

Journal of the House

SIXTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, May 2, 2018, 11:00 a.m.

The House met pursuant to adjournment with Speaker Ryckman in the chair.

The roll was called with 122 members present.

Reps. Barker, Houser and Schwab were excused on excused absence by the Speaker.

Excused later: Rep. Winn.

Prayer by Chaplain Brubaker:

Lord God,
Thank You for this day and the much-needed rain.
I am reminded of the words given to Esther—
that she was placed in her royal position
for such a time as then.
This 2018 State Legislature
is unique in that You have placed these people
here at this particular time
for a particular purpose.
This legislature is different than
any that has come before.
And no future legislature will be just like this one.
They have proven faithful and diligent
to the tasks that was assigned to them.
Thank You for Your faithfulness to them
In providing wisdom and guidance.
In Your Son's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Carpenter.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Mason are spread upon the Journal:

It's my pleasure today to introduce you to the 2018 4A, Division 1 State Basketball Champions, the McPherson High School Lady Bullpups. McPherson has a long and storied history and is widely known for its basketball prowess. Let me recite just a few statistics from the Lady Pups' history:

Trips to the State Tournament: 31, including 23 of last 26 seasons

Final 4 Appearances: 21

State Runner Up Finishes: 6

State Championships: 9

League Titles: 21 of last 24, 11 consecutive seasons (2008-2018).

The Junior Varsity and C-Team both finished this season undefeated.

The JV has now won 77 consecutive games!

Rep. Mason introduced the following players and coaches to the house. Seniors: Mandi Cooks, Taylor Robertson; Juniors: Jaycee Burghart, Megan Eisenbarth, Kari Ellet, Hannah Hageman, Riley Hett, Maggie Leaf, Claire Yowell, Ashlie Stout, Laura Del Campo (foreign exchange student from Spain); Sophomores: Cassie Cooks, Emma Ruddle, Lakyn Schieferecke, Andrea Sweat, N'Dya Collins; Freshmen: Grace Pyle, Kassidy Beam, Kenzee Godwin, Emma Malm; Managers: Alaina Diggs, Hannah Dossett, Natalie Rowe; Coaches: Head Coach Chris Strathman, and coaches Mike Reith, Tim Ellet, Shelly Prescott.

Rep. Mason presented a framed House certificate to Coach Strathman, in congratulations for the 2018 4A-Division 1 State Basketball Championship.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Bishop are spread upon the Journal:

The state of Kansas was only a year old when Congress passed the Morrill Act, establishing land grant colleges and laying the groundwork for the future cooperative extension programs. First focused on agriculture, new programs for families and communities soon followed. We know the rest: 4H, homemaking programs, and then, about 45 years ago, Extension Master Gardeners.

In Kansas today half of our counties have Extension Master Gardener programs. The mission of Master Gardeners is to preserve and beautify the environment and improve the quality of life in the community by providing current research-based horticultural information to the public.

Master Gardeners provide gardening hotlines, answering questions via phone and email; create demonstration gardens and arboretums; conduct garden shows and tours, help with public gardens, promote farmers' markets, teach classes, mentor community gardens, and more.

In 2017, Extension Master Gardeners provided more than 100,620 hours of volunteer service with a value of more than \$2.23 million and created nearly 9,000 events across the state.

After receiving extensive training Master Gardeners are required to donate anywhere from 6 to 20 hours of volunteer service. The average donated during 2017 was 82 hours per EMG.

Master Gardeners fits well with the guiding philosophy of the Cooperative Extension service: a strong belief in the equality of individuals, the possibility of change and progress, the reliability of scientific information, and the power of education.

I am proud to present to you today Ward Upham, Coordinator of the Kansas State University Master Gardener program; Donna Wise, President of the EMG Advisory Board in Sedgwick County; Tom Buller, Douglas County Horticulture Agent; Ariel Whitely, Shawnee County Horticulture Agent; Dennis Patton, Johnson County Horticulture Agent; and Masters Gardeners: Linda Croucher, Carol Fowler, Beth Graham, Brian Basel, Paul Trautman, and Pam Patrick.

Rep. Bishop presented each of her guests with a framed House certificate in recognition of their accomplishments.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Gallagher, **HR 6063**, as follows, was introduced and adopted:

By Representative Gallagher

HR 6063—A RESOLUTION celebrating the 25th anniversary of Heart to Heart International.

WHEREAS, Heart to Heart International (HHI), a humanitarian organization located in Lenexa, Kansas, is celebrating 25 years of service to areas of need around the world; and

WHEREAS, HHI has responded to multiple humanitarian crises worldwide to help strengthen communities by improving access to health care, providing humanitarian development and administering crisis relief; and

WHEREAS, HHI began its mission in 1992 with an airlift to help people in Russia by distributing aid to 32 area hospitals and nine orphanages, which was the largest private humanitarian airlift at that time; and

WHEREAS, In 1993, HHI developed a partnership with the American Association of Family Physicians to create Physicians With Heart. The partnership conducted 20 airlifts throughout Europe and Vietnam and helped mobilize people and resources to improve health, provide medical education and foster the development of family medicine worldwide; and

WHEREAS, In 1995, HHI launched a partnership with FedEx, whose MD-11 plane was the first American plane to land in Hanoi since the end of the Southeast Asian conflict, and delivered 45 tons of supplies valued at \$7 million; and

WHEREAS, In 1996, HHI delivered \$12 million in aid to Calcutta, India, to help Mother Teresa and the Missionaries of Charity and also sent medical aid and products to various hospitals in Calcutta; and

WHEREAS, In 1997, The Goodwill Medical Airlift landed in the People's Republic of China with 36 tons of medicine and supplies worth \$6.2 million; and

WHEREAS, In 2010, HHI responded to the earthquake in Haiti and helped to hire, train and create Haitian leadership in the medical community to make a meaningful and lasting impact beyond the earthquake, resulting in HHI-trained Haitian medical teams to respond to the devastating effects of Hurricane Matthew in 2016; and

WHEREAS, In 2014, HHI responded to the Ebola crisis in Liberia by setting up and running an Ebola treatment unit as well as training administrators and teachers in the local school district on safe hygiene practices; and

WHEREAS, Starting in 2015, HHI has helped supply medicines, medical supplies, tents and hygiene kits to Syrian refugees; and

WHEREAS, Throughout its 25 years of service in 130 countries, HHI has shipped \$1.6 billion in total aid and has logged 1.1 million volunteer hours: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we celebrate the 25th anniversary of Heart to Heart International and commend them for providing vital health and humanitarian services to the most vulnerable and needy populations in order to help improve global health and welfare; and

Be it further resolved: That the Chief Clerk of the House of Representatives shall send five enrolled copies of this resolution to Representative Gallagher.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Gallagher are spread upon the Journal:

Today I am sponsoring a resolution celebrating the 25th anniversary of Heart to Heart International (HHI), a humanitarian organization located in Lenexa, Kan. This organization strengthens communities through improving health care access, providing humanitarian development and administering crisis relief worldwide. In its 25 years of operation, Heart to Heart has provided humanitarian service in 130 countries, shipping more than \$1.6 billion in aid and logging 1.1 million volunteer hours.

