

SENATE BILL No. 21

By Committee on Ways and Means

1-17

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to abolition of the death penalty; creating the crime of aggravated
3 murder; sentences of imprisonment for life without the possibility of
4 parole; amending K.S.A. 65-5117 and 72-2165 and K.S.A. 2018 Supp.
5 21-5301, 21-5402, 21-5419, 21-6328, 21-6614, 21-6618, 21-6620, 21-
6 6622, 21-6628, 21-6629, 21-6806, 22-2512, 22-3717, 22-4902, 22-
7 4906, 23-3222, 38-2255, 38-2271, 38-2303, 38-2312, 38-2365, 39-970,
8 39-2009 and 75-52,148 and repealing the existing sections; also
9 repealing K.S.A. 2018 Supp. 21-5401, 21-6617 and 21-6619.

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

12 New Section 1. (a) No person shall be sentenced to death for a crime
13 committed on or after July 1, 2019.

14 (b) Any person who is sentenced to death for a crime committed prior
15 to July 1, 2019, may be put to death pursuant to the provisions of article 40
16 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

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

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

20 (1) Intentional and premeditated killing of any person in the
21 commission of kidnapping, as defined in K.S.A. 2018 Supp. 21-5408, and
22 amendments thereto, or aggravating kidnapping, as defined in K.S.A. 2018
23 Supp. 21-5408(b), and amendments thereto, when the kidnapping or
24 aggravated kidnapping was committed with the intent to hold such person
25 for ransom;

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

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

34 (4) intentional and premeditated killing of the victim of one of the
35 following crimes in the commission of, or subsequent to, such crime:
36 Rape, as defined in K.S.A. 2018 21-5503, and amendments thereto,

1 criminal sodomy, as defined in K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4),
2 and amendments thereto, or aggravated criminal sodomy, as defined in
3 K.S.A. 2018 Supp. 21-5504(b), and amendments thereto, or any attempt
4 thereof, as defined in K.S.A. 2018 Supp. 21-5301, and amendments
5 thereto;

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

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

11 (7) intentional and premeditated killing of a child under the age of 14
12 in the commission of kidnapping, as defined in K.S.A. 2018 Supp. 21-
13 5408(a), and amendments thereto, or aggravated kidnapping, as defined in
14 K.S.A. 2018 Supp. 21-5408(b), and amendments thereto, when the
15 kidnapping or aggravated kidnapping was committed with intent to
16 commit a sex offense upon or with the child or with intent that the child
17 commit or submit to a sex offense.

18 (b) For purposes of this section, "sex offense" means rape, as defined
19 in K.S.A. 2018 Supp. 21-5503, and amendments thereto, aggravated
20 indecent liberties with a child, as defined in K.S.A. 2018 Supp. 21-
21 5506(b), and amendments thereto, aggravated criminal sodomy, as defined
22 in K.S.A. 2018 Supp. 21-5504(b), and amendments thereto, selling sexual
23 relations, as defined in K.S.A. 2018 Supp. 21-6419, and amendments
24 thereto, promoting the sale of sexual relations, as defined in K.S.A. 2018
25 Supp. 21-6420, and amendments thereto, or sexual exploitation of a child,
26 as defined in K.S.A. 2018 Supp. 21-5510, and amendments thereto.

27 (c) Notwithstanding K.S.A. 2018 Supp. 21-5109(b)(1) or (b)(2), and
28 amendments thereto, when the same conduct of a defendant may establish
29 the commission of aggravated murder and the commission of another
30 crime under the laws of this state, the defendant may be prosecuted and
31 sentenced for each of such crimes.

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

34 (e) The provisions of K.S.A. 2018 Supp. 21-5301(c), and
35 amendments thereto, shall not apply to a violation of attempting to commit
36 the crime of aggravated murder pursuant to this section.

37 (f) This section shall be part of and supplemental to the Kansas
38 criminal code.

39 New Sec. 3. (a) When it is provided by law that a person shall be
40 sentenced pursuant to this section, such person shall be sentenced to
41 imprisonment for life without the possibility of parole. A defendant who is
42 sentenced to imprisonment for life without the possibility of parole shall
43 spend the remainder of the defendant's natural life incarcerated and in the

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

14 (b) This section shall be part of and supplemental to the Kansas
15 criminal code.

16 Sec. 4. K.S.A. 2018 Supp. 21-5301 is hereby amended to read as
17 follows: 21-5301. (a) An attempt is any overt act toward the perpetration
18 of a crime done by a person who intends to commit such crime but fails in
19 the perpetration thereof or is prevented or intercepted in executing such
20 crime.

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

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

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

33 (A) Aggravated human trafficking, as defined in K.S.A. 2018 Supp.
34 21-5426(b), and amendments thereto, if the offender is 18 years of age or
35 older and the victim is less than 14 years of age;

36 (B) terrorism, as defined in K.S.A. 2018 Supp. 21-5421, and
37 amendments thereto;

38 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
39 2018 Supp. 21-5422, and amendments thereto;

40 (D) rape, as defined in K.S.A. 2018 Supp. 21-5503(a)(3), and
41 amendments thereto, if the offender is 18 years of age or older;

42 (E) aggravated indecent liberties with a child, as defined in K.S.A.
43 2018 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18

1 years of age or older;

2 (F) aggravated criminal sodomy, as defined in K.S.A. 2018 Supp. 21-
3 5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of
4 age or older;

5 (G) commercial sexual exploitation of a child, as defined in K.S.A.
6 2018 Supp. 21-6422, and amendments thereto, if the offender is 18 years
7 of age or older and the victim is less than 14 years of age;

8 (H) sexual exploitation of a child, as defined in K.S.A. 2018 Supp.
9 21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years
10 of age or older and the child is less than 14 years of age;

11 (I) aggravated internet trading in child pornography, as defined in
12 K.S.A. 2018 Supp. 21-5514(b), and amendments thereto, if the offender is
13 18 years of age or older and the child is less than 14 years of age; or

14 (J) ~~capital murder, as defined in K.S.A. 2018 Supp. 21-5401-~~
15 *aggravated murder, as defined in section 2*, and amendments thereto.

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

19 (2) The provisions of this subsection shall not apply to a violation of
20 attempting to commit a violation of K.S.A. 2018 Supp. 21-5703, and
21 amendments thereto.

22 (e) An attempt to commit a class A person misdemeanor is a class B
23 person misdemeanor. An attempt to commit a class A nonperson
24 misdemeanor is a class B nonperson misdemeanor.

25 (f) An attempt to commit a class B or C misdemeanor is a class C
26 misdemeanor.

27 Sec. 5. K.S.A. 2018 Supp. 21-5402 is hereby amended to read as
28 follows: 21-5402. (a) Murder in the first degree is the killing of a human
29 being committed:

30 (1) Intentionally, and with premeditation; or

31 (2) in the commission of, attempt to commit, or flight from any
32 inherently dangerous felony.

33 (b) Murder in the first degree is an off-grid person felony.

34 (c) As used in this section, an "inherently dangerous felony" means:

35 (1) Any of the following felonies, whether such felony is so distinct
36 from the homicide alleged to be a violation of subsection (a)(2) as not to
37 be an ingredient of the homicide alleged to be a violation of subsection (a)
38 (2):

39 (A) Kidnapping, as defined in K.S.A. 2018 Supp. 21-5408(a), and
40 amendments thereto;

41 (B) aggravated kidnapping, as defined in K.S.A. 2018 Supp. 21-
42 5408(b), and amendments thereto;

43 (C) robbery, as defined in K.S.A. 2018 Supp. 21-5420(a), and

- 1 amendments thereto;
- 2 (D) aggravated robbery, as defined in K.S.A. 2018 Supp. 21-5420(b),
3 and amendments thereto;
- 4 (E) rape, as defined in K.S.A. 2018 Supp. 21-5503, and amendments
5 thereto;
- 6 (F) aggravated criminal sodomy, as defined in K.S.A. 2018 Supp. 21-
7 5504(b), and amendments thereto;
- 8 (G) abuse of a child, as defined in K.S.A. 2018 Supp. 21-5602, and
9 amendments thereto;
- 10 (H) felony theft of property, as defined in K.S.A. 2018 Supp. 21-
11 5801(a)(1) or (a)(3), and amendments thereto;
- 12 (I) burglary, as defined in K.S.A. 2018 Supp. 21-5807(a), and
13 amendments thereto;
- 14 (J) aggravated burglary, as defined in K.S.A. 2018 Supp. 21-5807(b),
15 and amendments thereto;
- 16 (K) arson, as defined in K.S.A. 2018 Supp. 21-5812(a), and
17 amendments thereto;
- 18 (L) aggravated arson, as defined in K.S.A. 2018 Supp. 21-5812(b),
19 and amendments thereto;
- 20 (M) treason, as defined in K.S.A. 2018 Supp. 21-5901, and
21 amendments thereto;
- 22 (N) any felony offense as provided in K.S.A. 2018 Supp. 21-5703,
23 21-5705 or 21-5706, and amendments thereto;
- 24 (O) any felony offense as provided in K.S.A. 2018 Supp. 21-6308(a)
25 or (b), and amendments thereto;
- 26 (P) endangering the food supply, as defined in K.S.A. 2018 Supp. 21-
27 6317(a), and amendments thereto;
- 28 (Q) aggravated endangering the food supply, as defined in K.S.A.
29 2018 Supp. 21-6317(b), and amendments thereto;
- 30 (R) fleeing or attempting to elude a police officer, as defined in
31 K.S.A. 8-1568(b), and amendments thereto;
- 32 (S) aggravated endangering a child, as defined in K.S.A. 2018 Supp.
33 21-5601(b)(1), and amendments thereto;
- 34 (T) abandonment of a child, as defined in K.S.A. 2018 Supp. 21-
35 5605(a), and amendments thereto;
- 36 (U) aggravated abandonment of a child, as defined in K.S.A. 2018
37 Supp. 21-5605(b), and amendments thereto; or
- 38 (V) mistreatment of a dependent adult or mistreatment of an elder
39 person, as defined in K.S.A. 2018 Supp. 21-5417, and amendments
40 thereto; and
- 41 (2) any of the following felonies, only when such felony is so distinct
42 from the homicide alleged to be a violation of subsection (a)(2) as to not
43 be an ingredient of the homicide alleged to be a violation of subsection (a)

1 (2):

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

3 (B) murder in the second degree, as defined in K.S.A. 2018 Supp. 21-
4 5403(a)(1), and amendments thereto;

5 (C) voluntary manslaughter, as defined in K.S.A. 2018 Supp. 21-
6 5404(a)(1), and amendments thereto;

7 (D) aggravated assault, as defined in K.S.A. 2018 Supp. 21-5412(b),
8 and amendments thereto;

9 (E) aggravated assault of a law enforcement officer, as defined in
10 K.S.A. 2018 Supp. 21-5412(d), and amendments thereto;

11 (F) aggravated battery, as defined in K.S.A. 2018 Supp. 21-5413(b)
12 (1), and amendments thereto; or

13 (G) aggravated battery against a law enforcement officer, as defined
14 in K.S.A. 2018 Supp. 21-5413(d), and amendments thereto.

15 (d) Murder in the first degree as defined in subsection (a)(2) is an
16 alternative method of proving murder in the first degree and is not a
17 separate crime from murder in the first degree as defined in subsection (a)
18 (1). The provisions of K.S.A. 2018 Supp. 21-5109, and amendments
19 thereto, are not applicable to murder in the first degree as defined in
20 subsection (a)(2). Murder in the first degree as defined in subsection (a)(2)
21 is not a lesser included offense of murder in the first degree as defined in
22 subsection (a)(1), and is not a lesser included offense of ~~capital~~
23 *aggravated* murder as defined in ~~K.S.A. 2018 Supp. 21-5401 section 2,~~
24 and amendments thereto. As set forth in subsection (b) of K.S.A. 2018
25 Supp. 21-5109, and amendments thereto, there are no lesser included
26 offenses of murder in the first degree under subsection (a)(2).

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

31 Sec. 6. K.S.A. 2018 Supp. 21-5419 is hereby amended to read as
32 follows: 21-5419. (a) As used in this section:

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

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

37 (b) This section shall not apply to:

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

39 (2) any medical procedure, including abortion, performed by a
40 physician or other licensed medical professional at the request of the
41 pregnant woman or her legal guardian; or

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

1 (c) As used in K.S.A. 2018 Supp. ~~21-5401~~, 21-5402, 21-5403, 21-
2 5404, 21-5405, 21-5406 and subsections (a) and (b) of, 21-5413(a) and (b)
3 and section 2, and amendments thereto, "person" and "human being" also
4 mean an unborn child.

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

6 Sec. 7. K.S.A. 2018 Supp. 21-6328 is hereby amended to read as
7 follows: 21-6328. As used in the Kansas racketeer influenced and corrupt
8 organization act:

9 (a) "Beneficial interest" means:

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

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

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

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

21 (1) Is a criminal street gang member or criminal street gang associate,
22 as defined in K.S.A. 2018 Supp. 21-6313, and amendments thereto;

23 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
24 2018 Supp. 21-5426, and amendments thereto, human trafficking or
25 aggravated human trafficking, or K.S.A. 2018 Supp. 21-6422, and
26 amendments thereto, commercial sexual exploitation of a child; or

27 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.
28 2018 Supp. 21-5703, and amendments thereto, unlawful manufacturing of
29 controlled substances, or K.S.A. 2018 Supp. 21-5705, and amendments
30 thereto, unlawful cultivation or distribution of controlled substances.

31 (c) "Documentary material" means any book, paper, document,
32 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,
33 computer printout, other data compilation from which information can be
34 obtained or from which information can be translated into usable form, or
35 other tangible item.

36 (d) "Enterprise" means any individual, sole proprietorship,
37 partnership, corporation, business trust, union chartered under the laws of
38 this state, or other legal entity, or any unchartered union, association, or
39 group of individuals associated in fact although not a legal entity; and it
40 includes illicit as well as licit enterprises and governmental, as well as
41 other, entities. A criminal street gang, as defined in K.S.A. 2018 Supp. 21-
42 6313, and amendments thereto, constitutes an enterprise.

43 (e) "Pattern of racketeering activity" means engaging in at least two

1 incidents of racketeering activity that have the same or similar intents,
2 results, accomplices, victims or methods of commission or that otherwise
3 are interrelated by distinguishing characteristics and are not isolated
4 incidents, provided at least one of such incidents occurred after the
5 effective date of this act and that the last of such incidents occurred within
6 5 years, excluding any period of imprisonment, after a prior incident of
7 racketeering activity.

8 (f) "Racketeering activity" means to commit, attempt to commit,
9 conspire to commit or to solicit, coerce or intimidate another person to
10 commit:

11 (1) Any felony or misdemeanor violation of: The felony provisions of
12 K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a
13 police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas
14 money transmitter act; article 12a of chapter 17 of the Kansas Statutes
15 Annotated, and amendments thereto, Kansas uniform securities act; ~~K.S.A.
16 2018 Supp. 21-5401~~ *section 2*, and amendments thereto, ~~capital~~
17 *aggravated murder*; K.S.A. 2018 Supp. 21-5402, and amendments thereto,
18 *murder in the first degree*; K.S.A. 2018 Supp. 21-5403, and amendments
19 thereto, *murder in the second degree*; K.S.A. 2018 Supp. 21-5408, and
20 amendments thereto, *kidnapping or aggravated kidnapping*; K.S.A. 2018
21 Supp. 21-5412, and amendments thereto; K.S.A. 2018 Supp. 21-5413, and
22 amendments thereto; K.S.A. 2018 Supp. 21-5414, and amendments
23 thereto, *domestic battery*; K.S.A. 2018 Supp. 21-5415, and amendments
24 thereto, *criminal threat or aggravated criminal threat*; K.S.A. 2018 Supp.
25 21-5420, and amendments thereto, *robbery or aggravated robbery*; K.S.A.
26 2018 Supp. 21-5421, and amendments thereto, *terrorism*; K.S.A. 2018
27 Supp. 21-5422, and amendments thereto, *illegal use of weapons of mass
28 destruction*; K.S.A. 2018 Supp. 21-5423, and amendments thereto; K.S.A.
29 2018 Supp. 21-5426, and amendments thereto, *human trafficking or
30 aggravated human trafficking*; K.S.A. 2018 Supp. 21-5428, and
31 amendments thereto, *blackmail*; K.S.A. 2018 Supp. 21-5510, and
32 amendments thereto, *sexual exploitation of a child*; K.S.A. 2018 Supp. 21-
33 5601, and amendments thereto, *endangering a child or aggravated
34 endangering a child*; K.S.A. 2018 Supp. 21-5602, and amendments thereto,
35 *abuse of a child*; K.S.A. 2018 Supp. 21-5603, and amendments thereto,
36 *contributing to a child's misconduct or deprivation*; K.S.A. 2018 Supp. 21-
37 5607(b), and amendments thereto, *furnishing alcoholic beverages to a
38 minor for illicit purposes*; article 57 of chapter 21 of the Kansas Statutes
39 Annotated, and amendments thereto, *crimes involving controlled
40 substances*; K.S.A. 2018 Supp. 21-5801, and amendments thereto, *theft*;
41 K.S.A. 2018 Supp. 21-5803, and amendments thereto, *criminal deprivation
42 of property*; K.S.A. 2018 Supp. 21-5805, and amendments thereto; K.S.A.
43 2018 Supp. 21-5807, and amendments thereto, *burglary or aggravated*

1 burglary; K.S.A. 2018 Supp. 21-5812, and amendments thereto, arson or
2 aggravated arson; K.S.A. 2018 Supp. 21-5813, and amendments thereto,
3 criminal damage to property; K.S.A. 2018 Supp. 21-5814, and
4 amendments thereto, criminal use of an explosive; K.S.A. 2018 Supp. 21-
5 5818, and amendments thereto, tampering with a pipeline; K.S.A. 2018
6 Supp. 21-5821, and amendments thereto, giving a worthless check; K.S.A.
7 2018 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2018 Supp.
8 21-5824, and amendments thereto, making false information; K.S.A. 2018
9 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2018
10 Supp. 21-5826, and amendments thereto, destroying written instrument;
11 K.S.A. 2018 Supp. 21-5828, and amendments thereto, criminal use of a
12 financial card; K.S.A. 2018 Supp. 21-5838, and amendments thereto,
13 conducting a pyramid promotional scheme; K.S.A. 2018 Supp. 21-5839,
14 and amendments thereto; K.S.A. 2018 Supp. 21-5903, and amendments
15 thereto, perjury; K.S.A. 2018 Supp. 21-5904, and amendments thereto,
16 interference with law enforcement; K.S.A. 2018 Supp. 21-5905, and
17 amendments thereto, interference with the judicial process; K.S.A. 2018
18 Supp. 21-5909, and amendments thereto, intimidation of a witness or
19 victim or aggravated intimidation of a witness or victim; K.S.A. 2018
20 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2018
21 Supp. 21-5913, and amendments thereto, obstructing apprehension or
22 prosecution; K.S.A. 2018 Supp. 21-5918, and amendments thereto; K.S.A.
23 2018 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2018 Supp.
24 21-6002, and amendments thereto, official misconduct; K.S.A. 2018 Supp.
25 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2018
26 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon;
27 K.S.A. 2018 Supp. 21-6303, and amendments thereto, criminal
28 distribution of firearms to a felon; K.S.A. 2018 Supp. 21-6304, and
29 amendments thereto, criminal possession of a firearm by a convicted felon;
30 K.S.A. 2018 Supp. 21-6305, and amendments thereto, aggravated weapons
31 violation by a convicted felon; K.S.A. 2018 Supp. 21-6306, and
32 amendments thereto, defacing identification marks of a firearm; K.S.A.
33 2018 Supp. 21-6308, and amendments thereto, criminal discharge of a
34 firearm; K.S.A. 2018 Supp. 21-6310, and amendments thereto, unlawful
35 endangerment; K.S.A. 2018 Supp. 21-6312, and amendments thereto;
36 K.S.A. 2018 Supp. 21-6314 and 21-6315, and amendments thereto; K.S.A.
37 2018 Supp. 21-6401, and amendments thereto, promoting obscenity or
38 promoting obscenity to minors; K.S.A. 2018 Supp. 21-6404, and
39 amendments thereto, gambling; K.S.A. 2018 Supp. 21-6405, and
40 amendments thereto, illegal bingo operation; K.S.A. 2018 Supp. 21-6406,
41 and amendments thereto, commercial gambling; K.S.A. 2018 Supp. 21-
42 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2018
43 Supp. 21-6408, and amendments thereto; K.S.A. 2018 Supp. 21-6409, and

1 amendments thereto, installing communication facilities for gamblers;
2 K.S.A. 2018 Supp. 21-6414(a) or (b), and amendments thereto, unlawful
3 conduct of dog fighting or unlawful possession of dog fighting
4 paraphernalia; K.S.A. 2018 Supp. 21-6417(a) or (b), and amendments
5 thereto, unlawful conduct of cockfighting or unlawful possession of
6 cockfighting paraphernalia; K.S.A. 2018 Supp. 21-6419, and amendments
7 thereto, selling sexual relations; K.S.A. 2018 Supp. 21-6420, and
8 amendments thereto, promoting the sale of sexual relations; K.S.A. 2018
9 Supp. 21-6422, and amendments thereto, commercial sexual exploitation
10 of a child; K.S.A. 2018 Supp. 21-6501, and amendments thereto,
11 extortion; K.S.A. 2018 Supp. 21-6502, and amendments thereto, debt
12 adjusting; K.S.A. 2018 Supp. 21-6504, and amendments thereto, equity
13 skimmming; K.S.A. 2018 Supp. 21-6506, and amendments thereto,
14 commercial bribery; K.S.A. 2018 Supp. 21-6507, and amendments thereto,
15 sports bribery; K.S.A. 2018 Supp. 21-6508, and amendments thereto,
16 tampering with a sports contest; K.S.A. 39-720, and amendments thereto,
17 social welfare service fraud; K.S.A. 40-2,118, and amendments thereto,
18 fraudulent insurance acts; K.S.A. 41-101 et seq., and amendments thereto,
19 Kansas liquor control act; K.S.A. 44-5,125, and amendments thereto,
20 workers' compensation act; K.S.A. 65-1657, and amendments thereto,
21 nonresident pharmacy registration; K.S.A. 65-3441, and amendments
22 thereto, hazardous waste; K.S.A. 65-4167, and amendments thereto,
23 trafficking in counterfeit drugs; article 88 of chapter 74 of the Kansas
24 Statutes Annotated, and amendments thereto, Kansas parimutuel racing
25 act; or K.S.A. 79-3321, and amendments thereto, Kansas cigarette and
26 tobacco products act; or

27 (2) any conduct defined as "racketeering activity" under 18 U.S.C. §
28 1961(1).

