facility, hospital or provider of
9 services or to any person during or upon successful completion of a
10 diversion agreement.

11 (B) An individual who has been disqualified for employment due to
12 conviction or adjudication of an offense listed in this paragraph~~(3)~~ may
13 apply to the secretary for aging and disability services for a waiver of such
14 disqualification if five years have elapsed since completion of the sentence
15 for such conviction. The secretary shall adopt rules and regulations
16 establishing the waiver process and criteria to be considered by the
17 secretary in evaluating any such waiver request.

18 (c) No licensee shall operate a center, facility, hospital or be a
19 provider of services if such person has been found to be an adult with an
20 impairment in need of a guardian or a conservator, or both, as provided in
21 the act for obtaining a guardian or conservator, or both. The provisions of
22 this subsection shall not apply to an individual who, as a minor, was found
23 to be in need of a guardian or conservator for reasons other than
24 impairment.

25 (d) (1) The Kansas bureau of investigation shall release all records of
26 adult and juvenile convictions and adjudications and adult and juvenile
27 convictions and adjudications of any other state or country concerning
28 persons working in a center, facility, hospital or for a provider of services
29 to the secretary for aging and disability services. The Kansas bureau of
30 investigation may charge to the Kansas department for aging and disability
31 services a reasonable fee for providing criminal history record information
32 under this subsection.

33 (2) The department shall require an applicant to be fingerprinted and
34 to submit to a state and national criminal history record check. The
35 fingerprints shall be used to identify the individual and to determine
36 whether the individual has a record of criminal history in this state or other
37 jurisdiction. The department is authorized to submit the fingerprints to the
38 Kansas bureau of investigation and the federal bureau of investigation for
39 a state and national criminal history record check. The department may use
40 the information obtained from fingerprinting and the criminal history
41 record check for purposes of verifying the identification of the person and
42 for making an official determination of the qualifications and fitness of the
43 person to work in the center, facility, hospital or for a provider of services.

1 (3) An applicant for employment in ~~an~~ a center, facility, hospital or
2 for a provider of services shall have 20 calendar days after receipt of
3 authorization to submit the applicant's fingerprints through an authorized
4 collection site in order to be eligible for provisional employment or the
5 applicant's application shall be deemed withdrawn.

6 (4) (A) The current or prospective employer of an applicant shall pay
7 a fee not to exceed \$19 of the total cost for criminal history record
8 information to the department for each applicant submitted.

9 (B) The prospective employer, employee or independent contractor
10 shall pay the fingerprint collection fee at the time of fingerprinting to the
11 authorized collection site.

12 (5) If an applicant disputes the contents of a criminal history record
13 check, then the applicant may file an appeal with the Kansas bureau of
14 investigation.

15 (6) Individuals who have been disqualified for employment by reason
16 of their criminal history records and who have met the requirements of this
17 subsection may apply for a waiver with the department within 30 days of
18 the receipt of the notice of employment prohibition.

19 (7) The department shall adopt rules and regulations specifying the
20 criteria and procedure for issuing a waiver of the employment prohibition.
21 The secretary shall consider the following criteria when rendering a
22 decision on such a waiver request: Passage of time; extenuating
23 circumstances; demonstration of rehabilitation; and relevancy of the
24 criminal history record information to the position for which the applicant
25 is applying. Any employment prohibition issued shall remain in effect
26 unless or until a waiver is granted.

27 (d) The secretary shall provide each licensee requesting information
28 under this section with a pass or fail determination after review of any
29 criminal history record information in writing and within three working
30 days of receipt of such information from the Kansas bureau of
31 investigation or the federal bureau of investigation.

32 (e) Any licensee or member of the staff who receives information
33 concerning the fitness or unfitness of any person shall keep such
34 information confidential, except that the staff person may disclose such
35 information to the person who is the subject of the request for information.
36 A violation of this subsection shall be an unclassified misdemeanor
37 punishable by a fine of \$100.