Since the beginning, HHI has been a first responder to disasters all over the world. From floods, tornadoes, hurricanes, earthquakes, typhoons and humanitarian crises, HHI has quickly responded with medical teams, medical supplies, equipment and hygiene health products.

HHI began its mission in 1992 with an airlift to help people in Russia by distributing aid to 32 area hospitals and nine orphanages, which was the largest private humanitarian airlift at that time. Heart to Heart drew its name from that mission to the heart of Russia from the heart of the United States.

In 1993, HHI developed a partnership with the American Association of Family Physicians to create Physicians With Heart. The partnership conducted 20 airlifts throughout Europe and Vietnam and helped mobilize people and resources to improve health, provide medical education and foster the development of family medicine worldwide.

In 1995, HHI launched a partnership with FedEx, whose MD-II plane was the first American plane to land in Hanoi since the end of the Southeast Asian conflict, and delivered 45 tons of supplies valued at \$7 million.

In 1996, HHI delivered \$12 million in aid to Calcutta, India, to help Mother Teresa and the Missionaries of Charity and sent medical aid and products to various hospitals in Calcutta.

In 1997, the Goodwill Medical Airlift landed in the People's Republic of China with 36 tons of medicine and supplies worth \$6.2 million.

In 2010, HHI responded to the earthquake in Haiti and helped to hire, train and create Haitian leadership in the medical community to make a meaningful and lasting impact beyond the earthquake, resulting in HHI-trained Haitian medical teams to respond to the devastating effects of Hurricane Matthew in 2016.

In 2014, HHI responded to the Ebola crisis in Liberia by setting up and running an Ebola treatment unit as well as training administrators and teachers in the local school district on safe hygiene practices.

Starting in 2015, HHI has helped to supply medicines, medical supplies, tents and hygiene kits to Syrian refugees.

In 2017, Heart to Heart responded to the hurricanes that hit the US. Gulf and Atlantic coasts and Puerto Rico. When disasters strike, HHI invites volunteers to its Lenexa warehouse to assemble hygiene kits or other materials. My daughter and I did this last September, and the team of volunteers that day assembled hundreds of hygiene kits in a short time. They were shipped out to areas affected by Hurricanes Harvey, Irma and Maria. The HHI operations work like a well-oiled machine.

With this resolution, the Kansas House of Representatives celebrates the 25th

anniversary of Heart to Heart International and commends them for providing vital health and humanitarian services to the most vulnerable and needy populations to help improve global health and welfare. I ask you to join me in adopting this resolution.

Rep. Gallagher introduced the following members of the Heart to Heart staff and board to the House and presented them with a framed House Resolution: Jim Mitchum, CEO; Kim Carroll, COO; Dr. Rick Randolph, chief medical officer; Beb-Eambrechis, board-chair; Dr. Gary Morsch, Johnson Countian of the Year in 2016, vice-chair and one of the co-founders; and Carla Duryee, secretary.

On motion of Rep. Hineman, the House recessed until 11:45 a.m.

LATE MORNING SESSION

The House met pursuant to recess with Speaker Ryckman in the chair.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Hineman, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **Sub HB 2129, HB 2523, HB 2571, HB 2438, SB 461.**

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2571** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 12, by striking all in lines 26 through 43;

By striking all on page 13;

On page 14, by striking all in lines 1 through 33;

Also, on page 14, following line 33, by inserting:

"New Section 1. As used in sections 1 through 31, and amendments thereto:

(a) "Arbitration organization" means an association, agency, board, commission or other entity that is neutral and initiates, sponsors or administers an arbitration proceeding or is involved in the appointment of an arbitrator;

(b) "arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate;

(c) "court" means a court of competent jurisdiction in this state;

(d) "knowledge" means actual knowledge;

(e) "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation or any other legal or commercial entity; and

(f) "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

New Sec. 2. (a) Except as otherwise provided in sections 1 through 31, and

amendments thereto, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

(b) A person has notice if the person has knowledge of the notice or has received notice.

(c) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

New Sec. 3. (a) Sections 1 through 31, and amendments thereto, govern an agreement to arbitrate made on or after July 1, 2018.

(b) Sections 1 through 31, and amendments thereto, govern an agreement to arbitrate made before July 1, 2018, if all parties to the agreement or to the arbitration proceeding so agree in the record.

New Sec. 4. (a) Except as otherwise provided in subsections (b) and (c), a party to an agreement to arbitrate or to an arbitration proceeding may waive or the parties may vary the effect of, the requirements of sections 1 through 31, and amendments thereto, to the extent permitted by law.

(b) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(1) Waive or agree to vary the effect of the requirements of sections 5(a), 6(a), 8, 17(a) or (b), 26 or 28, and amendments thereto;

(2) agree to unreasonably restrict the right under section 9, and amendments thereto, to notice of the initiation of an arbitration proceeding;

(3) agree to unreasonably restrict the right under section 12, and amendments thereto, to disclosure of any facts by a neutral arbitrator; or

(4) waive the right under section 16, and amendments thereto, of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under sections 1 through 31, and amendments thereto, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

(c) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or section 3, 7, 14, 18, 20(d) or (e), 22, 23, 24, 25(a) or (b), 29, 30 or 31, and amendments thereto.

New Sec. 5. (a) Except as otherwise provided in section 28, and amendments thereto, an application for judicial relief under sections 1 through 31, and amendments thereto, must be made by motion to the court and heard in the manner provided by law or rule of court for making and hearing motions.

(b) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under this act must be served in the manner provided by law for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by law or rule of court for serving motions in pending cases.