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

32 (h) "Trustee" means:

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

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

37 (3) any successor trustee or trustees to any or all of the foregoing
38 persons.

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

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

4 (1) In violation of any of the following provisions of law: Article 88
5 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
6 Kansas parimutuel racing act; K.S.A. 2018 Supp. 21-6404, and
7 amendments thereto, gambling; K.S.A. 2018 Supp. 21-6405, and
8 amendments thereto, illegal bingo operation; K.S.A. 2018 Supp. 21-6406,
9 and amendments thereto, commercial gambling; K.S.A. 2018 Supp. 21-
10 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2018
11 Supp. 21-6408, and amendments thereto, unlawful possession of a
12 gambling device; or K.S.A. 2018 Supp. 21-6409, and amendments thereto,
13 installing communication facilities for gamblers; or

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

16 Sec. 8. K.S.A. 2018 Supp. 21-6614 is hereby amended to read as
17 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
18 and (f), any person convicted in this state of a traffic infraction, cigarette
19 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
20 committed on or after July 1, 1993, any nongrid felony or felony ranked in
21 severity levels 6 through 10 of the nondrug grid, or for crimes committed
22 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
23 severity level 4 of the drug grid, or for crimes committed on or after July
24 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
25 the convicting court for the expungement of such conviction or related
26 arrest records if three or more years have elapsed since the person: (A)
27 Satisfied the sentence imposed; or (B) was discharged from probation, a
28 community correctional services program, parole, postrelease supervision,
29 conditional release or a suspended sentence.

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

35 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
36 3512, prior to its repeal, convicted of a violation of K.S.A. 2018 Supp. 21-
37 6419, and amendments thereto, or who entered into a diversion agreement
38 in lieu of further criminal proceedings for such violation, may petition the
39 convicting court for the expungement of such conviction or diversion
40 agreement and related arrest records if:

41 (1) One or more years have elapsed since the person satisfied the
42 sentence imposed or the terms of a diversion agreement or was discharged
43 from probation, a community correctional services program, parole,

1 postrelease supervision, conditional release or a suspended sentence; and

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

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

20 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
21 repeal, or K.S.A. 2018 Supp. 21-5406, and amendments thereto, or as
22 prohibited by any law of another state which is in substantial conformity
23 with that statute;

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

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

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

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

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

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

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

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

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

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

18 (e) There shall be no expungement of convictions for the following
19 offenses or of convictions for an attempt to commit any of the following
20 offenses:

21 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
22 2018 Supp. 21-5503, and amendments thereto;

23 (2) indecent liberties with a child or aggravated indecent liberties
24 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
25 or K.S.A. 2018 Supp. 21-5506, and amendments thereto;

26 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
27 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and
28 amendments thereto;

29 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
30 to its repeal, or K.S.A. 2018 Supp. 21-5504, and amendments thereto;

31 (5) indecent solicitation of a child or aggravated indecent solicitation
32 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
33 or K.S.A. 2018 Supp. 21-5508, and amendments thereto;

34 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
35 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;

36 (7) internet trading in child pornography or aggravated internet
37 trading in child pornography, as defined in K.S.A. 2018 Supp. 21-5514,
38 and amendments thereto;

39 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
40 repeal, or K.S.A. 2018 Supp. 21-5604, and amendments thereto;

41 (9) endangering a child or aggravated endangering a child, as defined
42 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2018 Supp.
43 21-5601, and amendments thereto;

- 1 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
2 or K.S.A. 2018 Supp. 21-5602, and amendments thereto;
- 3 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
4 or K.S.A. 2018 Supp. 21-5401, *prior to its repeal*;
- 5 (12) *aggravated murder as defined in section 2*, and amendments
6 thereto;
- 7 ~~(12)~~(13) murder in the first degree, as defined in K.S.A. 21-3401,
8 prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments
9 thereto;
- 10 ~~(13)~~(14) murder in the second degree, as defined in K.S.A. 21-3402,
11 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments
12 thereto;
- 13 ~~(14)~~(15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
14 to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;
- 15 ~~(15)~~(16) involuntary manslaughter, as defined in K.S.A. 21-3404,
16 prior to its repeal, or K.S.A. 2018 Supp. 21-5405, and amendments
17 thereto;
- 18 ~~(16)~~(17) sexual battery, as defined in K.S.A. 21-3517, prior to its
19 repeal, or K.S.A. 2018 Supp. 21-5505, and amendments thereto, when the
20 victim was less than 18 years of age at the time the crime was committed;
- 21 ~~(17)~~(18) aggravated sexual battery, as defined in K.S.A. 21-3518,
22 prior to its repeal, or K.S.A. 2018 Supp. 21-5505, and amendments
23 thereto;
- 24 ~~(18)~~(19) a violation of K.S.A. 8-2,144, and amendments thereto,
25 including any diversion for such violation; or
- 26 ~~(19)~~(20) any conviction for any offense in effect at any time prior to
27 July 1, 2011, that is comparable to any offense as provided in this
28 subsection.
- 29 (f) Notwithstanding any other law to the contrary, for any offender
30 who is required to register as provided in the Kansas offender registration
31 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
32 expungement of any conviction or any part of the offender's criminal
33 record while the offender is required to register as provided in the Kansas
34 offender registration act.
- 35 (g) (1) When a petition for expungement is filed, the court shall set a
36 date for a hearing of such petition and shall cause notice of such hearing to
37 be given to the prosecutor and the arresting law enforcement agency. The
38 petition shall state the:
- 39 (A) Defendant's full name;
- 40 (B) full name of the defendant at the time of arrest, conviction or
41 diversion, if different than the defendant's current name;
- 42 (C) defendant's sex, race and date of birth;
- 43 (D) crime for which the defendant was arrested, convicted or

1 diverted;

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

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

5 (2) Except as otherwise provided by law, a petition for expungement
6 shall be accompanied by a docket fee in the amount of \$176. On and after
7 July 1, 2017, through June 30, 2019, the supreme court may impose a
8 charge, not to exceed \$19 per case, to fund the costs of non-judicial
9 personnel. The charge established in this section shall be the only fee
10 collected or moneys in the nature of a fee collected for the case. Such
11 charge shall only be established by an act of the legislature and no other
12 authority is established by law or otherwise to collect a fee.

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

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

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

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

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

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

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

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

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

2 (A) In any application for licensure as a private detective, private
3 detective agency, certification as a firearms trainer pursuant to K.S.A.
4 2018 Supp. 75-7b21, and amendments thereto, or employment as a
5 detective with a private detective agency, as defined by K.S.A. 75-7b01,
6 and amendments thereto; as security personnel with a private patrol
7 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
8 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
9 the Kansas department for aging and disability services;

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

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

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

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

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

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

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

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

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

39 (K) for applications received on and after July 1, 2006, to aid in
40 determining the petitioner's qualifications for a license to carry a concealed
41 weapon pursuant to the personal and family protection act, K.S.A. 2018
42 Supp. 75-7c01 et seq., and amendments thereto; or

43 (L) for applications received on and after July 1, 2017, to aid in

1 determining the petitioner's qualifications for a license to act as a bail
2 enforcement agent pursuant to K.S.A. 2018 Supp. 75-7e01 through 75-
3 7e09 and K.S.A. 2018 Supp. 50-6,141, and amendments thereto;

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

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

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

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

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

25 (2) Notwithstanding the provisions of subsection (k)(1), and except as
26 provided in K.S.A. 2018 Supp. 21-6304(a)(3)(A), and amendments
27 thereto, the expungement of a prior felony conviction does not relieve the
28 individual of complying with any state or federal law relating to the use,
29 shipment, transportation, receipt or possession of firearms by persons
30 previously convicted of a felony.

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

36 (1) The person whose record was expunged;

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

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

43 (4) the secretary for aging and disability services, or a designee of the

1 secretary, for the purpose of obtaining information relating to employment
2 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
3 of the Kansas department for aging and disability services of any person
4 whose record has been expunged;

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

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

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

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

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

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

35 (11) the Kansas sentencing commission;

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

41 (13) the Kansas securities commissioner or a designee of the
42 commissioner, and the request is accompanied by a statement that the
43 request is being made in conjunction with an application for registration as

1 a broker-dealer, agent, investment adviser or investment adviser
2 representative by such agency and the application was submitted by the
3 person whose record has been expunged;

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

8 (15) a law enforcement agency and the request is accompanied by a
9 statement that the request is being made to aid in determining eligibility
10 for employment as a law enforcement officer as defined by K.S.A. 22-
11 2202, and amendments thereto;

12 (16) the attorney general and the request is accompanied by a
13 statement that the request is being made to aid in determining
14 qualifications for a license to:

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

17 (B) act as a bail enforcement agent pursuant to K.S.A. 2018 Supp.
18 75-7e01 through 75-7e09 and K.S.A. 2018 Supp. 50-6,141, and
19 amendments thereto; or

20 (17) the Kansas bureau of investigation for the purposes of:

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

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

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

29 Sec. 9. K.S.A. 2018 Supp. 21-6618 is hereby amended to read as
30 follows: 21-6618. Upon conviction of a defendant of ~~capital~~ *aggravated*
31 murder and a finding that the defendant was less than 18 years of age at
32 the time of the commission thereof, the court shall sentence the defendant
33 as otherwise provided by law, and no sentence of ~~death or~~ life without the
34 possibility of parole shall be imposed ~~hereunder~~.

35 Sec. 10. K.S.A. 2018 Supp. 21-6620 is hereby amended to read as
36 follows: 21-6620. (a) (1) Except as provided in subsection (a)(2) and
37 K.S.A. 2018 Supp. 21-6618 and 21-6622, and amendments thereto, if a
38 defendant is convicted of the crime of ~~capital murder and a sentence of~~
39 ~~death is not imposed pursuant to K.S.A. 2018 Supp. 21-6617(c), and~~
40 ~~amendments thereto, or requested pursuant to K.S.A. 2018 Supp. 21-~~
41 ~~6617(a) or (b), and amendments thereto~~ *aggravated murder*, the defendant
42 shall be sentenced to life without the possibility of parole *pursuant to*
43 *section 3, and amendments thereto*.

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

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

22 (b) The provisions of this subsection shall apply only to the crime of
23 murder in the first degree as described in K.S.A. 2018 Supp. 21-5402(a)
24 (2), and amendments thereto, committed on or after July 1, 2014.

25 (1) Except as provided in subsection (b)(2), a defendant convicted of
26 murder in the first degree as described in K.S.A. 2018 Supp. 21-5402(a)
27 (2), and amendments thereto, shall be sentenced to imprisonment for life
28 and shall not be eligible for probation or suspension, modification or
29 reduction of sentence. In addition, the defendant shall not be eligible for
30 parole prior to serving 25 years' imprisonment, and such 25 years'
31 imprisonment shall not be reduced by the application of good time credits.
32 No other sentence shall be permitted.

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

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

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

6 (1) (A) Except as provided in subsection (c)(1)(B), a defendant
7 convicted of murder in the first degree based upon the finding of
8 premeditated murder shall be sentenced pursuant to K.S.A. 2018 Supp. 21-
9 6623, and amendments thereto, unless the sentencing judge finds
10 substantial and compelling reasons, following a review of mitigating
11 circumstances, to impose the sentence specified in subsection (c)(2).

12 (B) The provisions of subsection (c)(1)(A) requiring the court to
13 impose the mandatory minimum term of imprisonment required by K.S.A.
14 2018 Supp. 21-6623, and amendments thereto, shall not apply if the court
15 finds the defendant, because of the defendant's criminal history
16 classification, would be subject to presumptive imprisonment pursuant to
17 the sentencing guidelines grid for nondrug crimes and the sentencing range
18 would exceed 600 months if the sentence established for a severity level 1
19 crime was imposed. In such case, the defendant is required to serve a
20 mandatory minimum term equal to the sentence established for a severity
21 level 1 crime pursuant to the sentencing range. The defendant shall not be
22 eligible for parole prior to serving such mandatory minimum term of
23 imprisonment, and such mandatory minimum term of imprisonment shall
24 not be reduced by the application of good time credits. No other sentence
25 shall be permitted.

26 (2) (A) If the sentencing judge does not impose the mandatory
27 minimum term of imprisonment required by K.S.A. 2018 Supp. 21-6623,
28 and amendments thereto, the judge shall state on the record at the time of
29 sentencing the substantial and compelling reasons therefor, and, except as
30 provided in subsection (c)(2)(B), the defendant shall be sentenced to
31 imprisonment for life and shall not be eligible for probation or suspension,
32 modification or reduction of sentence. In addition, the defendant shall not
33 be eligible for parole prior to serving 25 years' imprisonment, and such 25
34 years' imprisonment shall not be reduced by the application of good time
35 credits. No other sentence shall be permitted.

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

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

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

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

15 (2) The court shall conduct a separate proceeding following the
16 determination of the defendant's guilt for the jury to determine whether
17 one or more aggravating circumstances exist. Such proceeding shall be
18 conducted by the court before a jury as soon as practicable. If any person
19 who served on the trial jury is unable to serve on the jury for the
20 proceeding, the court shall substitute an alternate juror who has been
21 impaneled for the trial jury. If there are insufficient alternate jurors to
22 replace trial jurors who are unable to serve at the proceeding, the court
23 may conduct such proceeding before a jury ~~which~~ *that* may have 12 or ~~less~~
24 *fewer* jurors, but at no time less than six jurors. If the jury has been
25 discharged prior to the proceeding, a new jury shall be impaneled. Any
26 decision of the jury regarding the existence of an aggravating circumstance
27 shall be beyond a reasonable doubt. Jury selection procedures,
28 qualifications of jurors and grounds for exemption or challenge of
29 prospective jurors in criminal trials shall be applicable to the selection of
30 such jury. The jury at the proceeding may be waived in the manner
31 provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial
32 jury. If the jury at the proceeding has been waived, such proceeding shall
33 be conducted by the court.

34 (3) In the proceeding, evidence may be presented concerning any
35 matter relating to any of the aggravating circumstances enumerated in
36 K.S.A. 2018 Supp. 21-6624, and amendments thereto. Only such evidence
37 of aggravating circumstances as the prosecuting attorney has made known
38 to the defendant prior to the proceeding shall be admissible and no
39 evidence secured in violation of the constitution of the United States or of
40 the state of Kansas shall be admissible. No testimony by the defendant at
41 the time of the proceeding shall be admissible against the defendant at any
42 subsequent criminal proceeding. At the conclusion of the evidentiary
43 presentation, the court shall allow the parties a reasonable period of time in

1 which to present oral argument.

2 (4) At the conclusion of the evidentiary portion of the proceeding, the
3 court shall provide oral and written instructions to the jury to guide its
4 deliberations. If the prosecuting attorney relies on K.S.A. 2018 Supp. 21-
5 6624(a), and amendments thereto, as an aggravating circumstance, and the
6 court finds that one or more of the defendant's prior convictions satisfy
7 such subsection, the jury shall be instructed that a certified journal entry of
8 a prior conviction is presumed to prove the existence of such prior
9 conviction or convictions beyond a reasonable doubt.

10 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
11 that one or more of the aggravating circumstances enumerated in K.S.A.
12 2018 Supp. 21-6624, and amendments thereto, exist, the jury shall
13 designate, in writing, signed by the foreman of the jury, the statutory
14 aggravating circumstances ~~which~~ that it found. If, after a reasonable time
15 for deliberation, the jury is unable to reach a unanimous sentencing
16 decision, the court shall dismiss the jury and the defendant shall be
17 sentenced as provided by law. In nonjury cases, the court shall designate,
18 in writing, the specific circumstance or circumstances ~~which~~ that the court
19 found beyond a reasonable doubt.

20 (6) If one or more of the aggravating circumstances enumerated in
21 K.S.A. 2018 Supp. 21-6624, and amendments thereto, are found to exist
22 beyond a reasonable doubt pursuant to this subsection, the defendant shall
23 be sentenced pursuant to K.S.A. 2018 Supp. 21-6623, and amendments
24 thereto, unless the sentencing judge finds substantial and compelling
25 reasons, following a review of mitigating circumstances, to impose the
26 sentence specified in this paragraph. If the sentencing judge does not
27 impose the mandatory minimum term of imprisonment required by K.S.A.
28 2018 Supp. 21-6623, and amendments thereto, the judge shall state on the
29 record at the time of sentencing the substantial and compelling reasons
30 therefor, and the defendant shall be sentenced to imprisonment for life and
31 shall not be eligible for probation or suspension, modification or reduction
32 of sentence. In addition, the defendant shall not be eligible for parole prior
33 to serving 25 years' imprisonment, and such 25 years' imprisonment shall
34 not be reduced by the application of good time credits. No other sentence
35 shall be permitted.

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

39 (1) If a defendant is convicted of murder in the first degree based
40 upon the finding of premeditated murder, upon reasonable notice by the
41 prosecuting attorney, the court shall conduct a separate sentencing
42 proceeding in accordance with this subsection to determine whether the
43 defendant shall be required to serve a mandatory minimum term of

1 imprisonment of 40 years or for crimes committed on and after July 1,
2 1999, a mandatory minimum term of imprisonment of 50 years or
3 sentenced as otherwise provided by law.