38 (f) For the purpose of complying with this section, the licensee
39 operating a center, facility, hospital or a provider of services shall request
40 from the Kansas department for aging and disability services an eligibility
41 determination regarding adult and juvenile convictions and adjudications.
42 For the purpose of complying with this section, the licensee operating a
43 center, facility, hospital or a provider of services shall receive from any

1 employment agency or independent contractor that provides employees to
2 work in the center, facility, hospital or for the provider of services written
3 certification that such employees are not prohibited from working in the
4 center, facility, hospital or for the provider of services under this section.
5 For the purpose of complying with this section, a licensee may hire an
6 applicant for provisional employment on a one-time basis of 60 calendar
7 days pending the results from the Kansas department for aging and
8 disability services of an eligibility determination under this subsection. A
9 provisional employee may only be supervised by an employee who has
10 completed all training required by federal regulations, department rules
11 and regulations and the center's, facility's, hospital's or provider of
12 services' policies and procedures. No licensee, its contractors or
13 employees, shall be liable for civil damages to any person refused
14 employment or discharged from employment by reason of such licensee's
15 compliance with the provisions of this section if such licensee acts in good
16 faith to comply with this section.

17 (g) The licensee operating a center, facility, hospital or a provider of
18 services shall not require an applicant under this section to be
19 fingerprinted, if the applicant has been the subject of a criminal history
20 record check under this act within one year prior to the application for
21 employment with the licensee operating a center, facility, hospital or a
22 provider of services and has maintained a record of continuous
23 employment, with no lapse of employment of over 90 days in any center,
24 facility, hospital or a provider of services covered by this act.

25 Sec. 27. K.S.A. 65-5117 is hereby amended to read as follows: 65-
26 5117. (a) As used in this section:

27 (1) "Applicant" means an individual who applies for employment
28 with a home health agency or applies to work for an employment agency
29 or as an independent contractor that provides staff to a home health
30 agency.

31 (2) "Completion of the sentence" means the last day of the entire term
32 of incarceration imposed by a sentence, including any term that is
33 deferred, suspended or subject to parole, probation, diversion, community
34 corrections, fines, fees, restitution or any other imposed sentencing
35 requirements.

36 (3) "Department" means the Kansas department for aging and
37 disability services.

38 (4) "Direct access" means work that involves an actual or reasonable
39 expectation of one-on-one interaction with a consumer or a consumer's
40 property, personally identifiable information, medical records, treatment
41 information or financial information.

42 (5) "Direct supervision" means that a supervisor is physically present
43 within an immediate distance to a supervisee and is available to provide

1 constant direction, feedback and assistance to a client and the supervisee.

2 (6) "Employment agency" means an organization or entity that has a
3 contracted relationship with a home health agency to provide staff with
4 direct access to consumers.

5 (7) "Independent contractor" means an organization, entity, agency or
6 individual that provides contracted workers or services to a home health
7 agency.

8 (b) (1) No person shall knowingly operate a home health agency if,
9 for the home health agency, there works any person who has adverse
10 findings on any state or national registry, as defined in rules and
11 regulations adopted by the secretary for aging and disability services, or
12 has been convicted of or has been adjudicated a juvenile offender because
13 of having committed an act that if done by an adult would constitute the
14 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
15 repeal, or K.S.A. 2022 Supp. 21-5401, *prior to its repeal, aggravated*
16 *murder, pursuant to section 2*, and amendments thereto, first degree
17 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022
18 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
19 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2022 Supp. 21-5403(a),
20 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-
21 3403, prior to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments
22 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or
23 K.S.A. 2022 Supp. 21-5407, and amendments thereto, mistreatment of a
24 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-
25 3437, prior to its repeal, or K.S.A. 2022 Supp. 21-5417, and amendments
26 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,
27 or K.S.A. 2022 Supp. 21-5426(a), and amendments thereto, aggravated
28 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
29 K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, rape, pursuant to
30 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and
31 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-
32 3503, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and
33 amendments thereto, aggravated indecent liberties with a child, pursuant to
34 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
35 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
36 3506, prior to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and
37 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
38 21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and
39 amendments thereto, aggravated indecent solicitation of a child, pursuant
40 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b),
41 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.
42 21-3516, prior to its repeal, or K.S.A. 2022 Supp. 21-5510, and
43 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to

1 its repeal, or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto,
 2 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,
 3 or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto, commercial
 4 sexual exploitation of a child, pursuant to K.S.A. 2022 Supp. 21-6422, and
 5 amendments thereto, an attempt to commit any of the crimes listed in this
 6 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
 7 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of
 8 the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its
 9 repeal, or K.S.A. 2022 Supp. 21-5302, and amendments thereto, or
 10 criminal solicitation of any of the crimes listed in this paragraph, pursuant
 11 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022 Supp. 21-5303, and
 12 amendments thereto, or similar statutes of other states or the federal
 13 government. The provisions of subsection (b)(2)(C) shall not apply to any
 14 person who is employed by a home health agency on or before July 1,
 15 2010, and while continuously employed by the same home health agency
 16 or to any person during or upon successful completion of a diversion
 17 agreement.