New Sec. 6. (a) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable, except upon a ground that exists at law or in equity for the revocation of a contract.

(b) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(c) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(d) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue, pending final resolution of the issue by the court, unless the court otherwise orders.

New Sec. 7. (a) On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate, pursuant to the agreement:

(1) If the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate; and

(2) if the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate, unless it finds that there is no enforceable agreement to arbitrate.

(b) On motion of a person alleging that an arbitration proceeding has been initiated or threatened, but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

(c) If the court finds that there is no enforceable agreement, it may not, pursuant to subsections (a) or (b), order the parties to arbitrate.

(d) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

(e) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be made in that court. Otherwise, a motion under this section may be made in any court as provided in section 27, and amendments thereto.

(f) If a party makes a motion to the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.

(g) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

New Sec. 8. (a) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(b) After an arbitrator is appointed and is authorized and able to act:

(1) The arbitrator may issue such orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(2) a party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

(c) A party does not waive a right of arbitration by making a motion under

subsection (a) or (b).

New Sec. 9. (a) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.

(b) Unless a person objects for lack or insufficiency of notice under section 15(c), and amendments thereto, not later than the beginning of the arbitration hearing, the person, by appearing at the hearing, waives any objection to lack of or insufficiency of notice.

New Sec. 10. (a) Except as otherwise provided in subsection (c), upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

(1) There are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;

(2) the claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(3) the existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(4) prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(b) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(c) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

New Sec. 11. (a) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

(b) An individual who has a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

New Sec. 12. (a) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(1) A financial or personal interest in the outcome of the arbitration proceeding; and

(2) an existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness or other arbitrators.

(b) An arbitrator has a continuing obligation to disclose to all parties to the

agreement to arbitrate and arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(c) If an arbitrator discloses a fact required by subsection (a) or (b) to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under section 23(a)(2), and amendments thereto, for vacating an award made by the arbitrator.

(d) If the arbitrator did not disclose a fact as required by subsection (a) or (b), upon timely objection by a party, the court under section 23(a)(2), and amendments thereto, may vacate the award.

(e) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing and substantial relationship with a party is presumed to act with evident partiality under section 23(a)(2), and amendments thereto.

(f) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under section 23(a)(2), and amendments thereto.

New Sec. 13. If there is more than one arbitrator, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under section 15(c), and amendments thereto.

New Sec. 14. (a) An arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(b) The immunity afforded by this section supplements any immunity under other law.

(c) The failure of an arbitrator to make a disclosure required by section 12, and amendments thereto, does not cause any loss of immunity under this section.

(d) In a judicial, administrative or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify, and may not be required to produce records as to any statement, conduct, decision or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection does not apply:

(1) To the extent necessary to determine the claim of an arbitrator, arbitration organization or representative of the arbitration organization against a party to the arbitration proceeding; or

(2) to a hearing on a motion to vacate an award under section 23(a)(1) or (2), and amendments thereto, if the movant establishes prima facie that a ground for vacating the award exists.

(e) If a person commences a civil action against an arbitrator, arbitration organization or representative of an arbitration organization arising from the services of an arbitrator, organization or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (d), and the court decides that the arbitrator, arbitration organization or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to

testify, the court shall award to the arbitrator, organization or representative reasonable attorney fees and other reasonable expenses of litigation.

New Sec. 15. (a) An arbitrator may conduct an arbitration in such manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality and weight of any evidence.

(b) An arbitrator may decide a request for summary disposition of a claim or particular issue:

- (1) If all interested parties agree; or
- (2) upon request of one party to the arbitration proceeding, if that party gives notice to all other parties to the proceeding and the other parties have a reasonable opportunity to respond.

(c) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced, although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(d) At a hearing under subsection (c), a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(e) If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator must be appointed in accordance with section 11, and amendments thereto, to continue the proceeding and to resolve the controversy.

New Sec. 16. A party to an arbitration proceeding may be represented by a lawyer.

New Sec. 17. (a) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(b) In order to make the proceedings fair, expeditious and most cost effective, upon request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(c) An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious and cost effective.

(d) If an arbitrator permits discovery under subsection (c), the arbitrator may order

a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could, if the controversy were the subject of a civil action in this state.

(e) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets and other information protected from disclosure to the extent a court could, if the controversy were the subject of a civil action in this state.

(f) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this state.

(g) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court as to make the arbitration proceeding fair, expeditious and cost effective. A subpoena or discovery-related order issued by an arbitrator in another state must be served in the manner provided by law for service of subpoenas in a civil action in this state and, upon motion to the court by a party to the arbitration proceeding or the arbitration, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

New Sec. 18. If an arbitrator makes a pre-award ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under section 19, and amendments thereto. A prevailing party may make a motion to the court for an expedited order to confirm the award under section 22, and amendments thereto, in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award, unless the court vacates, modifies or corrects the award under section 23 or 24, and amendments thereto.

New Sec. 19. (a) An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by an arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(b) An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

New Sec. 20. (a) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

- (1) Upon a ground stated in section 24(a)(1) or (3), and amendments thereto;
- (2) because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
- (3) to clarify the award.

(b) A motion under subsection (a) must be made and notice given to all parties within 20 days after the movant receives notice of the award.

(c) A party to the arbitration proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.

(d) If a motion to the court is pending under section 22, 23 or 24, and amendments thereto, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(1) Upon a ground stated in section 24(a)(1) or (3), and amendments thereto;

(2) because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceedings; or

(3) to clarify the award.

(e) An award modified or corrected pursuant to this section is subject to sections 19(a), 22, 23 and 24, and amendments thereto.

New Sec. 21. (a) An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(b) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(c) As to all remedies other than those authorized by subsections (a) and (b), an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under section 22, and amendments thereto, or for vacating an award under section 23, and amendments thereto.

(d) An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

(e) If an arbitrator awards punitive damages or other exemplary relief under subsection (a), the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of punitive damages or other exemplary relief.

New Sec. 22. After a party to an arbitration proceeding receives notice of an award, the party may make a motion to the court for an order confirming the award, at which time the court shall issue a confirming order, unless the award is modified or corrected pursuant to section 20 or 24, and amendments thereto, or is vacated pursuant to section 23, and amendments thereto.