4 (2) The sentencing proceeding shall be conducted by the court before
5 a jury as soon as practicable. If the trial jury has been discharged prior to
6 sentencing, a new jury shall be impaneled. Any decision to impose a
7 mandatory minimum term of imprisonment of 40 or 50 years shall be by a
8 unanimous jury. Jury selection procedures, qualifications of jurors and
9 grounds for exemption or challenge of prospective jurors in criminal trials
10 shall be applicable to the selection of such jury. The jury at the sentencing
11 proceeding may be waived in the manner provided by K.S.A. 22-3403, and
12 amendments thereto, for waiver of a trial jury. If the jury at the sentencing
13 proceeding has been waived, such proceeding shall be conducted by the
14 court.

15 (3) In the sentencing proceeding, evidence may be presented
16 concerning any matter that the court deems relevant to the question of
17 sentence and shall include matters relating to any of the aggravating
18 circumstances enumerated in K.S.A. 2018 Supp. 21-6624, and
19 amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.
20 21-4636, prior to its repeal, and any mitigating circumstances. Any such
21 evidence—~~which~~ that the court deems to have probative value may be
22 received regardless of its admissibility under the rules of evidence,
23 provided that the defendant is accorded a fair opportunity to rebut any
24 hearsay statements. Only such evidence of aggravating circumstances as
25 the prosecuting attorney has made known to the defendant prior to the
26 sentencing proceeding shall be admissible and no evidence secured in
27 violation of the constitution of the United States or of the state of Kansas
28 shall be admissible. Only such evidence of mitigating circumstances
29 subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto,
30 that the defendant has made known to the prosecuting attorney prior to the
31 sentencing proceeding shall be admissible. No testimony by the defendant
32 at the time of sentencing shall be admissible against the defendant at any
33 subsequent criminal proceeding. At the conclusion of the evidentiary
34 presentation, the court shall allow the parties a reasonable period of time in
35 which to present oral argument.

36 (4) At the conclusion of the evidentiary portion of the sentencing
37 proceeding, the court shall provide oral and written instructions to the jury
38 to guide its deliberations. If the prosecuting attorney relies on K.S.A. 2018
39 Supp. 21-6624(a), and amendments thereto, or for crimes committed prior
40 to July 1, 2011, K.S.A. 21-4636(a), prior to its repeal, as an aggravating
41 circumstance, and the court finds that one or more of the defendant's prior
42 convictions satisfy such subsection, the jury shall be instructed that a
43 certified journal entry of a prior conviction is presumed to prove the

1 existence of such prior conviction or convictions beyond a reasonable
2 doubt.

3 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
4 that one or more of the aggravating circumstances enumerated in K.S.A.
5 2018 Supp. 21-6624, and amendments thereto, or for crimes committed
6 prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further,
7 that the existence of such aggravating circumstances is not outweighed by
8 any mitigating circumstances ~~which~~ that are found to exist, the defendant
9 shall be sentenced pursuant to K.S.A. 2018 Supp. 21-6623, and
10 amendments thereto; otherwise, the defendant shall be sentenced as
11 provided by law. The sentencing jury shall designate, in writing, signed by
12 the foreman of the jury, the statutory aggravating circumstances ~~which~~
13 that it found. ~~The trier of fact may make the findings required by this~~
14 ~~subsection for the purpose of determining whether to sentence a defendant~~
15 ~~pursuant to K.S.A. 2018 Supp. 21-6623, and amendments thereto,~~
16 ~~notwithstanding contrary findings made by the jury or court pursuant to~~
17 ~~K.S.A. 2018 Supp. 21-6617(c), and amendments thereto, for the purpose~~
18 ~~of determining whether to sentence such defendant to death.~~ If, after a
19 reasonable time for deliberation, the jury is unable to reach a unanimous
20 sentencing decision, the court shall dismiss the jury and the defendant
21 shall be sentenced as provided by law. In nonjury cases, the court shall
22 designate in writing the specific circumstance or circumstances ~~which~~ that
23 the court found beyond a reasonable doubt.

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

26 (1) Establish a procedural rule for sentencing proceedings, and as
27 such shall be construed and applied retroactively to all crimes committed
28 prior to the effective date of this act, except as provided further in this
29 subsection; (2) shall not apply to cases in which the defendant's conviction
30 and sentence were final prior to June 17, 2013, unless the conviction or
31 sentence has been vacated in a collateral proceeding, including, but not
32 limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3)
33 shall apply only in sentencing proceedings otherwise authorized by law.

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

43 (h) In the event any sentence imposed under this section is held to be

1 unconstitutional, the court having jurisdiction over a person previously
2 sentenced shall cause such person to be brought before the court and shall
3 sentence such person to the maximum term of imprisonment otherwise
4 provided by law.

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

10 Sec. 11. K.S.A. 2018 Supp. 21-6622 is hereby amended to read as
11 follows: 21-6622. (a) ~~If, under K.S.A. 2018 Supp. 21-6617, and~~
12 ~~amendments thereto, the county or district attorney has filed a notice of~~
13 ~~intent to request a separate sentencing proceeding to determine whether~~
14 ~~the defendant should be sentenced to death and the defendant is convicted~~
15 ~~of the crime of capital murder, the defendant's counsel or the warden of the~~
16 ~~correctional institution or sheriff having custody of the defendant may~~
17 ~~request a determination by the court of whether the defendant is a person~~
18 ~~with intellectual disability. If the court determines that there is not~~
19 ~~sufficient reason to believe that the defendant is a person with intellectual~~
20 ~~disability, the court shall so find and the defendant shall be sentenced in~~
21 ~~accordance with K.S.A. 2018 Supp. 21-6617, 21-6619, 21-6624, 21-6625,~~
22 ~~21-6628 and 21-6629, and amendments thereto. If the court determines~~
23 ~~that there is sufficient reason to believe that the defendant is a person with~~
24 ~~intellectual disability, the court shall conduct a hearing to determine~~
25 ~~whether the defendant is a person with intellectual disability.~~

26 (b) ~~If a defendant is convicted of the crime of capital murder and a~~
27 ~~sentence of death is not imposed~~ *aggravated murder*, or if a defendant is
28 convicted of the crime of murder in the first degree based upon the finding
29 of premeditated murder, the defendant's counsel or the warden of the
30 correctional institution or sheriff having custody of the defendant may
31 request a determination by the court of whether the defendant is a person
32 with intellectual disability. If the court determines that there is not
33 sufficient reason to believe that the defendant is a person with intellectual
34 disability, the court shall so find and the defendant shall be sentenced in
35 accordance with K.S.A. 2018 Supp. 21-6620, 21-6623, 21-6624 and 21-
36 6625, and amendments thereto. If the court determines that there is
37 sufficient reason to believe that the defendant is a person with intellectual
38 disability, the court shall conduct a hearing to determine whether the
39 defendant is a person with intellectual disability.

40 (e)(b) At the hearing, the court shall determine whether the defendant
41 is a person with intellectual disability. The court shall order a psychiatric
42 or psychological examination of the defendant. For that purpose, the court
43 shall appoint two licensed physicians or licensed psychologists, or one of

1 each, qualified by training and practice to make such examination, to
2 examine the defendant and report their findings in writing to the judge
3 within 14 days after the order of examination is issued. The defendant
4 shall have the right to present evidence and cross-examine any witnesses at
5 the hearing. No statement made by the defendant in the course of any
6 examination provided for by this section, whether or not the defendant
7 consents to the examination, shall be admitted in evidence against the
8 defendant in any criminal proceeding.

9 ~~(d) If, at the conclusion of a hearing pursuant to subsection (a), the~~
10 ~~court determines that the defendant is not a person with intellectual~~
11 ~~disability, the defendant shall be sentenced in accordance with K.S.A.~~
12 ~~2018 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629,~~
13 ~~and amendments thereto.~~

14 ~~(e)(c) If, at the conclusion of a hearing pursuant to subsection (b) this~~
15 ~~section, the court determines that the defendant is not a person with~~
16 ~~intellectual disability, the defendant shall be sentenced in accordance with~~
17 ~~K.S.A. 2018 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and~~
18 ~~amendments thereto.~~

19 ~~(f)(d) If, at the conclusion of a hearing pursuant to this section, the~~
20 ~~court determines that the defendant is a person with intellectual disability,~~
21 ~~the court shall sentence the defendant as otherwise provided by law, and~~
22 ~~no sentence of death, life without the possibility of parole, or mandatory~~
23 ~~term of imprisonment pursuant to K.S.A. 2018 Supp. 21-6623, 21-6624~~
24 ~~and 21-6625, and amendments thereto, shall be imposed hereunder.~~

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

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

34 Sec. 12. K.S.A. 2018 Supp. 21-6628 is hereby amended to read as
35 follows: 21-6628. (a) In the event the term of imprisonment for life
36 without the possibility of parole or any provision of K.S.A. 2018 Supp. 21-
37 6626 or 21-6627, and amendments thereto, authorizing such term is held to
38 be unconstitutional by the supreme court of Kansas or the United States
39 supreme court, the court having jurisdiction over a person previously
40 sentenced shall cause such person to be brought before the court and shall
41 modify the sentence to require no term of imprisonment for life without
42 the possibility of parole and shall sentence the defendant to the maximum
43 term of imprisonment otherwise provided by law.

1 (b) ~~In the event a sentence of death or any provision of chapter 252 of~~
2 ~~the 1994 Session Laws of Kansas authorizing such sentence is held to be~~
3 ~~unconstitutional by the supreme court of Kansas or the United States~~
4 ~~supreme court, the court having jurisdiction over a person previously~~
5 ~~sentenced shall cause such person to be brought before the court and shall~~
6 ~~modify the sentence and resentence the defendant as otherwise provided~~
7 ~~by law.~~

8 (e) In the event the mandatory term of imprisonment or any provision
9 of chapter 341 of the 1994 Session Laws of Kansas authorizing such
10 mandatory term is held to be unconstitutional by the supreme court of
11 Kansas or the United States supreme court, the court having jurisdiction
12 over a person previously sentenced shall cause such person to be brought
13 before the court and shall modify the sentence to require no mandatory
14 term of imprisonment and shall sentence the defendant as otherwise
15 provided by law.

16 Sec. 13. K.S.A. 2018 Supp. 21-6629 is hereby amended to read as
17 follows: 21-6629. (a) The provisions of K.S.A. 21-4622 through 21-4630,
18 as they existed immediately prior to July 1, 1994, shall be applicable only
19 to persons convicted of crimes committed on or after July 1, 1990, and
20 before July 1, 1994.

21 (b) The provisions of K.S.A. 21-4622 through 21-4627 and 21-4629
22 and 21-4630, as amended on July 1, 1994 and prior to their repeal, and
23 K.S.A. 2018 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-
24 6625 and ~~subsection (b) of 21-6628(b), and amendments thereto as they~~
25 *existed immediately prior to July 1, 2019*, shall be applicable only to
26 persons convicted of crimes committed on or after July 1, 1994, *and*
27 *before July 1, 2019*.

28 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.
29 2018 Supp. 21-6620 through 21-6625 and ~~subsection (c) of 21-6628(c),~~
30 ~~and amendments thereto as they existed immediately prior to July 1, 2019,~~
31 shall be applicable only to persons convicted of crimes committed on or
32 after July 1, 1994, *and before July 1, 2019*.

33 (d) *The provisions of K.S.A. 2018 Supp. 21-6618, 21-6620, 21-6622*
34 *and 21-6628, as amended on July 1, 2019, and K.S.A. 2018 Supp. 21-*
35 *6621, 21-6623, 21-6624 and 21-6625, and amendments thereto, shall be*
36 *applicable only to persons convicted of crimes committed on or after July*
37 *1, 2019.*

38 Sec. 14. K.S.A. 2018 Supp. 21-6806 is hereby amended to read as
39 follows: 21-6806. (a) Sentences of imprisonment shall represent the time a
40 person shall actually serve, subject to a reduction of the primary sentence
41 for good time as authorized by K.S.A. 2018 Supp. 21-6821, and
42 amendments thereto.

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

1 (c) Violations of K.S.A. 2018 Supp. ~~21-5401~~, 21-5402, 21-5421, 21-
2 5422 and 21-5901, and amendments thereto, are off-grid crimes for the
3 purpose of sentencing. Except as otherwise provided by K.S.A. 2018
4 Supp. ~~21-6617~~, 21-6618, ~~21-6619~~, 21-6622, 21-6624, 21-6625, 21-6628
5 and 21-6629, and amendments thereto, the sentence shall be imprisonment
6 for life and shall not be subject to statutory provisions for suspended
7 sentence, community service or probation.

8 (d) As identified in K.S.A. 2018 Supp. 21-5426, 21-5503, 21-5504,
9 21-5506, 21-5510, 21-5514 and 21-6422, and amendments thereto, if the
10 offender is 18 years of age or older and the victim is under 14 years of age,
11 such violations are off-grid crimes for the purposes of sentencing. Except
12 as provided in K.S.A. 2018 Supp. 21-6626, and amendments thereto, the
13 sentence shall be imprisonment for life pursuant to K.S.A. 2018 Supp. 21-
14 6627, and amendments thereto.

15 (e) *A violation of section 2, and amendments thereto, is an off-grid*
16 *crime for the purposes of sentencing. Except as provided in K.S.A. 2018*
17 *Supp. 21-6618 and 21-6622, and amendments thereto, the sentence shall*
18 *be imprisonment for life without the possibility of parole pursuant to*
19 *section 3, and amendments thereto.*

20 Sec. 15. K.S.A. 2018 Supp. 22-2512 is hereby amended to read as
21 follows: 22-2512. (a) Property seized under a search warrant or validly
22 seized without a warrant shall be safely kept by the officer seizing the
23 same unless otherwise directed by the magistrate, and shall be so kept as
24 long as necessary for the purpose of being produced as evidence on any
25 trial. The property seized may not be taken from the officer having it in
26 custody so long as it is or may be required as evidence in any trial. The
27 officer seizing the property shall give a receipt to the person detained or
28 arrested particularly describing each article of property being held and
29 shall file a copy of such receipt with the magistrate before whom the
30 person detained or arrested is taken. Where seized property is no longer
31 required as evidence in the prosecution of any indictment or information,
32 the court which has jurisdiction of such property may transfer the same to
33 the jurisdiction of any other court, including courts of another state or
34 federal courts, where it is shown to the satisfaction of the court that such
35 property is required as evidence in any prosecution in such other court.

36 (b) (1) Notwithstanding the provisions of subsection (a) and with the
37 approval of the affected court, any law enforcement officer who seizes
38 hazardous materials as evidence related to a criminal investigation may
39 collect representative samples of such hazardous materials, and lawfully
40 destroy or dispose of, or direct another person to lawfully destroy or
41 dispose of the remaining quantity of such hazardous materials.

42 (2) In any prosecution, representative samples of hazardous materials
43 accompanied by photographs, videotapes, laboratory analysis reports or

1 other means used to verify and document the identity and quantity of the
2 material shall be deemed competent evidence of such hazardous materials
3 and shall be admissible in any proceeding, hearing or trial as if such
4 materials had been introduced as evidence.

5 (3) As used in this section, the term "hazardous materials" means any
6 substance which is capable of posing an unreasonable risk to health, safety
7 and property. It shall include any substance which by its nature is
8 explosive, flammable, corrosive, poisonous, radioactive, a biological
9 hazard or a material which may cause spontaneous combustion. It shall
10 include, but not be limited to, substances listed in the table of hazardous
11 materials contained in the code of federal regulations title 49 and national
12 fire protection association's fire protection guide on hazardous materials.

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

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

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

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

24 (3) property which is unclaimed or the ownership of which is
25 unknown shall be sold at public auction to be held by the sheriff and the
26 proceeds, less the cost of sale and any storage charges incurred in
27 preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-
28 2801, and amendments thereto;

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

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

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

42 (i) Forfeited to the law enforcement agency seizing the weapon for
43 use within such agency, for sale to a properly licensed federal firearms

1 dealer, for trading to a properly licensed federal firearms dealer for other
2 new or used firearms or accessories for use within such agency or for
3 trading to another law enforcement agency for that agency's use;

4 (ii) forfeited to the Kansas bureau of investigation for law
5 enforcement, testing or comparison by the Kansas bureau of investigation
6 forensic laboratory;

7 (iii) forfeited to a county regional forensic science center, or other
8 county forensic laboratory for testing, comparison or other forensic
9 science purposes; or

10 (iv) forfeited to the Kansas department of wildlife, parks and tourism
11 for use pursuant to the conditions set forth in K.S.A. 32-1047, and
12 amendments thereto.

13 (B) Except as provided in subsection (d), any weapon which cannot
14 be forfeited pursuant to subsection (c)(6)(A) due to the condition of the
15 weapon, and any weapon which was used in the commission of a felony as
16 described in K.S.A. 2018 Supp. 21-5401, *prior to its repeal, K.S.A. 2018*
17 *Supp. 21-5402, 21-5403, 21-5404—~~or~~, 21-5405 or section 2*, and
18 amendments thereto, shall be destroyed.

19 (7) controlled substances forfeited for violations of K.S.A. 2018
20 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt
21 with as provided under K.S.A. 60-4101 through 60-4126, and amendments
22 thereto;

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

25 (d) If a weapon is seized from an individual and the individual is not
26 convicted of or adjudicated as a juvenile offender for the violation for
27 which the weapon was seized, then within 30 days after the declination or
28 conclusion of prosecution of the case against the individual, including any
29 period of appeal, the law enforcement agency that seized the weapon shall
30 verify that the weapon is not stolen, and upon such verification shall notify
31 the person from whom it was seized that the weapon may be retrieved.
32 Such notification shall include the location where such weapon may be
33 retrieved.

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

37 (f) For purposes of this section, the term "weapon" means a weapon
38 described in K.S.A. 2018 Supp. 21-6301, and amendments thereto.

39 Sec. 16. K.S.A. 2018 Supp. 22-3717 is hereby amended to read as
40 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.
41 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
42 21-4638 and 21-4642, prior to their repeal; K.S.A. 2018 Supp. 21-6617,
43 *prior to its repeal, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626*, and

1 amendments thereto; and K.S.A. 8-1567, and amendments thereto; *section*
2 *3, and amendments thereto*, an inmate, including an inmate sentenced
3 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2018 Supp. 21-
4 6707, and amendments thereto, shall be eligible for parole after serving the
5 entire minimum sentence imposed by the court, less good time credits.

6 (b) (1) An inmate sentenced to imprisonment for life without the
7 possibility of parole pursuant to K.S.A. 2018 Supp. 21-6617, and
8 amendments thereto, shall not be eligible for parole.

9 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
10 their repeal, and K.S.A. 2018 Supp. 21-6620, 21-6623, 21-6624 and 21-
11 6625, and amendments thereto, an inmate sentenced to imprisonment for
12 the crime of: (A) Capital murder committed on or after July 1, 1994, shall
13 be eligible for parole after serving 25 years of confinement, without
14 deduction of any good time credits; (B) murder in the first degree based
15 upon a finding of premeditated murder committed on or after July 1, 1994,
16 but prior to July 1, 2014, shall be eligible for parole after serving 25 years
17 of confinement, without deduction of any good time credits; and (C)
18 murder in the first degree as described in K.S.A. 2018 Supp. 21-5402(a)
19 (2), and amendments thereto, committed on or after July 1, 2014, shall be
20 eligible for parole after serving 25 years of confinement, without
21 deduction of any good time credits.

22 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
23 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
24 21-4638, prior to their repeal, and K.S.A. 2018 Supp. 21-6620, 21-6623,
25 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to
26 imprisonment for an off-grid offense committed on or after July 1, 1993,
27 but prior to July 1, 1999, shall be eligible for parole after serving 15 years
28 of confinement, without deduction of any good time credits and an inmate
29 sentenced to imprisonment for an off-grid offense committed on or after
30 July 1, 1999, shall be eligible for parole after serving 20 years of
31 confinement without deduction of any good time credits.

32 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
33 repeal, an inmate sentenced for a class A felony committed before July 1,
34 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
35 its repeal, or K.S.A. 2018 Supp. 21-6707, and amendments thereto, shall
36 be eligible for parole after serving 15 years of confinement, without
37 deduction of any good time credits.