18 (2) (A) A person operating a home health agency may employ an
 19 applicant who has been convicted of any of the following if six or more
 20 years have elapsed since completion of the sentence imposed or the
 21 applicant was discharged from probation, a community correctional
 22 services program, parole, postrelease supervision, conditional release or a
 23 suspended sentence; if six or more years have elapsed since the applicant
 24 has been finally discharged from the custody of the commissioner of
 25 juvenile justice or from probation or has been adjudicated a juvenile
 26 offender, whichever time is longer; or if the applicant has been granted a
 27 waiver of such six-year disqualification: A felony conviction for a crime
 28 that is described in:

29 ~~(A)(i)~~ Article 34 of chapter 21 of the Kansas Statutes Annotated,
 30 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes
 31 Annotated, and amendments thereto, except those crimes listed in
 32 subsection (b)(1);

33 ~~(B)(ii)~~ article 35 or 36 of chapter 21 of the Kansas Statutes
 34 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
 35 Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6420, and
 36 amendments thereto, except those crimes listed in subsection (b)(1) and
 37 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2022 Supp. 21-5606, and
 38 amendments thereto;

39 ~~(C)(iii)~~ K.S.A. 21-3701, prior to its repeal, or K.S.A. 2022 Supp. 21-
 40 5801, and amendments thereto;

41 ~~(D)(iv)~~ an attempt to commit any of the crimes listed in this
 42 paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
 43 Supp. 21-5301, and amendments thereto;

1 ~~(E)~~(v) a conspiracy to commit any of the crimes listed in this
2 paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2022
3 Supp. 21-5302, and amendments thereto;

4 ~~(F)~~(vi) criminal solicitation of any of the crimes listed in this
5 paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2022
6 Supp. 21-5303, and amendments thereto; or

7 ~~(G)~~(vii) similar statutes of other states or the federal government.

8 (B) An individual who has been disqualified for employment due to
9 conviction or adjudication of an offense listed in this paragraph~~(2)~~ may
10 apply to the secretary for aging and disability services for a waiver of such
11 disqualification if five years have elapsed since completion of the sentence
12 for such conviction. The secretary shall adopt rules and regulations
13 establishing the waiver process and the criteria to be utilized by the
14 secretary in evaluating any such waiver request.

15 (3) (A) A person operating a home health agency may employ an
16 applicant who has been convicted of any of the following if six or more
17 years have elapsed since completion of the sentence imposed or the
18 applicant was discharged from probation, a community correctional
19 services program, parole, postrelease supervision, conditional release or a
20 suspended sentence; if six or more years have elapsed since the applicant
21 has been finally discharged from the custody of the commissioner of
22 juvenile justice or from probation or has been adjudicated a juvenile
23 offender, whichever time is longer; or if the applicant has been granted a
24 waiver of such six-year disqualification:

25 (i) Interference with custody of a committed person pursuant to
26 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2022 Supp. 21-5410, and
27 amendments thereto; mistreatment of a confined person pursuant to K.S.A.
28 21-3425, prior to its repeal, or K.S.A. 2022 Supp. 21-5416, and
29 amendments thereto; unlawful administration of a substance pursuant to
30 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2022 Supp. 21-5425, and
31 amendments thereto; violation of a protective order pursuant to K.S.A. 21-
32 3843, prior to its repeal, or K.S.A. 2022 Supp. 21-5924; promoting
33 obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or
34 21-4301a, prior to their repeal, or K.S.A. 2022 Supp. 21-6401, and
35 amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-
36 4310 or 21-4311, prior to their repeal, or K.S.A. 2022 Supp. 21-6412, and
37 amendments thereto; or

38 (ii) any felony conviction of: Unlawful manufacture of a controlled
39 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
40 K.S.A. 2022 Supp. 21-5703, and amendments thereto; unlawful cultivation
41 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
42 36a05, prior to its repeal, or K.S.A. 2022 Supp. 21-5705, and amendments
43 thereto; unlawful manufacture, distribution, cultivation or possession of a