New Sec. 23. (a) Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if:

(1) The award was procured by corruption, fraud or other undue means;

(2) there was:

(A) Evident partiality by an arbitrator appointed as a neutral arbitrator;

(B) corruption by an arbitrator; or

(C) misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(3) an arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 15, and amendments thereto, so as to prejudice substantially the rights of a party to the arbitration proceeding;

(4) an arbitrator exceeded the arbitrator's powers;

(5) there was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under section 15(c), and amendments thereto, not later than the beginning of the arbitration hearing; or

(6) the arbitration was conducted without proper notice of the initiation of an arbitration as required in section 9, and amendments thereto, so as to prejudice substantially the rights of a party to the arbitration proceeding.

(b) A motion under this section must be filed within 90 days after the movant receives notice of the award pursuant to section 19, and amendments thereto, or within 90 days after the movant receives notice of the award pursuant to section 20, and amendments thereto, unless the movant alleges that the award was procured by corruption, fraud or other undue means, in which case, the motion must be made within 90 days after the ground is known or, by the exercise of reasonable care, would have been known by the movant.

(c) If the court vacates an award on a ground other than that set forth in subsection (a)(5), it may order a rehearing. If the award is vacated on a ground stated in subsection (a)(1) or (2), the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in subsection (a)(3), (4) or (6), the rehearing must be before the arbitrator who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in section 19(b), and amendments thereto, for an award.

(d) If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

New Sec. 24. (a) Upon motion made within 90 days after the movant receives notice of the award pursuant to section 19, and amendments thereto, or within 90 days after the movant receives notice of a modified or corrected award pursuant to section 20, and amendments thereto, the court shall modify or correct the award if:

(1) There was an evident mathematical miscalculation or an evident mistake in the description of a person, thing or property referred to in the award;

(2) the arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or

(3) the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(b) If a motion made under subsection (a) is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

(c) A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

New Sec. 25. (a) Upon granting an order confirming, vacating without directing a rehearing, modifying or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed and enforced as any other judgment in a civil action.

(b) A court may allow reasonable costs of the motion and subsequent judicial proceedings.

(c) On application of a prevailing party to a contested judicial proceeding under section 22, 23 or 24, and amendments thereto, the court may add reasonable attorney

fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying or correcting an award.

New Sec. 26. (a) A court of this state having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

(b) An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under sections 1 through 31, and amendments thereto.

New Sec. 27. A motion pursuant to section 5, and amendments thereto, must be made in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any county in this state. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

New Sec. 28. (a) An appeal may be taken from:

- (1) An order denying a motion to compel arbitration;
- (2) an order granting a motion to stay arbitration;
- (3) an order confirming or denying confirmation of an award;
- (4) an order modifying or correcting an award;
- (5) an order vacating an award without directing a rehearing; or
- (6) a final judgment entered pursuant to sections 1 through 31, and amendments thereto.

(b) An appeal under this section must be taken as from an order or judgment in a civil action.

New Sec. 29. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

New Sec. 30. The provisions of sections 1 through 31, and amendments thereto, governing the legal effect, validity and enforceability of electronic records or electronic signatures and of contracts performed with the use of such records or signatures conform to the requirements of section 102 of the electronic signatures in global and national commerce act.

New Sec. 31. Sections 1 through 31, and amendments thereto, do not affect an action or proceeding commenced or right accrued before sections 1 through 31, and amendments thereto, take effect. Subject to section 3, and amendments thereto, an arbitration agreement made before the effective date of sections 1 through 31, and amendments thereto, is governed by article 4 of chapter 5 of the Kansas Statutes Annotated, prior to its repeal.

New Sec. 32. (a) (1) Except as provided in subsection (a)(2), a provision in a trust instrument requiring the mediation or arbitration of disputes between or among beneficiaries, a fiduciary, a person granted nonfiduciary powers under the trust instrument, or any combination thereof, is enforceable.

(2) A provision in a trust instrument requiring the mediation or arbitration of a dispute relating to the validity of a trust is not enforceable, unless all interested persons to the dispute consent to mediation or arbitration of such dispute.

(b) This section shall be part of and supplemental to the Kansas uniform trust code.

Sec. 33. K.S.A. 50-6,100 is hereby amended to read as follows: 50-6,100. (a) Each consumer shall have the option of submitting any dispute arising under this act to arbitration. Upon application of the consumer all ~~manufactures~~ manufacturers shall submit to such arbitration.

(b) Such arbitration shall be conducted in accordance with the provisions of the uniform arbitration act (~~K.S.A. 5-401 et seq.~~ sections 1 through 31, and amendments thereto). Any agreement to arbitrate entered into under this section shall ensure the personal objectivity of the arbitrators and the right of each party to present its case, to be in attendance during any presentation made by the other party and to rebut or refute such presentation.

Sec. 34. K.S.A. 66-1712 is hereby amended to read as follows: 66-1712. (a) When any person desires to carry out temporarily any function or activity in closer proximity to any high voltage overhead line than is permitted by this act, the person or persons responsible for the function or activity shall notify the public utility which owns or operates the high voltage overhead line of the function or activity and shall make appropriate arrangements with the public utility for temporary barriers, temporary deenergization and grounding of the conductors, temporary rerouting of electric current or temporary relocating of the conductors before proceeding with any function or activity which would impair the clearances required by this act.

(b) A person or persons requesting a public utility to provide temporary clearances or other safety precautions shall be responsible for payment of only those costs incurred by such utility in the temporary rerouting of electric current or the temporary relocating of the conductors. Upon request, a public utility shall provide a written costs estimate for the work needed to provide temporary rerouting of electric current or temporary relocating of the conductors. Unless otherwise agreed to, or unless circumstances require a longer period of time before work commences in order to assure continuity of service to electric customers, a public utility shall commence work on such temporary rerouting of electric current, temporary relocating of the conductors, temporary barriers or temporary deenergization and grounding of the conductors as may be appropriate, within seven working days after such notification has been made in accordance with ~~subsection (a) of K.S.A. 66-1712(a), and amendments thereto.~~

(c) If a person requesting a public utility to provide temporary rerouting of electric current or the temporary relocating of the conductors disagrees with the reasonableness of the written costs estimate or the description of the work to be performed, the following options are available to such person:

(1) Such person under protest may pay the utility for the work in accordance with the written cost estimate, but shall be entitled to seek recovery of all or any part of the money so paid in an arbitration proceeding as hereinafter provided; or

(2) prior to directing the work to be performed, the person or persons may submit to binding arbitration, as hereinafter provided, to resolve the issue of the reasonableness of the written cost estimate or the description or extent of the work to be performed by the public utility under such estimate.