38 (5) An inmate sentenced to imprisonment for a violation of K.S.A.
39 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but
40 prior to July 1, 1999, shall be eligible for parole after serving 10 years of
41 confinement without deduction of any good time credits.

42 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
43 4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments

1 thereto, committed on or after July 1, 2006, shall be eligible for parole
2 after serving the mandatory term of imprisonment without deduction of
3 any good time credits.

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

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

11 (A) The aggregate minimum sentences, as determined pursuant to
12 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2018 Supp. 21-6606, and
13 amendments thereto, less good time credits for those crimes ~~which~~ *that* are
14 not class A felonies; and

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

17 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
18 4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments
19 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
20 eligible for parole after serving the mandatory term of imprisonment.

21 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
22 committed on or after July 1, 1993, or persons subject to subparagraph
23 (G), will not be eligible for parole, but will be released to a mandatory
24 period of postrelease supervision upon completion of the prison portion of
25 their sentence as follows:

26 (A) Except as provided in subparagraphs (D) and (E), persons
27 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
28 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
29 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
30 July 1, 2012, must serve 36 months on postrelease supervision.

31 (B) Except as provided in subparagraphs (D) and (E), persons
32 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
33 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
34 drug severity level 4 crimes committed on or after July 1, 2012, must serve
35 24 months on postrelease supervision.

36 (C) Except as provided in subparagraphs (D) and (E), persons
37 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
38 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
39 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
40 must serve 12 months on postrelease supervision.

41 (D) Persons sentenced to a term of imprisonment that includes a
42 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
43 amendments thereto, committed on or after July 1, 1993, but prior to July

1 1, 2006, a sexually motivated crime—in *for* which the offender has been
2 ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and
3 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its
4 repeal, or K.S.A. 2018 Supp. 21-5509, and amendments thereto, or
5 unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A.
6 2018 Supp. 21-5512, and amendments thereto, shall serve the period of
7 postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or
8 (d)(1)(C), plus the amount of good time and program credit earned and
9 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2018
10 Supp. 21-6821, and amendments thereto, on postrelease supervision.

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

15 (ii) If the sentencing judge departs from the presumptive postrelease
16 supervision period, the judge shall state on the record at the time of
17 sentencing the substantial and compelling reasons for the departure.
18 Departures in this section are subject to appeal pursuant to K.S.A. 21-
19 4721, prior to its repeal, or K.S.A. 2018 Supp. 21-6820, and amendments
20 thereto.

21 (iii) In determining whether substantial and compelling reasons exist,
22 the court shall consider:

23 (a) Written briefs or oral arguments submitted by either the defendant
24 or the state;

25 (b) any evidence received during the proceeding;

26 (c) the presentence report, the victim's impact statement and any
27 psychological evaluation as ordered by the court pursuant to K.S.A. 21-
28 4714(e), prior to its repeal, or K.S.A. 2018 Supp. 21-6813(e), and
29 amendments thereto; and

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

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

35 (v) In carrying out the provisions of subsection (d)(1)(D), the court
36 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2018 Supp. 21-
37 6817, and amendments thereto.

38 (vi) Upon petition and payment of any restitution ordered pursuant to
39 K.S.A. 2018 Supp. 21-6604, and amendments thereto, the prisoner review
40 board may provide for early discharge from the postrelease supervision
41 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of
42 court ordered programs and completion of the presumptive postrelease
43 supervision period, as determined by the crime of conviction, pursuant to

1 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
2 postrelease supervision is at the discretion of the board.

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

6 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
7 repeal, or K.S.A. 2018 Supp. 21-5508, and amendments thereto, shall be
8 required to participate in a treatment program for sex offenders during the
9 postrelease supervision period.

10 (E) The period of postrelease supervision provided in subparagraphs
11 (A) and (B) may be reduced by up to 12 months and the period of
12 postrelease supervision provided in subparagraph (C) may be reduced by
13 up to six months based on the offender's compliance with conditions of
14 supervision and overall performance while on postrelease supervision. The
15 reduction in the supervision period shall be on an earned basis pursuant to
16 rules and regulations adopted by the secretary of corrections.

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

22 (G) (i) Except as provided in subsection (u), persons sentenced to
23 imprisonment for a sexually violent crime committed on or after July 1,
24 2006, when the offender was 18 years of age or older, and who are
25 released from prison, shall be released to a mandatory period of
26 postrelease supervision for the duration of the person's natural life.

27 (ii) Persons sentenced to imprisonment for a sexually violent crime
28 committed on or after the effective date of this act, when the offender was
29 under 18 years of age, and who are released from prison, shall be released
30 to a mandatory period of postrelease supervision for 60 months, plus the
31 amount of good time and program credit earned and retained pursuant to
32 K.S.A. 21-4722, prior to its repeal, or K.S.A. 2018 Supp. 21-6821, and
33 amendments thereto.

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

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

41 (4) Offenders whose crime of conviction was committed on or after
42 July 1, 2013, and whose probation, assignment to a community
43 correctional services program, suspension of sentence or nonprison

1 sanction is revoked pursuant to K.S.A. 22-3716(c), and amendments
2 thereto, or whose underlying prison term expires while serving a sanction
3 pursuant to K.S.A. 22-3716(c)(1)(C) or (c)(1)(D), and amendments
4 thereto, shall serve a period of postrelease supervision upon the
5 completion of the underlying prison term.

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

7 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp.
8 21-5503, and amendments thereto;

9 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
10 or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;

11 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
12 to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and amendments thereto;

13 (D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its
14 repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) and (a)(4), and amendments
15 thereto;

16 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
17 or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;

18 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
19 or K.S.A. 2018 Supp. 21-5508(a), and amendments thereto;

20 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
21 to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments thereto;

22 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
23 or K.S.A. 2018 Supp. 21-5510, and amendments thereto;

24 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
25 K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;

26 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A.
27 2018 Supp. 21-5604(b), and amendments thereto;

28 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,
29 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments
30 thereto, if committed in whole or in part for the purpose of the sexual
31 gratification of the defendant or another;

32 (L) internet trading in child pornography, as defined in K.S.A. 2018
33 Supp. 21-5514(a), and amendments thereto;

34 (M) aggravated internet trading in child pornography, as defined in
35 K.S.A. 2018 Supp. 21-5514(b), and amendments thereto;

36 (N) commercial sexual exploitation of a child, as defined in K.S.A.
37 2018 Supp. 21-6422, and amendments thereto; or

38 (O) an attempt, conspiracy or criminal solicitation, as defined in
39 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018
40 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
41 sexually violent crime as defined in this section.

42 (6) As used in this subsection, "sexually motivated" means that one of
43 the purposes for which the defendant committed the crime was for the

1 purpose of the defendant's sexual gratification.

2 (e) If an inmate is sentenced to imprisonment for a crime committed
3 while on parole or conditional release, the inmate shall be eligible for
4 parole as provided by subsection (c), except that the prisoner review board
5 may postpone the inmate's parole eligibility date by assessing a penalty not
6 exceeding the period of time ~~which~~ *that* could have been assessed if the
7 inmate's parole or conditional release had been violated for reasons other
8 than conviction of a crime.

9 (f) If a person is sentenced to prison for a crime committed on or after
10 July 1, 1993, while on probation, parole, conditional release or in a
11 community corrections program, for a crime committed prior to July 1,
12 1993, and the person is not eligible for retroactive application of the
13 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
14 4724, prior to its repeal, the new sentence shall not be aggregated with the
15 old sentence, but shall begin when the person is paroled or reaches the
16 conditional release date on the old sentence. If the offender was past the
17 offender's conditional release date at the time the new offense was
18 committed, the new sentence shall not be aggregated with the old sentence
19 but shall begin when the person is ordered released by the prisoner review
20 board or reaches the maximum sentence expiration date on the old
21 sentence, whichever is earlier. The new sentence shall then be served as
22 otherwise provided by law. The period of postrelease supervision shall be
23 based on the new sentence, except that those offenders whose old sentence
24 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
25 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
26 term of life imprisonment, for which there is no conditional release or
27 maximum sentence expiration date, shall remain on postrelease
28 supervision for life or until discharged from supervision by the prisoner
29 review board.

30 (g) Subject to the provisions of this section, the prisoner review board
31 may release on parole those persons confined in institutions who are
32 eligible for parole when: (1) The board believes that the inmate should be
33 released for hospitalization, deportation or to answer the warrant or other
34 process of a court and is of the opinion that there is reasonable probability
35 that the inmate can be released without detriment to the community or to
36 the inmate; or (2) the secretary of corrections has reported to the board in
37 writing that the inmate has satisfactorily completed the programs required
38 by any agreement entered under K.S.A. 75-5210a, and amendments
39 thereto, or any revision of such agreement, and the board believes that the
40 inmate is able and willing to fulfill the obligations of a law abiding citizen
41 and is of the opinion that there is reasonable probability that the inmate
42 can be released without detriment to the community or to the inmate.
43 Parole shall not be granted as an award of clemency and shall not be

1 considered a reduction of sentence or a pardon.

2 (h) The prisoner review board shall hold a parole hearing at least the
3 month prior to the month an inmate will be eligible for parole under
4 subsections (a), (b) and (c). At least one month preceding the parole
5 hearing, the county or district attorney of the county where the inmate was
6 convicted shall give written notice of the time and place of the public
7 comment sessions for the inmate to any victim of the inmate's crime who
8 is alive and whose address is known to the county or district attorney or, if
9 the victim is deceased, to the victim's family if the family's address is
10 known to the county or district attorney. Except as otherwise provided,
11 failure to notify pursuant to this section shall not be a reason to postpone a
12 parole hearing. In the case of any inmate convicted of an off-grid felony or
13 a class A felony, the secretary of corrections shall give written notice of the
14 time and place of the public comment session for such inmate at least one
15 month preceding the public comment session to any victim of such
16 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
17 amendments thereto. If notification is not given to such victim or such
18 victim's family in the case of any inmate convicted of an off-grid felony or
19 a class A felony, the board shall postpone a decision on parole of the
20 inmate to a time at least 30 days after notification is given as provided in
21 this section. Nothing in this section shall create a cause of action against
22 the state or an employee of the state acting within the scope of the
23 employee's employment as a result of the failure to notify pursuant to this
24 section. If granted parole, the inmate may be released on parole on the date
25 specified by the board, but not earlier than the date the inmate is eligible
26 for parole under subsections (a), (b) and (c). At each parole hearing and, if
27 parole is not granted, at such intervals thereafter as it determines
28 appropriate, the board shall consider: (1) Whether the inmate has
29 satisfactorily completed the programs required by any agreement entered
30 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
31 agreement; and (2) all pertinent information regarding such inmate,
32 including, but not limited to, the circumstances of the offense of the
33 inmate; the presentence report; the previous social history and criminal
34 record of the inmate; the conduct, employment, and attitude of the inmate
35 in prison; the reports of such physical and mental examinations as have
36 been made, including, but not limited to, risk factors revealed by any risk
37 assessment of the inmate; comments of the victim and the victim's family
38 including in person comments, contemporaneous comments and
39 prerecorded comments made by any technological means; comments of
40 the public; official comments; any recommendation by the staff of the
41 facility where the inmate is incarcerated; proportionality of the time the
42 inmate has served to the sentence a person would receive under the Kansas
43 sentencing guidelines for the conduct that resulted in the inmate's

1 incarceration; and capacity of state correctional institutions.

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

12 (j) (1) Before ordering the parole of any inmate, the prisoner review
13 board shall have the inmate appear either in person or via a video
14 conferencing format and shall interview the inmate unless impractical
15 because of the inmate's physical or mental condition or absence from the
16 institution. Every inmate while on parole shall remain in the legal custody
17 of the secretary of corrections and is subject to the orders of the secretary.
18 Whenever the board formally considers placing an inmate on parole and
19 no agreement has been entered into with the inmate under K.S.A. 75-
20 5210a, and amendments thereto, the board shall notify the inmate in
21 writing of the reasons for not granting parole. If an agreement has been
22 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
23 has not satisfactorily completed the programs specified in the agreement,
24 or any revision of such agreement, the board shall notify the inmate in
25 writing of the specific programs the inmate must satisfactorily complete
26 before parole will be granted. If parole is not granted only because of a
27 failure to satisfactorily complete such programs, the board shall grant
28 parole upon the secretary's certification that the inmate has successfully
29 completed such programs. If an agreement has been entered under K.S.A.
30 75-5210a, and amendments thereto, and the secretary of corrections has
31 reported to the board in writing that the inmate has satisfactorily
32 completed the programs required by such agreement, or any revision
33 thereof, the board shall not require further program participation.
34 However, if the board determines that other pertinent information
35 regarding the inmate warrants the inmate's not being released on parole,
36 the board shall state in writing the reasons for not granting the parole. If
37 parole is denied for an inmate sentenced for a crime other than a class A or
38 class B felony or an off-grid felony, the board shall hold another parole
39 hearing for the inmate not later than one year after the denial unless the
40 board finds that it is not reasonable to expect that parole would be granted
41 at a hearing if held in the next three years or during the interim period of a
42 deferral. In such case, the board may defer subsequent parole hearings for
43 up to three years but any such deferral by the board shall require the board

1 to state the basis for its findings. If parole is denied for an inmate
2 sentenced for a class A or class B felony or an off-grid felony, the board
3 shall hold another parole hearing for the inmate not later than three years
4 after the denial unless the board finds that it is not reasonable to expect
5 that parole would be granted at a hearing if held in the next 10 years or
6 during the interim period of a deferral. In such case, the board may defer
7 subsequent parole hearings for up to 10 years, but any such deferral shall
8 require the board to state the basis for its findings.

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

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

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

28 (3) Parolees and persons on postrelease supervision are, and shall
29 agree in writing to be, subject to searches of the person and the person's
30 effects, vehicle, residence and property by any law enforcement officer
31 based on reasonable suspicion of the person violating conditions of parole
32 or postrelease supervision or reasonable suspicion of criminal activity. Any
33 law enforcement officer who conducts such a search shall submit a written
34 report to the appropriate parole officer no later than the close of the next
35 business day after such search. The written report shall include the facts
36 leading to such search, the scope of such search and any findings resulting
37 from such search.

38 (l) The prisoner review board shall promulgate rules and regulations
39 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not
40 inconsistent with the law and as it may deem proper or necessary, with
41 respect to the conduct of parole hearings, postrelease supervision reviews,
42 revocation hearings, orders of restitution, reimbursement of expenditures
43 by the state board of indigents' defense services and other conditions to be

1 imposed upon parolees or releasees. Whenever an order for parole or
2 postrelease supervision is issued it shall recite the conditions thereof.

3 (m) Whenever the prisoner review board orders the parole of an
4 inmate or establishes conditions for an inmate placed on postrelease
5 supervision, the board:

6 (1) Unless it finds compelling circumstances ~~which~~ *that* would render
7 a plan of payment unworkable, shall order as a condition of parole or
8 postrelease supervision that the parolee or the person on postrelease
9 supervision pay any transportation expenses resulting from returning the
10 parolee or the person on postrelease supervision to this state to answer
11 criminal charges or a warrant for a violation of a condition of probation,
12 assignment to a community correctional services program, parole,
13 conditional release or postrelease supervision;

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

19 (3) may order that the parolee or person on postrelease supervision
20 perform community or public service work for local governmental
21 agencies, private corporations organized not-for-profit or charitable or
22 social service organizations performing services for the community;

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

27 (5) unless it finds compelling circumstances ~~which~~ *that* would render
28 a plan of payment unworkable, shall order that the parolee or person on
29 postrelease supervision reimburse the state for all or part of the
30 expenditures by the state board of indigents' defense services to provide
31 counsel and other defense services to the person. In determining the
32 amount and method of payment of such sum, the prisoner review board
33 shall take account of the financial resources of the person and the nature of
34 the burden that the payment of such sum will impose. Such amount shall
35 not exceed the amount claimed by appointed counsel on the payment
36 voucher for indigents' defense services or the amount prescribed by the
37 board of indigents' defense services reimbursement tables as provided in
38 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
39 previous payments for such services;

40 (6) shall order that the parolee or person on postrelease supervision
41 agree in writing to be subject to searches of the person and the person's
42 effects, vehicle, residence and property by a parole officer or a department
43 of corrections enforcement, apprehension and investigation officer, at any

1 time of the day or night, with or without a search warrant and with or
2 without cause. Nothing in this subsection shall be construed to authorize
3 such officers to conduct arbitrary or capricious searches or searches for the
4 sole purpose of harassment; and

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

10 (n) If the court ~~which~~ that sentenced an inmate specified at the time
11 of sentencing the amount and the recipient of any restitution ordered as a
12 condition of parole or postrelease supervision, the prisoner review board
13 shall order as a condition of parole or postrelease supervision that the
14 inmate pay restitution in the amount and manner provided in the journal
15 entry unless the board finds compelling circumstances ~~which~~ that would
16 render a plan of restitution unworkable.

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

21 (p) When an inmate is to be released on postrelease supervision, the
22 secretary, within 30 days prior to release, shall provide the county or
23 district attorney of the county where the inmate was sentenced written
24 notice of the release date.

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

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

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

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

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

43 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid

1 for nondrug crimes;

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

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

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

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

9 (B) level 3 crimes on the sentencing guidelines grid for drug crimes
10 committed prior to July 1, 2012; and

11 (C) level 4 crimes on the sentencing guidelines grid for drug crimes
12 committed on or after July 1, 2012; and

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

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

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

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

20 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
21 4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments
22 thereto, for crimes committed on or after July 1, 2006, shall be placed on
23 parole for life and shall not be discharged from supervision by the prisoner
24 review board. When the board orders the parole of an inmate pursuant to
25 this subsection, the board shall order as a condition of parole that the
26 inmate be electronically monitored for the duration of the inmate's natural
27 life.

28 (v) Whenever the prisoner review board orders a person to be
29 electronically monitored pursuant to this section, or the court orders a
30 person to be electronically monitored pursuant to K.S.A. 2018 Supp. 21-
31 6604(r), and amendments thereto, the board shall order the person to
32 reimburse the state for all or part of the cost of such monitoring. In
33 determining the amount and method of payment of such sum, the board
34 shall take account of the financial resources of the person and the nature of
35 the burden that the payment of such sum will impose.

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

41 (A) As used in this subsection, "pornographic materials" means any
42 obscene material or performance depicting sexual conduct, sexual contact
43 or a sexual performance; and any visual depiction of sexually explicit

1 conduct.

2 (B) As used in this subsection, all other terms have the meanings
3 provided by K.S.A. 2018 Supp. 21-5510, and amendments thereto.

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

9 Sec. 17. K.S.A. 2018 Supp. 22-4902 is hereby amended to read as
10 follows: 22-4902. As used in the Kansas offender registration act, unless
11 the context otherwise requires:

12 (a) "Offender" means:

13 (1) A sex offender;

14 (2) a violent offender;

15 (3) a drug offender;

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

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

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

21 (1) On or after April 14, 1994, is convicted of any sexually violent
22 crime;

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

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

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

31 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
32 K.S.A. 2018 Supp. 21-5511, and amendments thereto;

33 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
34 repeal, or K.S.A. 2018 Supp. 21-5504(a)(1) or (a)(2), and amendments
35 thereto;

36 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
37 repeal, or K.S.A. 2018 Supp. 21-6420, prior to its amendment by section
38 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

39 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
40 repeal, or K.S.A. 2018 Supp. 21-6421, prior to its amendment by section
41 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

42 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
43 to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments thereto;

- 1 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
2 to its repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto;
- 3 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
4 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
5 K.S.A. 2018 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
6 of an offense defined in this subsection; or
- 7 (7) has been convicted of an offense that is comparable to any crime
8 defined in this subsection, or any out-of-state conviction for an offense that
9 under the laws of this state would be an offense defined in this subsection.
- 10 (c) "Sexually violent crime" means:
 - 11 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
12 2018 Supp. 21-5503, and amendments thereto;
 - 13 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
14 to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;
 - 15 (3) aggravated indecent liberties with a child, as defined in K.S.A.
16 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and
17 amendments thereto;
 - 18 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
19 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and
20 amendments thereto;
 - 21 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
22 to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;
 - 23 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
24 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments
25 thereto;
 - 26 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
27 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and
28 amendments thereto;
 - 29 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
30 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;
 - 31 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
32 its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;
 - 33 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
34 repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;
 - 35 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
36 repeal, and K.S.A. 2018 Supp. 21-5509, and amendments thereto;
 - 37 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
38 its repeal, or K.S.A. 2018 Supp. 21-5512, and amendments thereto;
 - 39 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
40 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments
41 thereto, if committed in whole or in part for the purpose of the sexual
42 gratification of the defendant or another;
 - 43 (14) commercial sexual exploitation of a child, as defined in K.S.A.