1 controlled substance using a communication facility pursuant to K.S.A.
2 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2022 Supp. 21-5707,
3 and amendments thereto; unlawful obtainment or sale of a prescription-
4 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or
5 K.S.A. 2022 Supp. 21-5708, and amendments thereto; unlawful
6 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.
7 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2022 Supp. 21-5710,
8 and amendments thereto; unlawful distribution or possession of a
9 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,
10 prior to its repeal, or K.S.A. 2022 Supp. 21-5713, and amendments
11 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.
12 2022 Supp. 21-5823, and amendments thereto; criminal use of a financial
13 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2022 Supp.
14 21-5828, and amendments thereto; any violation of the Kansas medicaid
15 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,
16 or K.S.A. 2022 Supp. 21-5925 et seq., and amendments thereto; making a
17 false claim, statement or representation to the medicaid program pursuant
18 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2022 Supp. 21-5927, and
19 amendments thereto; unlawful acts relating to the medicaid program
20 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2022 Supp. 21-
21 5928, and amendments thereto; obstruction of a medicaid fraud
22 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.
23 2022 Supp. 21-5929, and amendments thereto; identity theft or identity
24 fraud pursuant to K.S.A. 21-4018, prior to its repeal, or K.S.A. 2022 Supp.
25 21-6107, and amendments thereto; or social welfare fraud pursuant to
26 K.S.A. 39-720, and amendments thereto. The provisions of this paragraph
27 shall not apply to any person who is employed by a home health agency on
28 or before July 1, 2018, and is continuously employed by the same home
29 health agency or to any person during or upon successful completion of a
30 diversion agreement.

31 (B) An individual who has been disqualified for employment due to
32 conviction or adjudication of an offense listed in this paragraph~~(3)~~ may
33 apply to the secretary for aging and disability services for a waiver of such
34 disqualification if five years have elapsed since completion of the sentence
35 for such conviction. The secretary shall adopt rules and regulations
36 establishing the waiver process and criteria to be considered by the
37 secretary in evaluating any such waiver request.

38 (c) No person shall operate a home health agency if such person has
39 been found to be a person in need of a guardian or a conservator, or both,
40 as provided in the act for obtaining a guardian or a conservator, or both.
41 The provisions of this subsection shall not apply to an individual who, as a
42 minor, was found to be in need of a guardian or conservator for reasons
43 other than impairment.

1 (d) (1) The Kansas bureau of investigation shall release all records of
2 adult and juvenile convictions and adjudications and adult and juvenile
3 convictions and adjudications of any other state or country concerning
4 persons working in a home health agency to the secretary for aging and
5 disability services. The Kansas bureau of investigation may charge to the
6 Kansas department for aging and disability services a reasonable fee for
7 providing criminal history record information under this subsection.

8 (2) The department shall require an applicant to be fingerprinted and
9 to submit to a state and national criminal history record check. The
10 fingerprints shall be used to identify the individual and to determine
11 whether the individual has a record of criminal history in this state or other
12 jurisdiction. The department is authorized to submit the fingerprints to the
13 Kansas bureau of investigation and the federal bureau of investigation for
14 a state and national criminal history record check. The department may use
15 the information obtained from fingerprinting and the criminal history
16 record check for purposes of verifying the identification of the person and
17 for making an official determination of the qualifications and fitness of the
18 person to work in the home health agency.

19 (3) An applicant for employment in ~~an~~ a home health agency shall
20 have 20 calendar days after receipt of authorization to submit the
21 applicant's fingerprints through an authorized collection site in order to be
22 eligible for provisional employment or the applicant's application shall be
23 deemed withdrawn.

24 (4) (A) The current or prospective employer of an applicant shall pay
25 a fee not to exceed \$19 of the total cost for criminal history record
26 information to the department for each applicant submitted.

27 (B) The prospective employer, employee or independent contractor
28 shall pay the fingerprint collection fee at the time of fingerprinting to the
29 authorized collection site.

30 (5) If an applicant disputes the contents of a criminal history record
31 check, then the applicant may file an appeal with the Kansas bureau of
32 investigation.

33 (6) Individuals who have been disqualified for employment by reason
34 of their criminal history records and who have met the requirements of this
35 subsection may apply for a waiver with the department within 30 days of
36 the receipt of the notice of employment prohibition.