(d) Disputes submitted to binding arbitration under this section shall be submitted in accordance with the procedures set forth in ~~K.S.A. 5-401 et seq.~~ sections 1 through 31, and amendments thereto. The decision of the arbitrator or arbitrators as to the reasonableness of the costs or the necessity of the work to be performed shall be final

and binding upon the parties.

Sec. 35. K.S.A. 5-401, 5-402, 5-403, 5-404, 5-405, 5-406, 5-407, 5-408, 5-409, 5-410, 5-411, 5-412, 5-413, 5-414, 5-415, 5-416, 5-417, 5-418, 5-419, 5-420, 5-421, 5-422, 50-6,100 and 66-1712 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in line 2; in line 3, by striking all before the semicolon and inserting "arbitration; enacting the uniform arbitration act of 2000; relating to mediation or arbitration of disputes concerning trust instruments"; in line 4, by striking all before "and"; and inserting "50-6,100 and 66-1712"; in line 5, by striking "section" and inserting "sections; also repealing K.S.A. 5-401, 5-402, 5-403, 5-404, 5-405, 5-406, 5-407, 5-408, 5-409, 5-410, 5-411, 5-412, 5-413, 5-414, 5-415, 5-416, 5-417, 5-418, 5-419, 5-420, 5-421 and 5-422";

And your committee on conference recommends the adoption of this report.

RICHARD WILBORN

MOLLY BAUMGARDNER

DAVID HALEY

Conferees on part of Senate

BLAINE FINCH

BRADLEY RALPH

JOHN CARMICHAEL

Conferees on part of House

On motion of Rep. Finch, the conference committee report on **HB 2571** was adopted.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alcalá, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Barker, Houser, Schwab.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2539** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, in line 5, before "K.S.A" by inserting "On and after January 1, 2019,"; in line 17, by striking "30" and inserting "25"; also in line 17, by striking all after "older"; in line 18, by striking "candidate" and inserting "by the deadline for filing"; also in line 18, after "office" by inserting "as provided in K.S.A. 25-205, and amendments thereto"; following line 20, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where the person is a resident, or where the person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to be transmitted in person, the voter shall provide identification pursuant to K.S.A. 25-2908, and amendments thereto.

(c) If the registered voter is applying for an advance voting ballot to be transmitted by mail, the voter shall provide with the application for an advance voting ballot the voter's current and valid Kansas driver's license number, nondriver's identification card number or a photocopy of any other identification provided by K.S.A. 25-2908, and amendments thereto.

(d) A voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto, if:

- (1) The voter is unable or refuses to provide current and valid identification; or
- (2) the name and address of the voter provided on the application for an advance voting ballot do not match the voter's name and address on the registration book. The voter shall provide a valid form of identification as defined in K.S.A. 25-2908, and amendments thereto, to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter's identification is valid and the provisional ballot was properly cast, the ballot shall be counted.

(e) No county election officer shall provide an advance voting ballot to a person who is requesting an advance voting ballot to be transmitted by mail unless:

- (1) The county election official verifies that the signature of the person matches that on file in the county voter registration records, except that verification of the voter's signature shall not be required if a voter has a disability preventing the voter from signing. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person who is requesting an advance voting ballot

does not match that on file, the county election officer shall attempt to contact the person and shall offer the person another opportunity to provide the person's signature for the purposes of verifying the person's identity. If the county election officer is unable to reach the person, the county election officer may transmit a provisional ballot, however, such provisional ballot may not be counted unless a signature is included therewith that can be verified; and

(2) the person provides such person's full Kansas driver's license number, Kansas nondriver's identification card number issued by the division of vehicles, or submits such person's application for an advance voting ballot and a copy of identification provided by K.S.A. 25-2908, and amendments thereto, to the county election officer for verification. If a person applies for an advance voting ballot to be transmitted by mail but fails to provide identification pursuant to this subsection or the identification of the person cannot be verified by the county election officer, the county election officer shall provide information to the person regarding the voter rights provisions of subsection (d) and shall provide the person an opportunity to provide identification pursuant to this subsection. For the purposes of this act, Kansas state offices and offices of any subdivision of the state will allow any person seeking to vote by an advance voting ballot the use of a photocopying device to make one photocopy of an identification document at no cost.

(f) Applications for advance voting ballots to be transmitted to the voter by mail shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday in August in both even-numbered and odd-numbered years, between April 1 of such year and the Tuesday of the week preceding such primary election.

(2) For the general election occurring on the Tuesday following the first Monday in November in both even-numbered and odd-numbered years, between 90 days prior to such election and the Tuesday of the week preceding such general election.

(3) For question submitted elections occurring on the date of a primary or general election, the same as is provided for ballots for election of officers at such election.

(4) For question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the Tuesday of the week preceding such question submitted election, except that if the question submitted election is held on a day other than a Tuesday, the final date for mailing of advance voting ballots shall be one week before such election.

(5) For any special election of officers, at such time as is specified by the secretary of state.

The county election officer of any county may receive applications prior to the time specified in this subsection and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(g) Unless an earlier date is designated by the county election office, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer shall be filed on the Tuesday next preceding the election and on each subsequent business day until no later than 12 noon on the day preceding such election. If the county election officer so provides, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer also may be filed on the Saturday preceding the election. Upon receipt of any such properly executed application, the county election officer shall deliver to the voter such ballots

and instructions as are provided for in this act.

An application for an advance voting ballot filed by a voter who has a temporary illness or disability or who is not proficient in reading the English language or by a person rendering assistance to such voter may be filed during the regular advance ballot application periods until the close of the polls on election day.

The county election officer may designate places other than the central county election office as satellite advance voting sites. At any satellite advance voting site, a registered voter may obtain an application for advance voting ballots. Ballots and instructions shall be delivered to the voter in the same manner and subject to the same limitations as otherwise provided by this subsection.

(h) Any person having a permanent disability or an illness ~~which that~~ has been diagnosed as a permanent illness is hereby authorized to make an application for permanent advance voting status. Applications for permanent advance voting status shall be in the form and contain such information as is required for application for advance voting ballots and also shall contain information ~~which that~~ establishes the voter's right to permanent advance voting status.