1 2018 Supp. 21-6422, and amendments thereto;

2 (15) promoting the sale of sexual relations, as defined in K.S.A. 2018
3 Supp. 21-6420, and amendments thereto;

4 (16) any conviction or adjudication for an offense that is comparable
5 to a sexually violent crime as defined in this subsection, or any out-of-state
6 conviction or adjudication for an offense that under the laws of this state
7 would be a sexually violent crime as defined in this subsection;

8 (17) an attempt, conspiracy or criminal solicitation, as defined in
9 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018
10 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
11 violent crime, as defined in this subsection; or

12 (18) any act ~~which~~ *that* has been determined beyond a reasonable
13 doubt to have been sexually motivated, unless the court, on the record,
14 finds that the act involved non-forcible sexual conduct, the victim was at
15 least 14 years of age and the offender was not more than four years older
16 than the victim. As used in this paragraph, "sexually motivated" means that
17 one of the purposes for which the defendant committed the crime was for
18 the purpose of the defendant's sexual gratification.

19 (d) "Sexually violent predator" means any person who, on or after
20 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
21 59-29a01 et seq., and amendments thereto.

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

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

25 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
26 or K.S.A. 2018 Supp. 21-5401, ~~and amendments thereto prior to its repeal~~;

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

29 (C) murder in the first degree, as defined in K.S.A. 21-3401, prior to
30 its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments thereto;

31 ~~(D)~~ (D) murder in the second degree, as defined in K.S.A. 21-3402,
32 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments
33 thereto;

34 ~~(D)~~ (E) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
35 its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;

36 ~~(E)~~ (F) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
37 to its repeal, or K.S.A. 2018 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
38 amendments thereto. The provisions of this paragraph shall not apply to
39 violations of K.S.A. 2018 Supp. 21-5405(a)(3), and amendments thereto,
40 which occurred on or after July 1, 2011, through July 1, 2013;

41 ~~(F)~~ (G) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,
42 or K.S.A. 2018 Supp. 21-5408(a), and amendments thereto;

43 ~~(G)~~ (H) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to

1 its repeal, or K.S.A. 2018 Supp. 21-5408(b), and amendments thereto;

2 (H)(I) criminal restraint, as defined in K.S.A. 21-3424, prior to its
3 repeal, or K.S.A. 2018 Supp. 21-5411, and amendments thereto, except by
4 a parent, and only when the victim is less than 18 years of age; or

5 (J) aggravated human trafficking, as defined in K.S.A. 21-3447,
6 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments
7 thereto, if not committed in whole or in part for the purpose of the sexual
8 gratification of the defendant or another;

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

12 (3) has been convicted of an offense that is comparable to any crime
13 defined in this subsection, any out-of-state conviction for an offense that
14 under the laws of this state would be an offense defined in this subsection;
15 or

16 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
17 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
18 K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and amendments
19 thereto, of an offense defined in this subsection.

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

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

22 (A) Unlawful manufacture or attempting such of any controlled
23 substance or controlled substance analog, as defined in K.S.A. 65-4159,
24 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
25 K.S.A. 2018 Supp. 21-5703, and amendments thereto;

26 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
27 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
28 ammonia or phenylpropanolamine, or their salts, isomers or salts of
29 isomers with intent to use the product to manufacture a controlled
30 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
31 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2018 Supp. 21-5709(a),
32 and amendments thereto;

33 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
34 36a05(a)(1), prior to its transfer, or K.S.A. 2018 Supp. 21-5705(a)(1), and
35 amendments thereto. The provisions of this paragraph shall not apply to
36 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)
37 ~~which~~ that occurred on or after July 1, 2009, through April 15, 2010;

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

42 (3) is or has been convicted of an attempt, conspiracy or criminal
43 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to

1 their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and
2 amendments thereto, of an offense defined in this subsection.

3 (g) Convictions or adjudications—~~which~~ *that* result from or are
4 connected with the same act, or result from crimes committed at the same
5 time, shall be counted for the purpose of this section as one conviction or
6 adjudication. Any conviction or adjudication set aside pursuant to law is
7 not a conviction or adjudication for purposes of this section. A conviction
8 or adjudication from any out-of-state court shall constitute a conviction or
9 adjudication for purposes of this section.

10 (h) "School" means any public or private educational institution,
11 including, but not limited to, postsecondary school, college, university,
12 community college, secondary school, high school, junior high school,
13 middle school, elementary school, trade school, vocational school or
14 professional school providing training or education to an offender for three
15 or more consecutive days or parts of days, or for 10 or more
16 nonconsecutive days in a period of 30 consecutive days.

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

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

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

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

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

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

39 (o) "Registering entity" means any person, agency or other
40 governmental unit, correctional facility or registering law enforcement
41 agency responsible for obtaining the required information from, and
42 explaining the required registration procedures to, any person required to
43 register pursuant to the Kansas offender registration act. "Registering

1 entity" shall include, but not be limited to, sheriff's offices, tribal police
2 departments and correctional facilities.

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

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

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

13 (s) "Duration of registration" means the length of time during which
14 an offender is required to register for a specified offense or violation.

15 (t) (1) Notwithstanding any other provision of this section, "offender"
16 shall not include any person who is:

17 (A) Convicted of unlawful transmission of a visual depiction of a
18 child, as defined in K.S.A. 2018 Supp. 21-5611(a), and amendments
19 thereto, aggravated unlawful transmission of a visual depiction of a child,
20 as defined in K.S.A. 2018 Supp. 21-5611(b), and amendments thereto, or
21 unlawful possession of a visual depiction of a child, as defined in K.S.A.
22 2018 Supp. 21-5610, and amendments thereto; or

23 (B) adjudicated as a juvenile offender for an act which if committed
24 by an adult would constitute the commission of a crime defined in
25 subsection (t)(1)(A).

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

29 Sec. 18. K.S.A. 2018 Supp. 22-4906 is hereby amended to read as
30 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted
31 of any of the following offenses, an offender's duration of registration shall
32 be, if confined, 15 years after the date of parole, discharge or release,
33 whichever date is most recent, or, if not confined, 15 years from the date of
34 conviction:

35 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
36 or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto;

37 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
38 K.S.A. 2018 Supp. 21-5511, and amendments thereto, when one of the
39 parties involved is less than 18 years of age;

40 (C) promoting the sale of sexual relations, as defined in K.S.A. 2018
41 Supp. 21-6420, and amendments thereto;

42 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
43 repeal, or K.S.A. 2018 Supp. 21-6421, prior to its amendment by section

- 1 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013,
2 when one of the parties involved is less than 18 years of age;
- 3 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
4 to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments thereto,
5 when one of the parties involved is less than 18 years of age;
- 6 (F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
7 or K.S.A. 2018 Supp. 21-5401, ~~and amendments thereto prior to its repeal~~;
- 8 (G) *aggravated murder, as defined in section 2, and amendments*
9 *thereto*;
- 10 ~~(G)~~(H) murder in the first degree, as defined in K.S.A. 21-3401, prior
11 to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments thereto;
- 12 ~~(H)~~(I) murder in the second degree, as defined in K.S.A. 21-3402,
13 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments
14 thereto;
- 15 ~~(I)~~(J) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
16 its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;
- 17 ~~(J)~~(K) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
18 to its repeal, or K.S.A. 2018 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
19 amendments thereto;
- 20 ~~(K)~~(L) criminal restraint, as defined in K.S.A. 21-3424, prior to its
21 repeal, or K.S.A. 2018 Supp. 21-5411, and amendments thereto, except by
22 a parent, and only when the victim is less than 18 years of age;
- 23 ~~(L)~~(M) any act ~~which~~-that has been determined beyond a reasonable
24 doubt to have been sexually motivated, unless the court, on the record,
25 finds that the act involved non-forcible sexual conduct, the victim was at
26 least 14 years of age and the offender was not more than four years older
27 than the victim;
- 28 ~~(M)~~(N) conviction of any person required by court order to register
29 for an offense not otherwise required as provided in the Kansas offender
30 registration act;
- 31 ~~(N)~~(O) conviction of any person felony and the court makes a finding
32 on the record that a deadly weapon was used in the commission of such
33 person felony;
- 34 ~~(O)~~(P) unlawful manufacture or attempting such of any controlled
35 substance or controlled substance analog, as defined in K.S.A. 65-4159,
36 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
37 K.S.A. 2018 Supp. 21-5703, and amendments thereto;
- 38 ~~(P)~~(Q) possession of ephedrine, pseudoephedrine, red phosphorus,
39 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
40 ammonia or phenylpropanolamine, or their salts, isomers or salts of
41 isomers with intent to use the product to manufacture a controlled
42 substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.
43 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2018 Supp. 21-

1 5709(a), and amendments thereto;
2 ~~(Q)~~(R) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
3 36a05(a)(1), prior to its transfer, or K.S.A. 2018 Supp. 21-5705(a)(1), and
4 amendments thereto; or

5 ~~(R)~~(S) any attempt, conspiracy or criminal solicitation, as defined in
6 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018
7 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
8 offense defined in this subsection.

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

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

21 (A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
22 repeal, or K.S.A. 2018 Supp. 21-5504(a)(1) or (a)(2), and amendments
23 thereto, when one of the parties involved is less than 18 years of age;

24 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
25 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments
26 thereto;

27 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
28 repeal, or K.S.A. 2018 Supp. 21-5509, and amendments thereto;

29 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
30 repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;

31 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
32 to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;

33 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
34 its repeal, or K.S.A. 2018 Supp. 21-5512, and amendments thereto;

35 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
36 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto, if
37 the victim is 14 or more years of age but less than 18 years of age;

38 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
39 its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;

40 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
41 repeal, or K.S.A. 2018 Supp. 21-6420, prior to its amendment by section
42 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
43 the person selling sexual relations is 14 or more years of age but less than

1 18 years of age; or

2 (J) 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. 2018
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 25 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 (c) Upon a second or subsequent conviction of an offense requiring
14 registration, an offender's duration of registration shall be for such
15 offender's lifetime.

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

19 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
20 2018 Supp. 21-5503, and amendments thereto;

21 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
22 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and
23 amendments thereto;

24 (3) aggravated indecent liberties with a child, as defined in K.S.A.
25 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and
26 amendments thereto;

27 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
28 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and
29 amendments thereto;

30 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
31 to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;

32 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
33 to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments thereto;

34 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
35 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto, if
36 the victim is less than 14 years of age;

37 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
38 repeal, or K.S.A. 2018 Supp. 21-6420, prior to its amendment by section
39 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
40 the person selling sexual relations is less than 14 years of age;

41 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
42 K.S.A. 2018 Supp. 21-5408(a), and amendments thereto;

43 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its

1 repeal, or K.S.A. 2018 Supp. 21-5408(b), and amendments thereto;

2 (11) commercial sexual exploitation of a child, as defined in K.S.A.
3 2018 Supp. 21-6422, and amendments thereto; or

4 (12) 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. 2018
6 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
7 offense defined in this subsection.

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

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

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

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

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

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

36 (g) Notwithstanding any other provisions of this section, for an
37 offender 14 years of age or more who is adjudicated as a juvenile offender
38 for an act which if committed by an adult would constitute a sexually
39 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and
40 such crime is not an off-grid felony or a felony ranked in severity level 1
41 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or
42 K.S.A. 2018 Supp. 21-6804, and amendments thereto, the court shall:

43 (1) Require registration until such offender reaches 18 years of age, at

1 the expiration of five years from the date of adjudication or, if confined,
2 from release from confinement, whichever date occurs later. Any period of
3 time ~~during which~~ *when* the offender is incarcerated in any jail, juvenile
4 facility or correctional facility or ~~during which~~ *when* the offender does not
5 comply with any and all requirements of the Kansas offender registration
6 act shall not count toward the duration of registration;

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

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

17 If such offender violates a condition of release during the term of the
18 conditional release, the court may require such offender to register
19 pursuant to ~~paragraph~~ *subsection (g)(1)*.

20 (h) Notwithstanding any other provisions of this section, an offender
21 14 years of age or more who is adjudicated as a juvenile offender for an
22 act which if committed by an adult would constitute a sexually violent
23 crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such
24 crime is an off-grid felony or a felony ranked in severity level 1 of the
25 nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A.
26 2018 Supp. 21-6804, and amendments thereto, shall be required to register
27 for such offender's lifetime.

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

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

39 (k) For any person moving to Kansas who has been convicted or
40 adjudicated in an out-of-state court, or who was required to register under
41 an out-of-state law, the duration of registration shall be the length of time
42 required by the out-of-state jurisdiction or by the Kansas offender
43 registration act, whichever length of time is longer. The provisions of this

1 subsection shall apply to convictions or adjudications prior to June 1,
2 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
3 convictions or adjudications on or after June 1, 2006, and to persons who
4 moved to Kansas on or after June 1, 2006.

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

12 Sec. 19. K.S.A. 2018 Supp. 23-3222 is hereby amended to read as
13 follows: 23-3222. (a) Except as provided in subsection (d), a parent
14 entitled to legal custody or residency of or parenting time with a child
15 under this article shall give written notice to the other parent not less than
16 30 days prior to: (1) Changing the residence of the child; or (2) removing
17 the child from this state for a period of time exceeding 90 days. Such
18 notice shall be sent by restricted mail, return receipt requested, to the last
19 known address of the other parent.

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

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

35 (d) A parent entitled to the legal custody or residency of a child under
36 this article shall not be required to give the notice required by this section
37 to the other parent when the other parent has been convicted of any crime
38 specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes
39 Annotated, *or K.S.A. 2018 Supp. 21-5401*, prior to their repeal, or K.S.A.
40 2018 Supp. ~~21-5401~~ 21-5402 through 21-5609, *section 2*, 21-6104, 21-
41 6325, 21-6326 or 21-6419 through 21-6422, and amendments thereto, in
42 which the child is the victim of such crime.

43 Sec. 20. K.S.A. 2018 Supp. 38-2255 is hereby amended to read as

1 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
2 disposition, the court shall give consideration to:

- 3 (1) The child's physical, mental and emotional condition;
- 4 (2) the child's need for assistance;
- 5 (3) the manner in which the parent participated in the abuse, neglect
6 or abandonment of the child;
- 7 (4) any relevant information from the intake and assessment process;
8 and
- 9 (5) the evidence received at the dispositional hearing.

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

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

19 (c) *Removal of a child from custody of a parent*. The court shall not
20 enter the initial order removing a child from the custody of a parent
21 pursuant to this section unless the court first finds probable cause that: (1)
22 (A) The child is likely to sustain harm if not immediately removed from
23 the home;

24 (B) allowing the child to remain in home is contrary to the welfare of
25 the child; or

26 (C) immediate placement of the child is in the best interest of the
27 child; and

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

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

34 (d) *Custody of a child removed from the custody of a parent*. If the
35 court has made the findings required by subsection (c), the court shall
36 enter an order awarding custody to: A relative of the child or to a person
37 with whom the child has close emotional ties who shall not be required to
38 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
39 and amendments thereto; any other suitable person; a shelter facility; a
40 youth residential facility; a staff secure facility, notwithstanding any other
41 provision of law, if the child has been subjected to human trafficking or
42 aggravated human trafficking, as defined by K.S.A. 2018 Supp. 21-5426,
43 and amendments thereto, or commercial sexual exploitation of a child, as

1 defined by K.S.A. 2018 Supp. 21-6422, and amendments thereto, or the
2 child committed an act which, if committed by an adult, would constitute a
3 violation of K.S.A. 2018 Supp. 21-6419, and amendments thereto; or, if
4 the child is 15 years of age or younger, or 16 or 17 years of age if the child
5 has no identifiable parental or family resources or shows signs of physical,
6 mental, emotional or sexual abuse, to the secretary. Custody awarded
7 under this subsection shall continue until further order of the court.

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

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

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

32 (4) The court may enter an order restraining any alleged perpetrator
33 of physical, mental or emotional abuse or sexual abuse of the child from
34 residing in the child's home; visiting, contacting, harassing or intimidating
35 the child, other family member or witness; or attempting to visit, contact,
36 harass or intimidate the child, other family member or witness. Such
37 restraining order shall be served by personal service pursuant to K.S.A.
38 2018 Supp. 38-2237(a), and amendments thereto, on any alleged
39 perpetrator to whom the order is directed.

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

43 (e) *Further determinations regarding a child removed from the home.*

1 If custody has been awarded under subsection (d) to a person other than a
2 parent, a permanency plan shall be provided or prepared pursuant to
3 K.S.A. 2018 Supp. 38-2264, and amendments thereto. If a permanency
4 plan is provided at the dispositional hearing, the court may determine
5 whether reintegration is a viable alternative or, if reintegration is not a
6 viable alternative, whether the child should be placed for adoption or a
7 permanent custodian appointed. In determining whether reintegration is a
8 viable alternative, the court shall consider:

9 (1) Whether a parent has been found by a court to have committed
10 one of the following crimes or to have violated the law of another state
11 prohibiting such crimes or to have aided and abetted, attempted, conspired
12 or solicited the commission of one of these crimes: (A) *Capital murder*,
13 *K.S.A. 21-3439, prior to its repeal, or K.S.A. Supp. 2018 21-5401, prior to*
14 *its repeal; (B) aggravated murder, section 2, and amendments thereto; (C)*
15 *murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A.*
16 *2018 Supp. 21-5402, and amendments thereto; ~~(B) (D) murder in the~~*
17 *second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2018 Supp.*
18 *21-5403, and amendments thereto; ~~(C) capital murder, K.S.A. 21-3439,~~*
19 *~~prior to its repeal, or K.S.A. 2018 Supp. 21-5401, and amendments~~*
20 *~~thereto; ~~(D) (E) voluntary manslaughter, K.S.A. 21-3403, prior to its~~~~*
21 *repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto; or ~~(E) (F)~~*
22 *a felony battery that resulted in bodily injury;*

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

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

28 (4) whether the child has been in the custody of the secretary and
29 placed with neither parent for 15 of the most recent 22 months beginning
30 60 days after the date ~~on which~~ when a child in the secretary's custody was
31 removed from the child's home;

32 (5) whether the parents have failed to work diligently toward
33 reintegration;

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

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

38 (f) *Proceedings if reintegration is not a viable alternative.* If the court
39 determines that reintegration is not a viable alternative, proceedings to
40 terminate parental rights and permit placement of the child for adoption or
41 appointment of a permanent custodian shall be initiated unless the court
42 finds that compelling reasons have been documented in the case plan why
43 adoption or appointment of a permanent custodian would not be in the best

1 interests of the child. If compelling reasons have not been documented, the
2 county or district attorney shall file a motion within 30 days to terminate
3 parental rights or a motion to appoint a permanent custodian within 30
4 days and the court shall hold a hearing on the motion within 90 days of its
5 filing. No hearing is required when the parents voluntarily relinquish
6 parental rights or consent to the appointment of a permanent custodian.

7 (g) *Additional Orders*. In addition to or in lieu of any other order
8 authorized by this section:

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

16 (2) If the court has reason to believe that a child is before the court
17 due, in whole or in part, to the use or misuse of alcohol or a violation of
18 K.S.A. 2018 Supp. 21-5701 through 21-5717, and amendments thereto, by
19 the child, a parent of the child, or another person responsible for the care
20 of the child, the court may order the child, parent of the child or other
21 person responsible for the care of the child to submit to and complete an
22 alcohol and drug evaluation by a qualified person or agency and comply
23 with any recommendations. If the evaluation is performed by a
24 community-based alcohol and drug safety program certified pursuant to
25 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
26 other person responsible for the care of the child shall pay a fee not to
27 exceed the fee established by that statute. If the court finds that the child
28 and those legally liable for the child's support are indigent, the fee may be
29 waived. In no event shall the fee be assessed against the secretary.