37 (7) The department shall adopt rules and regulations specifying the
38 criteria and procedure for issuing a waiver of the employment prohibition.
39 The secretary shall consider the following criteria when rendering a
40 decision on such a waiver request: Passage of time; extenuating
41 circumstances; demonstration of rehabilitation; and relevancy of the
42 criminal history record information to the position for which the applicant
43 is applying. Any employment prohibition issued shall remain in effect

1 unless or until a waiver is granted.

2 (e) For the purpose of complying with this section, the operator of a
3 home health agency shall request from the Kansas department for aging
4 and disability services an eligibility determination regarding adult and
5 juvenile convictions and adjudications. For the purpose of complying with
6 this section, a person who operates a home health agency may hire an
7 applicant for provisional employment on a one-time basis of 60 calendar
8 days pending the results from the Kansas department for aging and
9 disability services of a request for information under this subsection. A
10 provisional employee may only be supervised by an employee who has
11 completed all training required by federal regulations, rules and
12 regulations of the department and the home health agency's policies and
13 procedures. No home health agency, the operator or employees of a home
14 health agency or an employment agency or an independent contractor shall
15 be liable for civil damages resulting from any decision to employ, to refuse
16 to employ or to discharge from employment any person based on such
17 home health agency's compliance with the provisions of this section if
18 such home health agency or employment agency acts in good faith to
19 comply with this section.

20 (f) The secretary for aging and disability services shall provide each
21 operator requesting information under this section with a pass or fail
22 determination after review of any criminal history information in writing
23 and within three working days of receipt of such information from the
24 Kansas bureau of investigation or the federal bureau of investigation.

25 (g) A person who volunteers to assist a home health agency shall not
26 be subject to the provisions of this section unless the volunteer performs
27 functions equivalent to functions performed by direct access employees.

28 (h) No person who has been continuously employed by the same
29 home health agency since July 1, 1992, shall be subject to the
30 requirements of this section while employed by such home health agency.

31 (i) The operator of a home health agency shall not be required under
32 this section to conduct a criminal history record check on an applicant for
33 employment with the home health agency if the applicant has been the
34 subject of a criminal history record check under this act within one year
35 prior to the application for employment with the home health agency.

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

41 (k) (1) All fees charged by the secretary for criminal history record
42 checks conducted pursuant to this section shall be established by rules and
43 regulations of the secretary.

1 (2) All moneys collected and remitted to the department for fees
2 charged for criminal history record checks conducted pursuant to this
3 section shall be remitted to the state treasurer in accordance with K.S.A.
4 65-5113, and amendments thereto. Upon receipt of each such remittance,
5 the state treasurer shall deposit the entire amount into the state treasury to
6 the credit of the state licensure fee fund created by K.S.A. 39-930, and
7 amendments thereto.

8 (l) The department may implement the amendments made to this
9 section by this act in phases for different categories of employers. The
10 department shall adopt rules and regulations establishing dates and
11 procedures for the implementation of the criminal history record checks
12 required by this section, and such dates may be staggered to facilitate
13 implementation of the criminal history record checks required by this
14 section.

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

18 Sec. 28. K.S.A. 72-2165 is hereby amended to read as follows: 72-
19 2165. (a) The state board of education shall not knowingly issue a license
20 to or renew the license of any person who has been convicted of:

21 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
22 2022 Supp. 21-5503, and amendments thereto;

23 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
24 to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;

25 (3) aggravated indecent liberties with a child, as defined in K.S.A.
26 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
27 amendments thereto;

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

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

33 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
34 prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments
35 thereto;

36 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
37 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and
38 amendments thereto;