(i) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, together with their correct post office address and the precinct, ward, township or voting area in which the persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Names and addresses shall remain so listed until the day of such election. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent advance voting status. All such lists shall be available for inspection upon request in compliance with this subsection by any registered voter during regular business hours. The county election officer upon receipt of the applications shall enter upon a record kept by such officer the name and address of each applicant, which record shall conform to the list above required. Before inspection of any advance voting ballot application list, the person desiring to make the inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by the officer stating the person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the voter identification information required by subsections (b) and (c) and the identifying number on ballots and ballot envelopes and records of such numbers shall not be made public.

(j) If a person on the permanent advance voting list fails to vote in four consecutive general elections held on the Tuesday succeeding the first Monday in November of each even-numbered and odd-numbered year, the county election officer may mail a notice to such voter. The notice shall inform the voter that the voter's name will be removed from the permanent advance voting list unless the voter renews the application for permanent advance voting status within 30 days after the notice is mailed. If the voter fails to renew such application, the county election officer shall remove the voter's name from the permanent advance voting list. Failure to renew the application for permanent advance voting status shall not result in removal of the voter's name from the voter registration list.

(k) The secretary of state may adopt rules and regulations in order to implement the provisions of this section and to define valid forms of identification.

Sec. 3. K.S.A. 2017 Supp. 25-1124 is hereby amended to read as follows: 25-1124.

(a) Upon receipt of the advance voting ballot, the voter shall cast such voter's vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. Except as provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the voter in person in the office of the county election officer or at a satellite advance voting site, the voter may deposit such ballot into a locked ballot box without an envelope.

(b) Any voter who has an illness or physical disability or who is not proficient in reading the English language ~~that and~~ is unable to apply for or mark or transmit an advance voting ballot, or any voter who has a disability preventing the voter from signing an application or the form on the ballot envelope, may request assistance by a person who has signed a statement required by subsection (d) in applying for or marking an advance voting ballot, or in signing an application or the form on the ballot envelope if the voter has a disability preventing the voter from signing.

(c) Any voted ballot may be transmitted to the county election officer by the voter or by another person designated in writing by the voter, except if the voter has a disability preventing the voter from writing and signing a statement, the written and signed statement required by subsection (d) shall be sufficient. Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day.

(d) The county election officer shall allow a person to assist a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an application or advance voting ballot, or to sign for a voter who has a disability preventing the voter from signing an application or advance voting ballot form, provided a written statement is signed by the person who renders assistance to the voter who has an illness or physical disability or who is not proficient in reading the English language and such statement is submitted to the county election officer with the application or ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the voter who has an illness or physical disability or who is not proficient in reading the English language and that the person providing assistance has completed the application ~~or~~ marked the ballot, or signed the application or ballot form as instructed by the voter.

(e) Any person assisting a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an advance voting ballot, or in signing an application or advance voting ballot form for a voter who has a disability preventing the voter from signing the application or advance voting ballot form, who knowingly fails to sign and submit the statement required by this section or who exercises undue influence on the voting decision of such voter shall be

guilty of a severity level 9, nonperson felony.

Sec. 4. K.S.A. 2017 Supp. 25-1128 is hereby amended to read as follows: 25-1128. (a) No voter shall knowingly mark or transmit to the county election officer more than one advance voting ballot, or set of one of each kind of ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) Except as provided in K.S.A. 25-1124, and amendments thereto, no person shall knowingly interfere with or delay the transmission of any advance voting ballot application from a voter to the county election officer, nor shall any person mail, fax or otherwise cause the application to be sent to a place other than the county election office. Any person or group engaged in the distribution of advance voting ballot applications shall mail, fax or otherwise deliver any application signed by a voter to the county election office within two days after such application is signed by the applicant.

(c) Except as otherwise provided by law, no person other than the voter, shall knowingly mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

(d) Except as otherwise provided by law, no person shall knowingly sign an application for an advance voting ballot for another person. This provision shall not apply if a voter has a disability preventing the voter from signing an application or if an immediate family member signs an application on behalf of another immediate family member with proper authorization being given.

(e) No person, unless authorized by K.S.A. 25-1122 or ~~K.S.A.~~ 25-1124, and amendments thereto, shall knowingly intercept, interfere with, or delay the transmission of advance voting ballots from the county election officer to the voter.

(f) No person shall knowingly and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot or set of advance voting ballots.

(g) A voter may return such voter's advance voting ballot to the county election officer by personal delivery or by mail. Upon written designation by the voter, a person other than the voter may return the advance voting ballot by personal delivery or mail, except that a written designation shall not be required from a voter who has a disability preventing the voter from writing or signing a written designation. Any such person designated by the voter shall sign a statement that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter.

(h) Violation of any provision of this section is a severity level 9, nonperson felony.

Sec. 5. K.S.A. 25-1121 is hereby amended to read as follows: 25-1121. ~~It shall be the duty of (a)~~ The secretary of state ~~to shall~~ prescribe the general forms of advance voting ballots to be used in all primary and general elections and the form of the printed instructions to voters containing a statement of all the requirements of this act, to enable voters to comply with ~~such~~ the requirements of this act. ~~Such~~ The prescribed forms shall be transmitted to the county election officers 35 days before each primary and general election.

(b) The secretary of state shall prescribe the general format of advance voting ballot envelopes. The envelopes shall include signature blocks for the advance voter; a signature block for the person, if any, assisting the advance voter; and a signature block for a person, if any, who signs the advance voting ballot envelope on behalf of the advance voter in situations when the advance voter is physically unable to sign the

envelope.

(c) The advance ballot envelope shall contain the following statement after the signature block provided for the person who signs the advance ballot envelope on behalf of a person physically unable to sign such envelope:

"My signature constitutes an affidavit that the person for whom I signed the envelope is a person who is physically unable to sign such envelope. By signing this envelope, I swear this information is true and correct, and that signing an advance ballot envelope under false pretenses shall constitute the crime of perjury."

Sec. 6. K.S.A. 2017 Supp. 21-5903 is hereby amended to read as follows: 21-5903.