30 (3) If child support has been requested and the parent or parents have
31 a duty to support the child, the court may order one or both parents to pay
32 child support and, when custody is awarded to the secretary, the court shall
33 order one or both parents to pay child support. The court shall determine,
34 for each parent separately, whether the parent is already subject to an order
35 to pay support for the child. If the parent is not presently ordered to pay
36 support for any child who is subject to the jurisdiction of the court and the
37 court has personal jurisdiction over the parent, the court shall order the
38 parent to pay child support in an amount determined under K.S.A. 2018
39 Supp. 38-2277, and amendments thereto. Except for good cause shown,
40 the court shall issue an immediate income withholding order pursuant to
41 K.S.A. 2018 Supp. 23-3101 et seq., and amendments thereto, for each
42 parent ordered to pay support under this subsection, regardless of whether
43 a payor has been identified for the parent. A parent ordered to pay child

1 support under this subsection shall be notified, at the hearing or otherwise,
2 that the child support order may be registered pursuant to K.S.A. 2018
3 Supp. 38-2279, and amendments thereto. The parent shall also be informed
4 that, after registration, the income withholding order may be served on the
5 parent's employer without further notice to the parent and the child support
6 order may be enforced by any method allowed by law. Failure to provide
7 this notice shall not affect the validity of the child support order.

8 Sec. 21. K.S.A. 2018 Supp. 38-2271 is hereby amended to read as
9 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-
10 414, and amendments thereto, that a parent is unfit by reason of conduct or
11 condition—~~which~~ *that* renders the parent unable to fully care for a child, if
12 the state establishes, by clear and convincing evidence, that:

13 (1) A parent has previously been found to be an unfit parent in
14 proceedings under K.S.A. 2018 Supp. 38-2266 et seq., and amendments
15 thereto, or comparable proceedings under the laws of another jurisdiction;

16 (2) a parent has twice before been convicted of a crime specified in
17 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
18 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
19 Annotated, or K.S.A. 2018 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
20 through 21-6421, and amendments thereto, or comparable offenses under
21 the laws of another jurisdiction, or an attempt or attempts to commit such
22 crimes and the victim was under the age of 18 years;

23 (3) on two or more prior occasions a child in the physical custody of
24 the parent has been adjudicated a child in need of care as defined by
25 K.S.A. 2018 Supp. 38-2202(d)(1), (d)(3), (d)(5) or (d)(11), and
26 amendments thereto, or comparable proceedings under the laws of another
27 jurisdiction;

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

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

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

41 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
42 prior to its repeal, or K.S.A. 2018 Supp. 21-5401, *prior to its repeal*,
43 *aggravated murder, section 2*, and amendments thereto, murder in the first

1 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2018 Supp. 21-5402,
2 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
3 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments
4 thereto, voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or
5 K.S.A. 2018 Supp. 21-5404, and amendments thereto, human trafficking
6 or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their
7 repeal, or K.S.A. 2018 Supp. 21-5426, and amendments thereto, or
8 commercial sexual exploitation of a child, K.S.A. 2018 Supp. 21-6422,
9 and amendments thereto, or comparable proceedings under the laws of
10 another jurisdiction or, has been adjudicated a juvenile offender because of
11 an act which if committed by an adult would be an offense as provided in
12 this subsection, and the victim of such murder was the other parent of the
13 child;

14 (8) a parent abandoned or neglected the child after having knowledge
15 of the child's birth or either parent has been granted immunity from
16 prosecution for abandonment of the child under K.S.A. 21-3604(b), prior
17 to its repeal, or K.S.A. 2018 Supp. 21-5605(d), and amendments thereto;
18 or

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

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

24 (11) a father abandoned the mother after having knowledge of the
25 pregnancy;

26 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
27 repeal, or K.S.A. 2018 Supp. 21-5503, and amendments thereto, or
28 comparable proceedings under the laws of another jurisdiction resulting in
29 the conception of the child; or

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

34 (b) The burden of proof is on the parent to rebut the presumption of
35 unfitness by a preponderance of the evidence. In the absence of proof that
36 the parent is presently fit and able to care for the child or that the parent
37 will be fit and able to care for the child in the foreseeable future, the court
38 shall terminate parental rights in proceedings pursuant to K.S.A. 2018
39 Supp. 38-2266 et seq., and amendments thereto.

40 Sec. 22. K.S.A. 2018 Supp. 38-2303 is hereby amended to read as
41 follows: 38-2303. (a) Proceedings under this code involving acts
42 committed by a juvenile which, if committed by an adult, would constitute
43 a violation of any of the following statutes may be commenced at any

1 time: (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
 2 2018 Supp. 21-5503, and amendments thereto; (2) aggravated criminal
 3 sodomy as defined in K.S.A. 21-3506, prior to its repeal, or ~~subsection (b)~~
 4 ~~of~~ K.S.A. 2018 Supp. 21-5504(b), and amendments thereto; (3) murder as
 5 described in K.S.A. 21-3401, 21-3402-~~or~~, 21-3439; *or* K.S.A. 2018 Supp
 6 21-5401, prior to their repeal, or K.S.A. 2018 Supp. ~~21-5401~~, 21-5402-~~or~~,
 7 21-5403 *or* section 2, and amendments thereto; (4) terrorism as defined in
 8 K.S.A. 21-3449, prior to its repeal, or K.S.A. 2018 Supp. 21-5421, and
 9 amendments thereto; or (5) illegal use of weapons of mass destruction as
 10 defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2018 Supp. 21-
 11 5422, and amendments thereto.

12 (b) Except as provided by subsections (c) and (e), a proceeding under
 13 this code for any act committed by a juvenile which, if committed by an
 14 adult, would constitute a violation of any of the following statutes shall be
 15 commenced within five years after its commission if the victim is less than
 16 16 years of age: (1) Lewd and lascivious behavior as defined in K.S.A. 21-
 17 3508, prior to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments
 18 thereto; (2) unlawful voluntary sexual relations as defined in K.S.A. 21-
 19 3522, prior to its repeal, or K.S.A. 2018 Supp. 21-5507, and amendments
 20 thereto; or (3) aggravated incest as defined in K.S.A. 21-3603, prior to its
 21 repeal, or subsection (b) of K.S.A. 2018 Supp. 21-5604, and amendments
 22 thereto.

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

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

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

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

36 (d) Except as provided by subsection (e), proceedings under this code
 37 not governed by subsections (a), (b) or (c) shall be commenced within two
 38 years after the act giving rise to the proceedings is committed.

39 (e) The period within which the proceedings must be commenced
 40 shall not include any period in which:

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

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

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

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

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

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

33 Sec. 23. K.S.A. 2018 Supp. 38-2312 is hereby amended to read as
34 follows: 38-2312. (a) Except as provided in subsections (b) and (c), any
35 records or files specified in this code concerning a juvenile may be
36 expunged upon application to a judge of the court of the county ~~in which~~
37 *where* the records or files are maintained. The application for expungement
38 may be made by the juvenile, if 18 years of age or older or, if the juvenile
39 is less than 18 years of age, by the juvenile's parent or next friend.

40 (b) There shall be no expungement of records or files concerning acts
41 committed by a juvenile which; if committed by an adult; would constitute
42 a violation of *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2018 Supp. 21-*
43 *5401, prior to its repeal, capital murder; section 2, and amendments*

1 *thereto, aggravated murder*; K.S.A. 21-3401, prior to its repeal, or K.S.A.
2 2018 Supp. 21-5402, and amendments thereto, murder in the first degree;
3 K.S.A. 21-3402, prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and
4 amendments thereto, murder in the second degree; K.S.A. 21-3403, prior
5 to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto,
6 voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A.
7 2018 Supp. 21-5405, and amendments thereto, involuntary manslaughter;
8 ~~K.S.A. 21-3439, prior to its repeal, or K.S.A. 2018 Supp. 21-5401, and~~
9 ~~amendments thereto, capital murder~~; K.S.A. 21-3442, prior to its repeal, or
10 K.S.A. 2018 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto,
11 involuntary manslaughter while driving under the influence of alcohol or
12 drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp. 21-5503,
13 and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or
14 K.S.A. 2018 Supp. 21-5506(a), and amendments thereto, indecent liberties
15 with a child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-
16 5506(b), and amendments thereto, aggravated indecent liberties with a
17 child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2018 Supp. 21-
18 5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.
19 21-3510, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and
20 amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior
21 to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments thereto,
22 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its
23 repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto, sexual
24 exploitation of a child; K.S.A. 2018 Supp. 21-5514(a), and amendments
25 thereto, internet trading in child pornography; K.S.A. 2018 Supp. 21-
26 5514(b), and amendments thereto, aggravated internet trading in child
27 pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2018 Supp. 21-
28 5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608,
29 prior to its repeal, or K.S.A. 2018 Supp. 21-5601(a), and amendments
30 thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.
31 2018 Supp. 21-5602, and amendments thereto, abuse of a child; or which
32 would constitute an attempt to commit a violation of any of the offenses
33 specified in this subsection.

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

40 (d) When a petition for expungement is filed, the court shall set a date
41 for a hearing on the petition and shall give notice thereof to the county or
42 district attorney. The petition shall state: (1) The juvenile's full name; (2)
43 the full name of the juvenile as reflected in the court record, if different

1 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
2 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
3 of the trial court. Except as otherwise provided by law, a petition for
4 expungement shall be accompanied by a docket fee in the amount of \$176.
5 On and after July 1, 2017, through June 30, 2019, the supreme court may
6 impose a charge, not to exceed \$19 per case, to fund the costs of non-
7 judicial personnel. All petitions for expungement shall be docketed in the
8 original action. Any person who may have relevant information about the
9 petitioner may testify at the hearing. The court may inquire into the
10 background of the petitioner.

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

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

15 (ii) one year has elapsed since the final discharge for an adjudication
16 concerning acts committed by a juvenile which, if committed by an adult,
17 would constitute a violation of K.S.A. 2018 Supp. 21-6419, and
18 amendments thereto; or

19 (iii) the juvenile is a victim of human trafficking, aggravated human
20 trafficking or commercial sexual exploitation of a child, the adjudication
21 concerned acts committed by the juvenile as a result of such victimization,
22 including, but not limited to, acts which, if committed by an adult, would
23 constitute a violation of K.S.A. 2018 Supp. 21-6203 or 21-6419, and
24 amendments thereto, and the hearing on expungement occurred on or after
25 the date of final discharge. The provisions of this clause shall not allow an
26 expungement of records or files concerning acts described in subsection
27 (b);

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

33 (C) the circumstances and behavior of the petitioner warrant
34 expungement.

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

37 (f) Upon entry of an order expunging records or files, the offense
38 ~~which~~ *that* the records or files concern shall be treated as if it never
39 occurred, except that upon conviction of a crime or adjudication in a
40 subsequent action under this code the offense may be considered in
41 determining the sentence to be imposed. The petitioner, the court and all
42 law enforcement officers and other public offices and agencies shall
43 properly reply on inquiry that no record or file exists with respect to the

1 juvenile. Inspection of the expunged files or records thereafter may be
2 permitted by order of the court upon petition by the person who is the
3 subject thereof. The inspection shall be limited to inspection by the person
4 who is the subject of the files or records and the person's designees.

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

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

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

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

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

25 (1) The person whose record was expunged;

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

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

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

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

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

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

8 (8) the Kansas sentencing commission; or

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

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

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

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

18 Sec. 24. K.S.A. 2018 Supp. 38-2365 is hereby amended to read as
19 follows: 38-2365. (a) When a juvenile offender has been placed in the
20 custody of the secretary, the secretary shall have a reasonable time to make
21 a placement. If the juvenile offender has not been placed, any party who
22 believes that the amount of time elapsed without placement has exceeded a
23 reasonable time may file a motion for review with the court. In
24 determining what is a reasonable amount of time, matters considered by
25 the court shall include, but not be limited to, the nature of the underlying
26 offense, efforts made for placement of the juvenile offender and the
27 availability of a suitable placement. The secretary shall notify the court,
28 the juvenile's attorney of record and the juvenile's parent, in writing, of the
29 initial placement and any subsequent change of placement as soon as the
30 placement has been accomplished. The notice to the juvenile offender's
31 parent shall be sent to such parent's last known address or addresses. The
32 court shall have no power to direct a specific placement by the secretary,
33 but may make recommendations to the secretary. The secretary may place
34 the juvenile offender in an institution operated by the secretary, a youth
35 residential facility or any other appropriate placement. If the court has
36 recommended an out-of-home placement, the secretary may not return the
37 juvenile offender to the home from which removed without first notifying
38 the court of the plan.

39 (b) If a juvenile is in the custody of the secretary, the secretary shall
40 prepare and present a permanency plan at sentencing or within 30 days
41 thereafter. If the juvenile is 14 years of age or older and the juvenile is
42 able, the secretary shall prepare the permanency plan in consultation with
43 the juvenile. If a permanency plan is already in place under a child in need

1 of care proceeding, the court may adopt the plan under the present
2 proceeding. The written permanency plan shall provide for reintegration of
3 the juvenile into such juvenile's family or, if reintegration is not a viable
4 alternative, for other permanent placement of the juvenile. Reintegration
5 may not be a viable alternative when: (1) The parent has been found by a
6 court to have committed *capital murder, K.S.A. 21-3439, prior to its*
7 *repeal, or K.S.A. 2018 Supp. 21-5401, prior to its repeal, aggravated*
8 *murder, section 2, and amendments thereto*, murder in the first degree,
9 K.S.A. 21-3401, prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and
10 amendments thereto, murder in the second degree, K.S.A. 21-3402, prior
11 to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments thereto,
12 ~~capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2018 Supp.~~
13 ~~21-5401, and amendments thereto~~, voluntary manslaughter, K.S.A. 21-
14 3403, prior to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments
15 thereto, of a child or violated a law of another state ~~which~~ *that* prohibits
16 such murder or manslaughter of a child;

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

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

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

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

27 (6) the juvenile has been in extended out-of-home placement as
28 defined in K.S.A. 2018 Supp. 38-2202, and amendments thereto.

29 (c) If the juvenile is placed in the custody of the secretary, the plan
30 shall be prepared and submitted by the secretary. If the juvenile is placed
31 in the custody of a facility or person other than the secretary, the plan shall
32 be prepared and submitted by a court services officer. If the permanency
33 goal is reintegration into the family, the permanency plan shall include
34 measurable objectives and time schedules for reintegration.

35 (d) During the time a juvenile remains in the custody of the secretary,
36 the secretary shall submit to the court, at least every six months, a written
37 report of the progress being made toward the goals of the permanency plan
38 submitted pursuant to subsections (b) and (c) and the specific actions taken
39 to achieve the goals of the permanency plan. If the juvenile is placed in
40 foster care, the court may request the foster parent to submit to the court,
41 at least every six months, a report in regard to the juvenile's adjustment,
42 progress and condition. Such report shall be made a part of the juvenile's
43 court social file. The court shall review the plan submitted by the secretary

1 and the report, if any, submitted by the foster parent and determine
2 whether reasonable efforts and progress have been made to achieve the
3 goals of the permanency plan. If the court determines that progress is
4 inadequate or that the permanency plan is no longer viable, the court shall
5 hold a hearing pursuant to subsection (e).

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

15 (1) Reintegrated with the juvenile's parents;
16 (2) placed for adoption;
17 (3) placed with a permanent custodian; or
18 (4) if the juvenile is 16 years of age or older and the secretary has
19 documented compelling reasons why it would not be in the juvenile's best
20 interests for a placement in one of the placements pursuant to paragraphs
21 (1), (2) or (3), placed in another planned permanent arrangement.

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

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

26 (2) make a written finding as to whether the reasonable and prudent
27 parenting standard has been met and whether the juvenile has regular,
28 ongoing opportunities to engage in age or developmentally appropriate
29 activities. The secretary shall report to the court the steps the secretary is
30 taking to ensure that the reasonable and prudent parenting standard is
31 being met and that the juvenile has regular, ongoing opportunities to
32 engage in age or developmentally appropriate activities, including
33 consultation with the juvenile in an age-appropriate manner about the
34 opportunities of the juvenile to participate in the activities; and

35 (3) if the juvenile is 14 years of age or older, document the efforts
36 made by the secretary to help the juvenile prepare for the transition from
37 custody to a successful adulthood. The secretary shall report to the court
38 the programs and services that are being provided to the juvenile, which
39 will help the juvenile prepare for the transition from custody to a
40 successful adulthood.

41 (g) The requirements of this subsection shall apply only if the
42 permanency goal in place at the time of the hearing is another planned
43 permanent arrangement as described in subsection (e)(4). At each

1 permanency hearing held with respect to the juvenile, in addition to the
2 requirements of subsection (f), the court shall:

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

6 (2) document the intensive, ongoing and, as of the date of the hearing,
7 unsuccessful permanency efforts made by the secretary to return the
8 juvenile home or secure a placement for the juvenile with a fit and willing
9 relative, a legal guardian or an adoptive parent. The secretary shall report
10 to the court the intensive, ongoing and, as of the date of the hearing,
11 unsuccessful efforts made by the secretary to return the juvenile home or
12 secure a placement for the juvenile with a fit and willing relative, a legal
13 guardian or an adoptive parent, including efforts that utilize search
14 technology, including social media, to find biological family members of
15 the children; and

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

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

37 (i) If the court finds reintegration continues to be a viable alternative,
38 the court shall determine whether and, if applicable, when the juvenile will
39 be returned to the parent. The court may rescind any of its prior
40 dispositional orders and enter any dispositional order authorized by this
41 code or may order that a new plan for the reintegration be prepared and
42 submitted to the court. If reintegration cannot be accomplished as
43 approved by the court, the court shall be informed and shall schedule a

1 hearing pursuant to subsection (j). No such hearing is required when the
2 parent voluntarily relinquishes parental rights or agrees to appointment of
3 a permanent guardian.

4 (j) When the court finds any of the following conditions exist, the
5 county or district attorney or the county or district attorney's designee shall
6 file a petition alleging the juvenile to be a child in need of care and
7 requesting termination of parental rights pursuant to the Kansas code for
8 care of children: (1) The court determines that reintegration is not a viable
9 alternative and either adoption or permanent guardianship might be in the
10 best interests of the juvenile;

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

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

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

19 (k) A petition to terminate parental rights is not required to be filed if
20 one of the following exceptions is documented to exist: (1) The juvenile is
21 in a stable placement with relatives;

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

25 (3) there are one or more documented reasons why such filing would
26 not be in the best interests of the juvenile. Documented reasons may
27 include, but are not limited to: The juvenile has close emotional bonds
28 with a parent, which should not be broken; the juvenile is 14 years of age
29 or older and, after advice and counsel, refuses to be adopted; insufficient
30 grounds exist for termination of parental rights; the juvenile is an
31 unaccompanied refugee minor; or there are international legal or
32 compelling foreign policy reasons precluding termination of parental
33 rights.

34 Sec. 25. K.S.A. 2018 Supp. 39-970 is hereby amended to read as
35 follows: 39-970. (a) As used in this section:

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

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

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

6 (4) "Department" means the Kansas department for aging and
7 disability services.