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

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

43 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,

- 1 prior to its repeal, or K.S.A. 2022 Supp. 21-5601(b), and amendments
2 thereto;
- 3 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
4 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;
- 5 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
6 or K.S.A. 2022 Supp. 21-5401, *prior to its repeal*;
- 7 (13) *aggravated murder, as defined in section 2*, and amendments
8 thereto;
- 9 ~~(13)~~(14) murder in the first degree, as defined in K.S.A. 21-3401,
10 prior to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments
11 thereto;
- 12 ~~(14)~~(15) murder in the second degree, as defined in K.S.A. 21-3402,
13 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
14 thereto;
- 15 ~~(15)~~(16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
16 to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;
- 17 ~~(16)~~(17) involuntary manslaughter, as defined in K.S.A. 21-3404,
18 prior to its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments
19 thereto;
- 20 ~~(17)~~(18) involuntary manslaughter while driving under the influence
21 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 22 ~~(18)~~(19) sexual battery, as defined in K.S.A. 21-3517, prior to its
23 repeal, or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto, when,
24 at the time the crime was committed, the victim was less than 18 years of
25 age or a student of the person committing such crime;
- 26 ~~(19)~~(20) aggravated sexual battery, as defined in K.S.A. 21-3518,
27 prior to its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments
28 thereto;
- 29 ~~(20)~~(21) commercial sexual exploitation of a child, as defined in
30 K.S.A. 2022 Supp. 21-6422, and amendments thereto;
- 31 ~~(21)~~(22) human trafficking, as defined in K.S.A. 21-3446, prior to its
32 repeal, or K.S.A. 2022 Supp. 21-5426(a), and amendments thereto;
- 33 ~~(22)~~(23) aggravated human trafficking, as defined in K.S.A. 21-3447,
34 prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments
35 thereto;
- 36 ~~(23)~~(24) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
37 2022 Supp. 21-5301, and amendments thereto, to commit any act specified
38 in this subsection;
- 39 ~~(24)~~(25) conspiracy under K.S.A. 21-3302, prior to its repeal, or
40 K.S.A. 2022 Supp. 21-5302, and amendments thereto, to commit any act
41 specified in this subsection;
- 42 ~~(25)~~(26) an act in another state or by the federal government that is
43 comparable to any act described in this subsection; or

1 ~~(26)~~(27) an offense in effect at any time prior to the effective date of
2 this act that is comparable to an offense as provided in this subsection.

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

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

11 (2) a felony described in any section of article 34 of chapter 21 of the
12 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
13 of the Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6104, 21-6325,
14 21-6326 or 21-6418, and amendments thereto, other than an act specified
15 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
16 repeal, or K.S.A. 2022 Supp. 21-5413(a), and amendments thereto, or
17 domestic battery, as described in K.S.A. 21-3412a, prior to its repeal, or
18 K.S.A. 2022 Supp. 21-5414, and amendments thereto, if the victim is a
19 minor or student;

20 (3) a felony described in any section of article 35 of chapter 21 of the
21 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
22 of the Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6419 through
23 21-6421, and amendments thereto, other than an act specified in
24 subsection (a);

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

29 (5) a felony described in article 37 of chapter 21 of the Kansas
30 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
31 Kansas Statutes Annotated, or K.S.A. 2022 Supp. 21-6412(a)(6), and
32 amendments thereto;

33 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
34 repeal, or K.S.A. 2022 Supp. 21-6401(a), and amendments thereto,
35 promoting obscenity to minors, as described in K.S.A. 21-4301a, prior to
36 its repeal, or K.S.A. 2022 Supp. 21-6401(b), and amendments thereto, or
37 promoting to minors obscenity harmful to minors, as described in K.S.A.
38 21-4301c, prior to its repeal, or K.S.A. 2022 Supp. 21-6402, and
39 amendments thereto;

40 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
41 repeal, or K.S.A. 2022 Supp. 21-5601(a), and amendments thereto;

42 (8) driving under the influence of alcohol or drugs in violation of
43 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is

1 punishable as a felony;

2 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2022
3 Supp. 21-5301, and amendments thereto, to commit any act specified in
4 this subsection;

5 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
6 2022 Supp. 21-5302, and amendments thereto, to commit any act specified
7 in this subsection; or

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

11 (c) The state board of education may issue a license to or renew the
12 license of a person who has been convicted of committing an offense or
13 act described in subsection (b) or who has entered into a criminal diversion
14 agreement after having been charged with an offense or act described in
15 subsection (b) if the state board determines, following a hearing, that the
16 person has been rehabilitated for a period of at least five years from the
17 date of conviction of the offense or commission of the act or, in the case of
18 a person who has entered into a criminal diversion agreement, that the
19 person has satisfied the terms and conditions of the agreement. The state
20 board of education may consider factors including, but not limited to, the
21 following in determining whether to grant a license:

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

23 (2) the conduct of the person subsequent to commission of the
24 offense or act;

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

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

27 (5) whether the offense or act was an isolated or recurring incident;

28 and

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

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

34 (e) The county or district attorney shall file a report with the state
35 board of education indicating the name, address and social security
36 number of any person who has been determined to have committed any
37 offense or act specified in subsection (a) or (b) or to have entered into a
38 criminal diversion agreement after having been charged with any offense
39 or act specified in subsection (b). Such report shall be filed within 30 days
40 of the date of the determination that the person has committed any such act
41 or entered into any such diversion agreement.