(a) Perjury is intentionally and falsely:

(1) Swearing, testifying, affirming, declaring or subscribing to any material fact upon any oath or affirmation legally administered in any cause, matter or proceeding before any court, tribunal, public body, notary public or other officer authorized to administer oaths;~~or~~

(2) subscribing as true and correct under penalty of perjury any material matter in any declaration, verification, certificate or statement as permitted by K.S.A. 53-601, and amendments thereto or

(3) subscribing as true and correct under the penalty of perjury the affidavit as provided in K.S.A. 25-1121(c), and amendments thereto.

(b) Perjury is a:

(1) Severity level 9, nonperson felony, except as provided in subsection (b)(2); and

(2) severity level 7, nonperson felony if the false statement is made upon the trial of a felony charge.

New Sec. 7. (a) After an election and prior to the meeting of the county board of canvassers to certify the official election results for any election in which the canvassers certify the results, the county election officer shall conduct a manual audit or tally of each vote cast, regardless of the method of voting, in 1% of all precincts, with a minimum of one precinct located within the county. The precinct or precincts shall be randomly selected and the selection shall take place after the election.

(b) (1) The audit shall be performed manually and shall review all paper ballots selected pursuant to subsection (a). The audit shall be performed by a sworn election board consisting of bipartisan trained board members. The county election officer will determine the members of the sworn election board who will conduct the audit.

(2) The audit will review contested races as follows:

(A) In presidential election years:

(i) One federal race;

(ii) one state legislative race; and

(iii) one county race.

(B) In even numbered non-presidential election years:

(i) One federal race;

(ii) one statewide race;

(iii) one state legislative race; and

(iv) one county race.

(C) In odd-numbered election years, two local races will be randomly selected and the selection shall take place after the election.

(c) At least five days prior to the audit, notice of the time and location of the audit

shall be provided to the public on the official county website. The audit shall be conducted in a public setting. Any candidate or entity who is authorized to appoint a poll agent may appoint a poll agent for the audit.

(d) The results of the audit shall be compared to the unofficial election night returns and a report shall be submitted to the county election office and to the secretary of state's office prior to the meeting of the county board of canvassers. If a discrepancy is reported between the audit and the unofficial returns and cannot be resolved, the county election officer or the secretary of state may require audits of additional precincts. Once the audit has been completed, the results of the audit shall be used by the county board of canvassers when certifying the official election results.

(e) The secretary of state shall adopt rules and regulations governing the conduct and procedure of the audit, including the random selection of the precincts and offices involved in the audit.

(f) The provisions of this section shall apply to all counties for elections that take place after January 1, 2019.

Sec. 8. K.S.A. 2017 Supp. 25-3104 is hereby amended to read as follows: 25-3104. The original canvass of every election shall be performed by the election boards at the voting places. The county election officer shall present the original returns, together with the ballots, books and any other records of the election, for the purpose of canvass, to the county board of canvassers at any time between 8 a.m. and 10 a.m. on the Monday next following any election held on a Tuesday, except that the county election officer may move the canvass to the second Thursday following the election if notice is published prior to the canvass in a newspaper with general circulation in the county any business day not later than 13 days following any election. Notice of the time and place of the canvass shall be published in a newspaper of general circulation in the county prior to the canvass. For elections not held on a Tuesday, the canvass by the county board of canvassers shall be held on a day and hour designated by it, and not later than the ~~fifth~~ 13th day following the day of such election.

Sec. 9. K.S.A. 2017 Supp. 25-4403 is hereby amended to read as follows: 25-4403. (a) The board of county commissioners and the county election officer of any county may provide an electronic or electromechanical voting system to be used at voting places, or for advance voting in the county at national, state, county, township, city and school primary and general elections and in question submitted elections.

(b) The board of county commissioners of any county in which the board of county commissioners and county election officer have determined that an electronic or electromechanical voting system shall be used may issue bonds to finance and pay for purchase, lease or rental of such a system.

(c) The board of county commissioners and the county election officer of any county may adopt, experiment with or abandon any electronic or electromechanical system herein authorized and approved for use in the state and may use such a system in all or any part of the voting areas within the county or in combination with an optical scanning voting system or with regular paper ballots. Whenever the secretary of state rescinds approval of any voting system, the board of county commissioners and the county election officer shall abandon ~~such~~ the system until changes therein required by the secretary of state have been made, or if the secretary of state advises that acceptable changes cannot be made therein, ~~such~~ the abandonment shall be permanent.

(d) On and after the effective date of this act, no board of county commissioners in

any county may purchase, lease or rent any direct recording electronic system, as defined in K.S.A. 25-4401(d), and amendments thereto. On and after the effective date of this act, no board of county commissioners in any county may purchase, lease or rent any electronic or electromechanical voting system, unless such system:

(1) Provides a paper record of each vote cast, produced at the time the vote is cast;
and

(2) has the ability to be tested both before an election and prior to the date of canvass. Such test shall include the ability to match the paper record of the machine to the vote total contained in the machine.

Sec. 10. K.S.A. 2017 Supp. 25-4406 is hereby amended to read as follows: 25-4406. Electronic or electromechanical voting systems approved by the secretary of state:

(a) Shall provide for voting for the candidates for nomination or election of all political parties officially recognized pursuant to K.S.A. 25-302a, and amendments thereto;

(b) shall permit a voter to vote for any independent candidate for any office;

(c) shall provide for voting on constitutional amendments or other questions submitted;

(d) shall be so constructed that, as to primaries where candidates are nominated by political parties, the voter can vote only for the candidates for whom the voter is qualified to vote according to articles 2 and 33 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

(e) shall afford the voter an opportunity to vote for any or all candidates for an office for whom the voter is by law entitled to vote and no more, and at the same time shall prevent the voter from voting for the same candidate twice for the same office;

(f) shall be so constructed that in presidential elections the presidential electors of any political party may be voted for by one action;

(g) shall provide for "write-in" votes;

(h) shall provide for voting in absolute secrecy, except as to persons who request assistance due to temporary illness or disability or a lack of proficiency in reading the English language;

(i) shall reject all votes for an office or upon a question submitted when the voter has cast more votes for such office or upon such question than the voter is entitled to cast;

(j) shall provide for instruction of voters on the operation of voting machines, illustrating the manner of voting by the use of such systems. The instruction may include printed materials or demonstration by election board workers; ~~and~~

(k) shall provide a paper record of each vote cast, produced at the time the vote is cast;

(l) shall have the ability to be tested both before an election and prior to the date of canvass. The test shall include the ability to match the paper records of such machines to the vote totals contained in the machines; and

(m) shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.