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

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

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

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

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

22 (b) (1) No person shall knowingly operate an adult care home if, in
23 the adult care home, there works any person who has adverse findings on
24 any state or national registry, as defined in rules and regulations adopted
25 by the secretary for aging and disability services, or has been convicted of
26 or has been adjudicated a juvenile offender because of having committed
27 an act that if done by an adult would constitute the commission of capital
28 murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 2018
29 Supp. 21-5401, *prior to its repeal, aggravated murder, section 2*, and
30 amendments thereto, first degree murder, pursuant to K.S.A. 21-3401,
31 prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments
32 thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its
33 repeal, or K.S.A. 2018 Supp. 21-5403(a), and amendments thereto,
34 voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or
35 K.S.A. 2018 Supp. 21-5404, and amendments thereto, assisting suicide,
36 pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-
37 5407, and amendments thereto, mistreatment of a dependent adult or
38 mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its
39 repeal, or K.S.A. 2018 Supp. 21-5417, and amendments thereto, human
40 trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 2018
41 Supp. 21-5426(a), and amendments thereto, aggravated human trafficking,
42 pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 2018 Supp. 21-
43 5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior

1 to its repeal, or K.S.A. 2018 Supp. 21-5503, and amendments thereto,
2 indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its
3 repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto,
4 aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504,
5 prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and amendments
6 thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to
7 its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto,
8 indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its
9 repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments thereto,
10 aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511,
11 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments
12 thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to
13 its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto, sexual
14 battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 2018
15 Supp. 21-5505(a), and amendments thereto, aggravated sexual battery,
16 pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 2018 Supp. 21-
17 5505(b), and amendments thereto, commercial sexual exploitation of a
18 child, pursuant to K.S.A. 2018 Supp. 21-6422, and amendments thereto, an
19 attempt to commit any of the crimes listed in this paragraph, pursuant to
20 K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018 Supp. 21-5301, and
21 amendments thereto, a conspiracy to commit any of the crimes listed in
22 this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A.
23 2018 Supp. 21-5302, and amendments thereto, or criminal solicitation of
24 any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303,
25 prior to its repeal, or K.S.A. 2018 Supp. 21-5303, and amendments
26 thereto, or similar statutes of other states or the federal government. The
27 provisions of subsection (b)(2)(C) shall not apply to any person who is
28 employed by an adult care home on or before July 1, 2010, and while
29 continuously employed by the same adult care home or to any person
30 during or upon successful completion of a diversion agreement.

31 (2) A person operating an adult care home may employ an applicant
32 who has been convicted of any of the following if six or more years have
33 elapsed since completion of the sentence imposed or the applicant was
34 discharged from probation, a community correctional services program,
35 parole, postrelease supervision, conditional release or a suspended
36 sentence; if six or more years have elapsed since the applicant has been
37 finally discharged from the custody of the commissioner of juvenile justice
38 or from probation or has been adjudicated a juvenile offender, whichever
39 time is longer; or if the applicant has been granted a waiver of such six-
40 year disqualification: A felony conviction for a crime that is described in:
41 (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to
42 their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated,
43 and amendments thereto, except those crimes listed in subsection (b)(1);

1 (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior
2 to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
3 Annotated, or K.S.A. 2018 Supp. 21-6420, and amendments thereto,
4 except those crimes listed in subsection (b)(1) and K.S.A. 21-3605, prior
5 to its repeal, or K.S.A. 2018 Supp. 21-5606, and amendments thereto; (C)
6 K.S.A. 21-3701, prior to its repeal, or K.S.A. 2018 Supp. 21-5801, and
7 amendments thereto; (D) an attempt to commit any of the crimes listed in
8 this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A.
9 2018 Supp. 21-5301, and amendments thereto; (E) a conspiracy to commit
10 any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302,
11 prior to its repeal, or K.S.A. 2018 Supp. 21-5302, and amendments
12 thereto; (F) criminal solicitation of any of the crimes listed in this
13 paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2018
14 Supp. 21-5303, and amendments thereto; or (G) similar statutes of other
15 states or the federal government.

16 An individual who has been disqualified for employment due to
17 conviction or adjudication of an offense listed in this paragraph (2) may
18 apply to the secretary for aging and disability services for a waiver of such
19 disqualification if five years have elapsed since completion of the sentence
20 for such conviction. The secretary shall adopt rules and regulations
21 establishing the waiver process and criteria to be considered by the
22 secretary in evaluating any such waiver request.

23 (3) A person operating an adult care home may employ an applicant
24 who has been convicted of any of the following if six or more years have
25 elapsed since completion of the sentence imposed or the applicant was
26 discharged from probation, a community correctional services program,
27 parole, postrelease supervision, conditional release or a suspended
28 sentence; if six or more years have elapsed since the applicant has been
29 finally discharged from the custody of the commissioner of juvenile justice
30 or from probation or has been adjudicated a juvenile offender, whichever
31 time is longer; or if the applicant has been granted a waiver of such six-
32 year disqualification:

33 (i) Interference with custody of a committed person pursuant to
34 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2018 Supp. 21-5410, and
35 amendments thereto; mistreatment of a confined person pursuant to K.S.A.
36 21-3425, prior to its repeal, or K.S.A. 2018 Supp. 21-5416, and
37 amendments thereto; unlawful administration of a substance pursuant to
38 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2018 Supp. 21-5425, and
39 amendments thereto; violation of a protective order pursuant to K.S.A. 21-
40 3843, prior to its repeal, or K.S.A. 2018 Supp. 21-5924, and amendments
41 thereto; promoting obscenity or promoting obscenity to minors pursuant to
42 K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2018 Supp.
43 21-6401, and amendments thereto; or cruelty to animals pursuant to

1 K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 2018
2 Supp. 21-6412, and amendments thereto; or

3 (ii) any felony conviction of: Unlawful manufacture of a controlled
4 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
5 K.S.A. 2018 Supp. 21-5703, and amendments thereto; unlawful cultivation
6 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
7 36a05, prior to its repeal, or K.S.A. 2018 Supp. 21-5705, and amendments
8 thereto; unlawful manufacture, distribution, cultivation or possession of a
9 controlled substance using a communication facility pursuant to K.S.A.
10 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2018 Supp. 21-5707,
11 and amendments thereto; unlawful obtainment or sale of a prescription-
12 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or
13 K.S.A. 2018 Supp. 21-5708, and amendments thereto; unlawful
14 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.
15 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2018 Supp. 21-5710,
16 and amendments thereto; unlawful distribution or possession of a
17 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,
18 prior to its repeal, or K.S.A. 2018 Supp. 21-5713, and amendments
19 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.
20 2018 Supp. 21-5823, and amendments thereto; criminal use of a financial
21 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2018 Supp.
22 21-5828, and amendments thereto; any violation of the Kansas medicaid
23 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,
24 or K.S.A. 2018 Supp. 21-5925 et seq., and amendments thereto; making a
25 false claim, statement or representation to the medicaid program pursuant
26 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2018 Supp. 21-5927, and
27 amendments thereto; unlawful acts relating to the medicaid program
28 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2018 Supp. 21-
29 5928, and amendments thereto; obstruction of a medicaid fraud
30 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.
31 2018 Supp. 21-5929, and amendments thereto; identity theft or identity
32 fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A.
33 2018 Supp. 21-6107, and amendments thereto; or social welfare fraud
34 pursuant to K.S.A. 39-720, and amendments thereto.

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

39 An individual who has been disqualified for employment due to
40 conviction or adjudication of an offense listed in this paragraph (3) may
41 apply to the secretary for aging and disability services for a waiver of such
42 disqualification if five years have elapsed since completion of the sentence
43 for such conviction. The secretary shall adopt rules and regulations

1 establishing the waiver process and criteria to be considered by the
2 secretary in evaluating any such waiver request.

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

9 (d) (1) The Kansas bureau of investigation shall release all records of
10 adult and juvenile convictions and adjudications and adult and juvenile
11 convictions and adjudications of any other state or country concerning
12 persons working in an adult care home to the secretary for aging and
13 disability services. The Kansas bureau of investigation may charge to the
14 Kansas department for aging and disability services a reasonable fee for
15 providing criminal history record information under this subsection.

16 (2) The department shall require an applicant to be fingerprinted and
17 to submit to a state and national criminal history record check. The
18 fingerprints shall be used to identify the individual and to determine
19 whether the individual has a record of criminal history in this state or other
20 jurisdiction. The department is authorized to submit the fingerprints to the
21 Kansas bureau of investigation and the federal bureau of investigation for
22 a state and national criminal history record check. The department may use
23 the information obtained from fingerprinting and the criminal history
24 record check for purposes of verifying the identification of the person and
25 for making an official determination of the qualifications and fitness of the
26 person to work in the adult care home.

27 (3) An applicant for employment in an adult care home shall have 20
28 calendar days after receipt of authorization to submit the applicant's
29 fingerprints through an authorized collection site in order to be eligible for
30 provisional employment or the applicant's application shall be deemed
31 withdrawn.

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

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

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

41 (6) Individuals who have been disqualified for employment by reason
42 of their criminal history records and who have met the requirements of this
43 subsection may apply for a waiver with the department within 30 days of

1 the receipt of the notice of employment prohibition.

2 (7) The department shall adopt rules and regulations specifying the
3 criteria and procedure for issuing a waiver of the employment prohibition.
4 The secretary shall consider the following criteria when rendering a
5 decision on such a waiver request: Passage of time; extenuating
6 circumstances; demonstration of rehabilitation; and relevancy of the
7 criminal history record information to the position for which the applicant
8 is applying. Any employment prohibition issued shall remain in effect
9 unless or until a waiver is granted.

10 (e) For the purpose of complying with this section, the operator of an
11 adult care home shall request from the Kansas department for aging and
12 disability services an eligibility determination regarding adult and juvenile
13 convictions and adjudications. For the purpose of complying with this
14 section, the operator of an adult care home shall receive from any
15 employment agency or independent contractor that provides employees to
16 work in the adult care home written certification that such employees are
17 not prohibited from working in the adult care home under this section. For
18 the purpose of complying with this section, a person who operates an adult
19 care home may hire an applicant for provisional employment on a one-
20 time basis of 60 calendar days pending the results from the Kansas
21 department for aging and disability services of a request for information
22 under this subsection. A provisional employee may only be supervised by
23 an employee that has completed all training required by federal
24 regulations, rules and regulations of the department and the adult care
25 home's policies and procedures. No adult care home, the operator or
26 employees of an adult care home or an employment agency or an
27 independent contractor shall be liable for civil damages resulting from any
28 decision to employ, to refuse to employ or to discharge from employment
29 any person based on such adult care home's compliance with the
30 provisions of this section if such adult care home or employment agency
31 acts in good faith to comply with this section.

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

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

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

43 (i) The operator of an adult care home shall not be required under this

1 section to conduct a criminal history record check on an applicant for
2 employment with the adult care home if the applicant has been the subject
3 of a criminal history record check under this act within one year prior to
4 the application for employment with the adult care home.

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

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

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

20 (l) The Kansas department for aging and disability services may
21 implement the amendments made to this section by this act in phases for
22 different categories of employers. The department shall adopt rules and
23 regulations establishing dates and procedures for the implementation of the
24 criminal history record checks required by this section, and such dates may
25 be staggered to facilitate implementation of the criminal history record
26 checks required by this section.

27 (m) Upon authorization by the secretary for aging and disability
28 services, other state agencies may access an internet-based application
29 portal that is operated and maintained by the Kansas department for aging
30 and disability services for purposes of processing criminal history record
31 information requests in accordance with this section. Agencies may not
32 share criminal history record information or the resulting pass or fail
33 determinations with any other agency. The secretary for aging and
34 disability services may charge an authorized agency the amount of \$1 per
35 request made pursuant to this subsection.

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

38 Sec. 26. K.S.A. 2018 Supp. 39-2009 is hereby amended to read as
39 follows: 39-2009. (a) As used in this section:

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

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

6 (3) "Department" means the Kansas department for aging and
7 disability services.

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

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

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

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

21 (b) (1) No licensee shall knowingly operate a center, facility, hospital
22 or be a provider of services if any person who works in the center, facility,
23 hospital or for a provider of services has adverse findings on any state or
24 national registry, as defined in rules and regulations adopted by the
25 secretary for aging and disability services, or has been convicted of or has
26 been adjudicated a juvenile offender because of having ~~committing~~
27 *committed* an act that if done by an adult would constitute the commission
28 of capital murder, pursuant to K.S.A. 21-3439 or K.S.A. 2018 Supp. 21-
29 5401, prior to its repeal, or ~~K.S.A. 2018 Supp. 21-5401~~ *aggravated*
30 *murder, pursuant to section 2*, and amendments thereto, first degree
31 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2018
32 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
33 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2018 Supp. 21-5403(a),
34 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-
35 3403, prior to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments
36 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or
37 K.S.A. 2018 Supp. 21-5407, and amendments thereto, mistreatment of a
38 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-
39 3437, prior to its repeal, or K.S.A. 2018 Supp. 21-5417, and amendments
40 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,
41 or K.S.A. 2018 Supp. 21-5426(a), and amendments thereto, aggravated
42 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
43 K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, rape, pursuant to

1 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp. 21-5503, and
2 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-
3 3503, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and
4 amendments thereto, aggravated indecent liberties with a child, pursuant to
5 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and
6 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
7 3506, prior to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and
8 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
9 21-3510, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and
10 amendments thereto, aggravated indecent solicitation of a child, pursuant
11 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b),
12 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.
13 21-3516, prior to its repeal, or K.S.A. 2018 Supp. 21-5510, and
14 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to
15 its repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto,
16 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,
17 or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto, commercial
18 sexual exploitation of a child, pursuant to K.S.A. 2018 Supp. 21-6422, and
19 amendments thereto, an attempt to commit any of the crimes listed in this
20 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018
21 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of
22 the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its
23 repeal, or K.S.A. 2018 Supp. 21-5302, and amendments thereto, or
24 criminal solicitation of any of the crimes listed in this paragraph, pursuant
25 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2018 Supp. 21-5303, and
26 amendments thereto, or similar statutes of other states or the federal
27 government.

28 (2) A licensee operating a center, facility or hospital or as a provider
29 of services may employ an applicant who has been convicted of any of the
30 following if six or more years have elapsed since completion of the
31 sentence imposed or the applicant was discharged from probation, a
32 community correctional services program, parole, postrelease supervision,
33 conditional release or a suspended sentence; if six or more years have
34 elapsed since a community correctional services program, parole,
35 postrelease supervision, conditional release or a suspended sentence; or if
36 the applicant has been granted a waiver of such six-year disqualification: A
37 felony conviction for a crime that is described in: (A) Article 34 of chapter
38 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of
39 chapter 21 of the Kansas Statutes Annotated, and amendments thereto,
40 except those crimes listed in paragraph (1); (B) article 35 or 36 of chapter
41 21 of the Kansas Statutes Annotated, and amendments thereto, prior to
42 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
43 Annotated or K.S.A. 2018 Supp. 21-6420, and amendments thereto, except

1 those crimes listed in paragraph (1); (C) K.S.A. 21-3701, prior to its
2 repeal, or K.S.A. 2018 Supp. 21-5801, and amendments thereto; (D) an
3 attempt to commit any of the crimes listed in this paragraph pursuant to
4 K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018 Supp. 21-5301, and
5 amendments thereto; (E) a conspiracy to commit any of the crimes listed
6 in this paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A.
7 2018 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of
8 any of the crimes listed in this paragraph pursuant to K.S.A. 21-3303, prior
9 to its repeal, or K.S.A. 2018 Supp. 21-5303, and amendments thereto; or
10 (G) similar statutes of other states or the federal government.

11 An individual who has been disqualified for employment due to
12 conviction or adjudication of an offense listed in this paragraph (2) 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 the criteria to be utilized by the
17 secretary in evaluating any such waiver request.

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

28 (i) Interference with custody of a committed person pursuant to
29 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2018 Supp. 21-5410, and
30 amendments thereto; mistreatment of a confined person pursuant to K.S.A.
31 21-3425, prior to its repeal, or K.S.A. 2018 Supp. 21-5416, and
32 amendments thereto; unlawful administration of a substance pursuant to
33 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2018 Supp. 21-5425, and
34 amendments thereto; violation of a protective order pursuant to K.S.A. 21-
35 3843, prior to its repeal, or K.S.A. 2018 Supp. 21-5924; promoting
36 obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or
37 21-4301a, prior to their repeal, or K.S.A. 2018 Supp. 21-6401, and
38 amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-
39 4310 or 21-4311, prior to their repeal, or K.S.A. 2018 Supp. 21-6412, and
40 amendments thereto; or

41 (ii) any felony conviction of: Unlawful manufacture of a controlled
42 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
43 K.S.A. 2018 Supp. 21-5703, and amendments thereto; unlawful cultivation

1 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
2 36a05, prior to its repeal, or K.S.A. 2018 Supp. 21-5705, and amendments
3 thereto; unlawful manufacture, distribution, cultivation or possession of a
4 controlled substance using a communication facility pursuant to K.S.A.
5 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2018 Supp. 21-5707,
6 and amendments thereto; unlawful obtainment or sale of a prescription-
7 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or
8 K.S.A. 2018 Supp. 21-5708, and amendments thereto; unlawful
9 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.
10 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2018 Supp. 21-5710,
11 and amendments thereto; unlawful distribution or possession of a
12 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,
13 prior to its repeal, or K.S.A. 2018 Supp. 21-5713, and amendments
14 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.
15 2018 Supp. 21-5823, and amendments thereto; criminal use of a financial
16 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2018 Supp.
17 21-5828, and amendments thereto; any violation of the Kansas medicaid
18 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,
19 or K.S.A. 2018 Supp. 21-5925 et seq., and amendments thereto; making a
20 false claim, statement or representation to the medicaid program pursuant
21 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2018 Supp. 21-5927, and
22 amendments thereto; unlawful acts relating to the medicaid program
23 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2018 Supp. 21-
24 5928, and amendments thereto; obstruction of a medicaid fraud
25 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.
26 2018 Supp. 21-5929, and amendments thereto; identity theft or identity
27 fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A.
28 2018 Supp. 21-6107, and amendments thereto; or social welfare fraud
29 pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this
30 paragraph shall not apply to any person who is employed by a center,
31 facility, hospital or provider of services on or before July 1, 2018, and is
32 continuously employed by the same center, facility, hospital or provider of
33 services or to any person during or upon successful completion of a
34 diversion agreement.

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

42 (c) No licensee shall operate a center, facility, hospital or be a
43 provider of services if such person has been found to be an adult with an

1 impairment in need of a guardian or a conservator, or both, as provided in
2 the act for obtaining a guardian or conservator, or both. The provisions of
3 this subsection shall not apply to an individual who, as a minor, was found
4 to be in need of a guardian or conservator for reasons other than
5 impairment.

6 (d) (1) The Kansas bureau of investigation shall release all records of
7 adult and juvenile convictions and adjudications and adult and juvenile
8 convictions and adjudications of any other state or country concerning
9 persons working in a center, facility, hospital or for a provider of services
10 to the secretary for aging and disability services. The Kansas bureau of
11 investigation may charge to the Kansas department for aging and disability
12 services a reasonable fee for providing criminal history record information
13 under this subsection.

14 (2) The department shall require an applicant to be fingerprinted and
15 to submit to a state and national criminal history record check. The
16 fingerprints shall be used to identify the individual and to determine
17 whether the individual has a record of criminal history in this state or other
18 jurisdiction. The department is authorized to submit the fingerprints to the
19 Kansas bureau of investigation and the federal bureau of investigation for
20 a state and national criminal history record check. The department may use
21 the information obtained from fingerprinting and the criminal history
22 record check for purposes of verifying the identification of the person and
23 for making an official determination of the qualifications and fitness of the
24 person to work in the center, facility, hospital or for a provider of services.

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

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

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

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

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

43 (7) The department shall adopt rules and regulations specifying the

1 criteria and procedure for issuing a waiver of the employment prohibition.
2 The secretary shall consider the following criteria when rendering a
3 decision on such a waiver request: Passage of time; extenuating
4 circumstances; demonstration of rehabilitation; and relevancy of the
5 criminal history record information to the position for which the applicant
6 is applying. Any employment prohibition issued shall remain in effect
7 unless or until a waiver is granted.