42 (f) The state board of education shall not be liable for civil damages
43 to any person refused issuance or renewal of a license by reason of the

1 state board's compliance, in good faith, with the provisions of this section.

2 Sec. 29. K.S.A. 75-52,148 is hereby amended to read as follows: 75-
3 52,148. (a) The department of corrections shall be required to review and
4 report on the following serious offenses committed by sex offenders, as
5 defined by K.S.A. 22-4902, and amendments thereto, while such offenders
6 are in the custody of the secretary of corrections:

7 (1) Murder in the first degree, as defined in K.S.A. 2022 Supp. 21-
8 5402, and amendments thereto;

9 (2) murder in the second degree, as defined in K.S.A. 2022 Supp. 21-
10 5403, and amendments thereto;

11 (3) ~~capital murder, as defined in K.S.A. 2022 Supp. 21-~~
12 ~~5401 aggravated murder, as defined in section 2,~~ and amendments thereto;

13 (4) rape, as defined in K.S.A. 2022 Supp. 21-5503, and amendments
14 thereto;

15 (5) aggravated criminal sodomy, as defined in K.S.A. 2022 Supp. 21-
16 5504(b), and amendments thereto;

17 (6) sexual exploitation of a child, as defined in K.S.A. 2022 Supp. 21-
18 5510, and amendments thereto;

19 (7) kidnapping, as defined in K.S.A. 2022 Supp. 21-5408(a), and
20 amendments thereto;

21 (8) aggravated kidnapping, as defined in K.S.A. 2022 Supp. 21-
22 5408(b), and amendments thereto;

23 (9) criminal restraint, as defined in K.S.A. 2022 Supp. 21-5411, and
24 amendments thereto;

25 (10) indecent solicitation of a child, as defined in K.S.A. 2022 Supp.
26 21-5508(a), and amendments thereto;

27 (11) aggravated indecent solicitation of a child, as defined in K.S.A.
28 2022 Supp. 21-5508(b), and amendments thereto;

29 (12) indecent liberties with a child, as defined in K.S.A. 2022 Supp.
30 21-5506(a), and amendments thereto;

31 (13) aggravated indecent liberties with a child, as defined in K.S.A.
32 2022 Supp. 21-5506(b), and amendments thereto;

33 (14) criminal sodomy, as defined in K.S.A. 2022 Supp. 21-5504(a),
34 and amendments thereto;

35 (15) child abuse, as defined in K.S.A. 2022 Supp. 21-5602, and
36 amendments thereto;

37 (16) aggravated robbery, as defined in K.S.A. 2022 Supp. 21-5420(b),
38 and amendments thereto;

39 (17) burglary, as defined in K.S.A. 2022 Supp. 21-5807(a), and
40 amendments thereto;

41 (18) aggravated burglary, as defined in K.S.A. 2022 Supp. 21-
42 5807(b), and amendments thereto;

43 (19) theft, as defined in K.S.A. 2022 Supp. 21-5801, and amendments

1 thereto;

2 (20) vehicular homicide, as defined in K.S.A. 2022 Supp. 21-5406,
3 and amendments thereto;

4 (21) involuntary manslaughter while driving under the influence, as
5 defined in K.S.A. 2022 Supp. 21-5405(a)(3) or (a)(5), and amendments
6 thereto; or

7 (22) stalking, as defined in K.S.A. 2022 Supp. 21-5427, and
8 amendments thereto.

9 (b) The secretary of corrections shall submit such report to the
10 speaker of the house of representatives and the president of the senate
11 annually, ~~beginning January 1, 2007.~~

12 Sec. 30. K.S.A. 38-2255, 38-2271, 38-2303, 38-2312, 38-2365, 39-
13 970, 39-2009, 65-5117, 72-2165 and 75-52,148 and K.S.A. 2022 Supp. 21-
14 5301, 21-5401, 21-5402, 21-5419, 21-6328, 21-6614, 21-6614i, 21-6617,
15 21-6618, 21-6619, 21-6620, 21-6622, 21-6628, 21-6629, 21-6806, 22-
16 2512, 22-3717, 22-4902, 22-4906 and 23-3222 are hereby repealed.

17 Sec. 31. This act shall take effect and be in force from and after its
18 publication in the statute book.