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

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

19 (f) For the purpose of complying with this section, the licensee
20 operating a center, facility, hospital or a provider of services shall request
21 from the Kansas department for aging and disability services an eligibility
22 determination regarding adult and juvenile convictions and adjudications.
23 For the purpose of complying with this section, the licensee operating a
24 center, facility, hospital or a provider of services shall receive from any
25 employment agency or independent contractor that provides employees to
26 work in the center, facility, hospital or for the provider of services written
27 certification that such employees are not prohibited from working in the
28 center, facility, hospital or for the provider of services under this section.
29 For the purpose of complying with this section, a licensee may hire an
30 applicant for provisional employment on a one-time basis of 60 calendar
31 days pending the results from the Kansas department for aging and
32 disability services of an eligibility determination under this subsection. A
33 provisional employee may only be supervised by an employee who has
34 completed all training required by federal regulations, department rules
35 and regulations and the center's, facility's, hospital's or provider of
36 services' policies and procedures. No licensee, its contractors or
37 employees, shall be liable for civil damages to any person refused
38 employment or discharged from employment by reason of such licensee's
39 compliance with the provisions of this section if such licensee acts in good
40 faith to comply with this section.

41 (g) The licensee operating a center, facility, hospital or a provider of
42 services shall not require an applicant under this section to be
43 fingerprinted, if the applicant has been the subject of a criminal history

1 record check under this act within one year prior to the application for
2 employment with the licensee operating a center, facility, hospital or a
3 provider of services and has maintained a record of continuous
4 employment, with no lapse of employment of over 90 days in any center,
5 facility, hospital or a provider of services covered by this act.

6 Sec. 27. K.S.A. 65-5117 is hereby amended to read as follows: 65-
7 5117. (a) As used in this section:

8 (1) "Applicant" means an individual who applies for employment
9 with a home health agency or applies to work for an employment agency
10 or as an independent contractor that provides staff to a home health
11 agency.

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

17 (3) "Department" means the Kansas department for aging and
18 disability services.

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

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

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

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

32 (b) (1) No person shall knowingly operate a home health agency if,
33 for the home health agency, there works any person who has adverse
34 findings on any state or national registry, as defined in rules and
35 regulations adopted by the secretary for aging and disability services, or
36 has been convicted of or has been adjudicated a juvenile offender because
37 of having committed an act that if done by an adult would constitute the
38 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
39 repeal, or K.S.A. 2018 Supp. 21-5401, *prior to its repeal, aggravated*
40 *murder, pursuant to section 2*, and amendments thereto, first degree
41 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2018
42 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
43 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2018 Supp. 21-5403(a),

1 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-
2 3403, prior to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments
3 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or
4 K.S.A. 2018 Supp. 21-5407, and amendments thereto, mistreatment of a
5 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-
6 3437, prior to its repeal, or K.S.A. 2018 Supp. 21-5417, and amendments
7 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,
8 or K.S.A. 2018 Supp. 21-5426(a), and amendments thereto, aggravated
9 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
10 K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, rape, pursuant to
11 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp. 21-5503, and
12 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-
13 3503, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and
14 amendments thereto, aggravated indecent liberties with a child, pursuant to
15 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and
16 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
17 3506, prior to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and
18 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
19 21-3510, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and
20 amendments thereto, aggravated indecent solicitation of a child, pursuant
21 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b),
22 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.
23 21-3516, prior to its repeal, or K.S.A. 2018 Supp. 21-5510, and
24 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to
25 its repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto,
26 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,
27 or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto, commercial
28 sexual exploitation of a child, pursuant to K.S.A. 2018 Supp. 21-6422, and
29 amendments thereto, an attempt to commit any of the crimes listed in this
30 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018
31 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of
32 the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its
33 repeal, or K.S.A. 2018 Supp. 21-5302, and amendments thereto, or
34 criminal solicitation of any of the crimes listed in this paragraph, pursuant
35 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2018 Supp. 21-5303, and
36 amendments thereto, or similar statutes of other states or the federal
37 government. The provisions of subsection (b)(2)(C) shall not apply to any
38 person who is employed by a home health agency on or before July 1,
39 2010, and while continuously employed by the same home health agency
40 or to any person during or upon successful completion of a diversion
41 agreement.

42 (2) A person operating a home health agency may employ an
43 applicant who has been convicted of any of the following if six or more

1 years have elapsed since completion of the sentence imposed or the
2 applicant was discharged from probation, a community correctional
3 services program, parole, postrelease supervision, conditional release or a
4 suspended sentence; if six or more years have elapsed since the applicant
5 has been finally discharged from the custody of the commissioner of
6 juvenile justice or from probation or has been adjudicated a juvenile
7 offender, whichever time is longer; or if the applicant has been granted a
8 waiver of such six-year disqualification: A felony conviction for a crime
9 that is described in: (A) Article 34 of chapter 21 of the Kansas Statutes
10 Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas
11 Statutes Annotated, and amendments thereto, except those crimes listed in
12 subsection (b)(1); (B) article 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. 2018 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. 2018 Supp. 21-5606, and
17 amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
18 2018 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
19 any of the crimes listed in this paragraph pursuant to K.S.A. 21-3301, prior
20 to its repeal, or K.S.A. 2018 Supp. 21-5301, and amendments thereto; (E)
21 a conspiracy to commit any of the crimes listed in this paragraph pursuant
22 to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2018 Supp. 21-5302, and
23 amendments thereto; (F) criminal solicitation of any of the crimes listed in
24 this paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A.
25 2018 Supp. 21-5303, and amendments thereto; or (G) similar statutes of
26 other states or the federal government.

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

34 (3) A person operating a home health agency may employ an
35 applicant who has been convicted of any of the following if six or more
36 years have elapsed since completion of the sentence imposed or the
37 applicant was discharged from probation, a community correctional
38 services program, parole, postrelease supervision, conditional release or a
39 suspended sentence; if six or more years have elapsed since the applicant
40 has been finally discharged from the custody of the commissioner of
41 juvenile justice or from probation or has been adjudicated a juvenile
42 offender, whichever time is longer; or if the applicant has been granted a
43 waiver of such six-year disqualification:

1 (i) Interference with custody of a committed person pursuant to
2 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2018 Supp. 21-5410, and
3 amendments thereto; mistreatment of a confined person pursuant to K.S.A.
4 21-3425, prior to its repeal, or K.S.A. 2018 Supp. 21-5416, and
5 amendments thereto; unlawful administration of a substance pursuant to
6 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2018 Supp. 21-5425, and
7 amendments thereto; violation of a protective order pursuant to K.S.A. 21-
8 3843, prior to its repeal, or K.S.A. 2018 Supp. 21-5924; promoting
9 obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or
10 21-4301a, prior to their repeal, or K.S.A. 2018 Supp. 21-6401, and
11 amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-
12 4310 or 21-4311, prior to their repeal, or K.S.A. 2018 Supp. 21-6412, and
13 amendments thereto; or

14 (ii) any felony conviction of: Unlawful manufacture of a controlled
15 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
16 K.S.A. 2018 Supp. 21-5703, and amendments thereto; unlawful cultivation
17 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
18 36a05, prior to its repeal, or K.S.A. 2018 Supp. 21-5705, and amendments
19 thereto; unlawful manufacture, distribution, cultivation or possession of a
20 controlled substance using a communication facility pursuant to K.S.A.
21 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2018 Supp. 21-5707,
22 and amendments thereto; unlawful obtainment or sale of a prescription-
23 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or
24 K.S.A. 2018 Supp. 21-5708, and amendments thereto; unlawful
25 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.
26 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2018 Supp. 21-5710,
27 and amendments thereto; unlawful distribution or possession of a
28 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,
29 prior to its repeal, or K.S.A. 2018 Supp. 21-5713, and amendments
30 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.
31 2018 Supp. 21-5823, and amendments thereto; criminal use of a financial
32 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2018 Supp.
33 21-5828, and amendments thereto; any violation of the Kansas medicaid
34 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,
35 or K.S.A. 2018 Supp. 21-5925 et seq., and amendments thereto; making a
36 false claim, statement or representation to the medicaid program pursuant
37 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2018 Supp. 21-5927, and
38 amendments thereto; unlawful acts relating to the medicaid program
39 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2018 Supp. 21-
40 5928, and amendments thereto; obstruction of a medicaid fraud
41 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.
42 2018 Supp. 21-5929, and amendments thereto; identity theft or identity
43 fraud pursuant to K.S.A. 21-4018, prior to its repeal, or K.S.A. 2018 Supp.

1 21-6107, and amendments thereto; or social welfare fraud pursuant to
2 K.S.A. 39-720, and amendments thereto. The provisions of this paragraph
3 shall not apply to any person who is employed by a home health agency on
4 or before July 1, 2018, and is continuously employed by the same home
5 health agency or to any person during or upon successful completion of a
6 diversion agreement.

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

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

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

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

38 (3) An applicant for employment in an [a] home health agency shall
39 have 20 calendar days after receipt of authorization to submit the
40 applicant's fingerprints through an authorized collection site in order to be
41 eligible for provisional employment or the applicant's application shall be
42 deemed withdrawn.

43 (4) (A) The current or prospective employer of an applicant shall pay

1 a fee not to exceed \$19 of the total cost for criminal history record
2 information to the department for each applicant submitted.

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

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

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

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

21 (e) For the purpose of complying with this section, the operator of a
22 home health agency shall request from the Kansas department for aging
23 and disability services an eligibility determination regarding adult and
24 juvenile convictions and adjudications. For the purpose of complying with
25 this section, a person who operates a home health agency may hire an
26 applicant for provisional employment on a one-time basis of 60 calendar
27 days pending the results from the Kansas department for aging and
28 disability services of a request for information under this subsection. A
29 provisional employee may only be supervised by an employee who has
30 completed all training required by federal regulations, rules and
31 regulations of the department and the home health agency's policies and
32 procedures. No home health agency, the operator or employees of a home
33 health agency or an employment agency or an independent contractor shall
34 be liable for civil damages resulting from any decision to employ, to refuse
35 to employ or to discharge from employment any person based on such
36 home health agency's compliance with the provisions of this section if
37 such home health agency or employment agency acts in good faith to
38 comply with this section.

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

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

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

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

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

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

20 (2) All moneys collected and remitted to the department for fees
21 charged for criminal history record checks conducted pursuant to this
22 section shall be remitted to the state treasurer in accordance with K.S.A.
23 65-5113, and amendments thereto. Upon receipt of each such remittance,
24 the state treasurer shall deposit the entire amount into the state treasury to
25 the credit of the state licensure fee fund created by K.S.A. 39-930, and
26 amendments thereto.

27 (l) The department may implement the amendments made to this
28 section by this act in phases for different categories of employers. The
29 department shall adopt rules and regulations establishing dates and
30 procedures for the implementation of the criminal history record checks
31 required by this section, and such dates may be staggered to facilitate
32 implementation of the criminal history record checks required by this
33 section.

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

37 Sec. 28. K.S.A. 72-2165 is hereby amended to read as follows: 72-
38 2165. (a) The state board of education shall not knowingly issue a license
39 to or renew the license of any person who has been convicted of:

40 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
41 2018 Supp. 21-5503, and amendments thereto;

42 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
43 to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;

- 1 (3) aggravated indecent liberties with a child, as defined in K.S.A.
2 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and
3 amendments thereto;
- 4 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
5 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and
6 amendments thereto;
- 7 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
8 to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;
- 9 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
10 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments
11 thereto;
- 12 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
13 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and
14 amendments thereto;
- 15 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
16 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;
- 17 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
18 repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;
- 19 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
20 prior to its repeal, or K.S.A. 2018 Supp. 21-5601(b), and amendments
21 thereto;
- 22 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
23 or K.S.A. 2018 Supp. 21-5602, and amendments thereto;
- 24 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
25 or K.S.A. 2018 Supp. 21-5401, *prior to its repeal*;
- 26 (13) *aggravated murder, as defined in section 2*, and amendments
27 thereto;
- 28 ~~(13)~~(14) murder in the first degree, as defined in K.S.A. 21-3401,
29 prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments
30 thereto;
- 31 ~~(14)~~(15) murder in the second degree, as defined in K.S.A. 21-3402,
32 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments
33 thereto;
- 34 ~~(15)~~(16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
35 to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;
- 36 ~~(16)~~(17) involuntary manslaughter, as defined in K.S.A. 21-3404,
37 prior to its repeal, or K.S.A. 2018 Supp. 21-5405, and amendments
38 thereto;
- 39 ~~(17)~~(18) involuntary manslaughter while driving under the influence
40 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 41 ~~(18)~~(19) sexual battery, as defined in K.S.A. 21-3517, prior to its
42 repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto, when,
43 at the time the crime was committed, the victim was less than 18 years of

- 1 age or a student of the person committing such crime;
- 2 ~~(19)~~(20) aggravated sexual battery, as defined in K.S.A. 21-3518,
3 prior to its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments
4 thereto;
- 5 ~~(20)~~(21) commercial sexual exploitation of a child, as defined in
6 K.S.A. 2018 Supp. 21-6422, and amendments thereto;
- 7 ~~(21)~~(22) human trafficking, as defined in K.S.A. 21-3446, prior to its
8 repeal, or K.S.A. 2018 Supp. 21-5426(a), and amendments thereto;
- 9 ~~(22)~~(23) aggravated human trafficking, as defined in K.S.A. 21-3447,
10 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments
11 thereto;
- 12 ~~(23)~~(24) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
13 2018 Supp. 21-5301, and amendments thereto, to commit any act specified
14 in this subsection;
- 15 ~~(24)~~(25) conspiracy under K.S.A. 21-3302, prior to its repeal, or
16 K.S.A. 2018 Supp. 21-5302, and amendments thereto, to commit any act
17 specified in this subsection;
- 18 ~~(25)~~(26) an act in another state or by the federal government that is
19 comparable to any act described in this subsection; or
- 20 ~~(26)~~(27) an offense in effect at any time prior to the effective date of
21 this act that is comparable to an offense as provided in this subsection.
- 22 (b) Except as provided in subsection (c), the state board of education
23 shall not knowingly issue a license to or renew the license of any person
24 who has been convicted of, or has entered into a criminal diversion
25 agreement after having been charged with:
- 26 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
27 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes
28 Annotated, and amendments thereto, or any felony violation of any
29 provision of the uniform controlled substances act prior to July 1, 2009;
- 30 (2) a felony described in any section of article 34 of chapter 21 of the
31 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
32 of the Kansas Statutes Annotated, or K.S.A. 2018 Supp. 21-6104, 21-6325,
33 21-6326 or 21-6418, and amendments thereto, other than an act specified
34 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
35 repeal, or K.S.A. 2018 Supp. 21-5413(a), and amendments thereto, or
36 domestic battery, as described in K.S.A. 21-3412a, prior to its repeal, or
37 K.S.A. 2018 Supp. 21-5414, and amendments thereto, if the victim is a
38 minor or student;
- 39 (3) a felony described in any section of article 35 of chapter 21 of the
40 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
41 of the Kansas Statutes Annotated, or K.S.A. 2018 Supp. 21-6419 through
42 21-6421, and amendments thereto, other than an act specified in
43 subsection (a);

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

5 (5) a felony described in article 37 of chapter 21 of the Kansas
6 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
7 Kansas Statutes Annotated, or K.S.A. 2018 Supp. 21-6412(a)(6), and
8 amendments thereto;

9 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
10 repeal, or K.S.A. 2018 Supp. 21-6401(a), and amendments thereto,
11 promoting obscenity to minors, as described in K.S.A. 21-4301a, prior to
12 its repeal, or K.S.A. 2018 Supp. 21-6401(b), and amendments thereto, or
13 promoting to minors obscenity harmful to minors, as described in K.S.A.
14 21-4301c, prior to its repeal, or K.S.A. 2018 Supp. 21-6402, and
15 amendments thereto;

16 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
17 repeal, or K.S.A. 2018 Supp. 21-5601(a), and amendments thereto;

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

21 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018
22 Supp. 21-5301, and amendments thereto, to commit any act specified in
23 this subsection;

24 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
25 2018 Supp. 21-5302, and amendments thereto, to commit any act specified
26 in this subsection; or

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

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

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

42 (2) the conduct of the person subsequent to commission of the
43 offense or act;

- 1 (3) the time elapsed since the commission of the offense or act;
- 2 (4) the age of the person at the time of the offense or act;
- 3 (5) whether the offense or act was an isolated or recurring incident;

4 and

- 5 (6) discharge from probation, pardon or expungement.

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

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

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

21 Sec. 29. K.S.A. 2018 Supp. 75-52,148 is hereby amended to read as
22 follows: 75-52,148. (a) The department of corrections shall be required to
23 review and report on the following serious offenses committed by sex
24 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while
25 such offenders are in the custody of the secretary of corrections:

26 (1) Murder in the first degree, as defined in K.S.A. 2018 Supp. 21-
27 5402, and amendments thereto;

28 (2) murder in the second degree, as defined in K.S.A. 2018 Supp. 21-
29 5403, and amendments thereto;

30 ~~(3) capital murder, as defined in K.S.A. 2018 Supp. 21-5401~~
31 *aggravated murder as defined in section 2*, and amendments thereto;

32 (4) rape, as defined in K.S.A. 2018 Supp. 21-5503, and amendments
33 thereto;

34 (5) aggravated criminal sodomy, as defined in K.S.A. 2018 Supp. 21-
35 5504(b), and amendments thereto;

36 (6) sexual exploitation of a child, as defined in K.S.A. 2018 Supp. 21-
37 5510, and amendments thereto;

38 (7) kidnapping, as defined in K.S.A. 2018 Supp. 21-5408(a), and
39 amendments thereto;

40 (8) aggravated kidnapping, as defined in K.S.A. 2018 Supp. 21-
41 5408(b), and amendments thereto;

42 (9) criminal restraint, as defined in K.S.A. 2018 Supp. 21-5411, and
43 amendments thereto;

- 1 (10) indecent solicitation of a child, as defined in K.S.A. 2018 Supp.
2 21-5508(a), and amendments thereto;
- 3 (11) aggravated indecent solicitation of a child, as defined in K.S.A.
4 2018 Supp. 21-5508(b), and amendments thereto;
- 5 (12) indecent liberties with a child, as defined in K.S.A. 2018 Supp.
6 21-5506(a), and amendments thereto;
- 7 (13) aggravated indecent liberties with a child, as defined in K.S.A.
8 2018 Supp. 21-5506(b), and amendments thereto;
- 9 (14) criminal sodomy, as defined in K.S.A. 2018 Supp. 21-5504(a),
10 and amendments thereto;
- 11 (15) child abuse, as defined in K.S.A. 2018 Supp. 21-5602, and
12 amendments thereto;
- 13 (16) aggravated robbery, as defined in K.S.A. 2018 Supp. 21-5420(b),
14 and amendments thereto;
- 15 (17) burglary, as defined in K.S.A. 2018 Supp. 21-5807(a), and
16 amendments thereto;
- 17 (18) aggravated burglary, as defined in K.S.A. 2018 Supp. 21-
18 5807(b), and amendments thereto;
- 19 (19) theft, as defined in K.S.A. 2018 Supp. 21-5801, and amendments
20 thereto;
- 21 (20) vehicular homicide, as defined in K.S.A. 2018 Supp. 21-5406,
22 and amendments thereto;
- 23 (21) involuntary manslaughter while driving under the influence, as
24 defined in K.S.A. 2018 Supp. 21-5405(a)(3) or (a)(5), and amendments
25 thereto; or
- 26 (22) stalking, as defined in K.S.A. 2018 Supp. 21-5427, and
27 amendments thereto.
- 28 (b) The secretary of corrections shall submit such report to the
29 speaker of the house of representatives and the president of the senate
30 annually, beginning January 1, 2007.
- 31 Sec. 30. K.S.A. 65-5117 and 72-2165 and K.S.A. 2018 Supp. 21-
32 5301, 21-5401, 21-5402, 21-5419, 21-6328, 21-6614, 21-6617, 21-6618,
33 21-6619, 21-6620, 21-6622, 21-6628, 21-6629, 21-6806, 22-2512, 22-
34 3717, 22-4902, 22-4906, 23-3222, 38-2255, 38-2271, 38-2303, 38-2312,
35 38-2365, 39-970, 39-2009 and 75-52,148 are hereby repealed.
- 36 Sec. 31. This act shall take effect and be in force from and after its
37 publication in the statute book.