Sec. 11. K.S.A. 25-1121 and K.S.A. 2017 Supp. 21-5903, 25-1122, 25-1124, 25-1128, 25-3104, 25-4403 and 25-4406 are hereby repealed.";

Also on page 1, in line 21, before "K.S.A" by inserting "On and after January 1,

2019,"; in line 22, by striking "January"; in line 23, by striking "1, 2019 and,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "25-101a" by inserting "and 25-1121 and K.S.A. 2017 Supp. 21-5903, 25-1122, 25-1124, 25-1128, 25-3104, 25-4403 and 25-4406"; also in line 2, by striking "section" and inserting "sections";

And your committee on conference recommends the adoption of this report.

ELAINE BOWERS

STEVE FITZGERALD

OLETHA FAUST-GOUDEAU

Conferees on part of Senate

KEITH ESAU

BLAKE CARPENTER

Conferees on part of House

On motion of Rep. Esau, the conference committee report on **HB 2539** was adopted.

On roll call, the vote was: Yeas 70; Nays 52; Present but not voting: 0; Absent or not voting: 3.

Yeas: Baker, Becker, Bergquist, Bishop, Blex, Brim, Burris, Carmichael, B. Carpenter, Clark, Concannon, E. Davis, Delperdang, Dierks, Dietrich, Dove, Elliott, Eplee, Esau, Finch, Francis, Gallagher, Good, Hawkins, Highland, Hineman, Horn, Huebert, Humphries, Jacobs, Jennings, Johnson, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Lewis, Lusk, Markley, Mason, Mastroni, Orr, Osterman, Ousley, F. Patton, Phillips, Pittman, R. Powell, Proehl, Rafie, Ralph, Resman, Ryckman, Schreiber, Seiwert, Sloan, Smith, A., Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Weber, C., Wheeler, Whitmer, K. Williams, Winn.

Nays: Alcala, Alford, Arnberger, Aurand, Awerkamp, Ballard, Burroughs, Carlin, Claeys, Clayton, Corbet, Cox, Crum, S., Curtis, Deere, Ellis, Finney, Frownfelter, Garber, Gartner, Helgerson, Henderson, Hibbard, Highberger, Hodge, Hoffman, Holscher, K. Jones, Kuether, Landwehr, Lusker, Miller, Murnan, Neighbor, Ohaebosim, Parker, Phelps, Probst, Rahjes, Rooker, Ruiz, Sawyer, Schroeder, Smith, E., Stogsdill, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Barker, Houser, Schwab.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2523** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 3, following line 7, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 21-5512 is hereby amended to read as follows: 21-5512. (a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if:

(1) The offender is an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services for a

correctional institution, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate;

(2) the offender is a parole officer, volunteer for the department of corrections or the employee or volunteer of a contractor who is under contract to provide supervision services for persons on parole, conditional release or postrelease supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate who has been released on parole, conditional release or postrelease supervision and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is an inmate who has been released and is currently on parole, conditional release or postrelease supervision;

(3) the offender is a law enforcement officer, an employee of a jail, or the employee of a contractor who is under contract to provide services in a jail and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such jail;

(4) the offender is a law enforcement officer, an employee of a juvenile detention facility or sanctions house, or the employee of a contractor who is under contract to provide services in such facility or sanctions house and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility or sanctions house;

(5) the offender is an employee of the department of corrections or the employee of a contractor who is under contract to provide services in a juvenile correctional facility and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility;

(6) the offender is an employee of the department of corrections or the employee of a contractor who is under contract to provide direct supervision and offender control services to the department of corrections and:

(A) The person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been:

(i) Released on conditional release from a juvenile correctional facility under the supervision and control of the department of corrections or juvenile community supervision agency; or

(ii) placed in the custody of the department of corrections under the supervision and control of the department of corrections or juvenile community supervision agency; and

(B) the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under supervision;

(7) the offender is an employee of the Kansas department for aging and disability services or the Kansas department for children and families or the employee of a contractor who is under contract to provide services in an aging and disability or children and families institution or to the Kansas department for aging and disability

services or the Kansas department for children and families and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a patient in such institution or in the custody of the secretary for aging and disability services or the secretary for children and families;

(8) the offender is a worker, volunteer or other person in a position of authority in a family foster home licensed by the department of health and environment and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a foster child placed in the care of such family foster home;

(9) the offender is a teacher or other person in a position of authority and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a student enrolled at the school where the offender is employed. If the offender is the parent of the student, the provisions of ~~subsection (b) of~~ K.S.A. 2017 Supp. 21-5604(b), and amendments thereto, shall apply, not this subsection;

(10) the offender is a court services officer or the employee of a contractor who is under contract to provide supervision services for persons under court services supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been placed on probation under the supervision and control of court services and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of court services;

(11) the offender is a community correctional services officer or the employee of a contractor who is under contract to provide supervision services for persons under community corrections supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been assigned to a community correctional services program under the supervision and control of community corrections and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of community corrections; ~~or~~

(12) the offender is a surety or an employee of a surety and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is the subject of a surety or bail bond agreement with such surety and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is the subject of a surety or bail bond agreement with such surety; or

(13) the offender is a law enforcement officer and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the course of a traffic stop, a custodial interrogation, an interview in connection with an investigation, or while the law enforcement officer has such person detained.

(b) Unlawful sexual relations as defined in:

(1) Subsection (a)(5) is a severity level 4, person felony; and

(2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), (a)(10), (a)(11) ~~or (a)(12) or (a)(13)~~ is a severity level 5, person felony.

(c) (1) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of K.S.A. 2017 Supp. 21-5503, and amendments thereto, the provisions of K.S.A. 2017 Supp. 21-5503, and amendments thereto, shall apply, not this section.

(2) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of ~~subsection (b)(1) of K.S.A. 2017 Supp. 21-5506(b)(1), and amendments thereto, the provisions of subsection (b)(1) of K.S.A. 2017 Supp. 21-5506(b)(1), and amendments thereto, shall apply, not this section.~~

(3) If an offender violates the provisions of this section by engaging in sodomy which would constitute a violation of ~~subsection (a)(3), (a)(4) or (b) of K.S.A. 2017 Supp. 21-5504(a)(3), (a)(4) or (b), and amendments thereto, the provisions of subsection (a)(3), (a)(4) or (b) of K.S.A. 2017 Supp. 21-5504(a)(3), (a)(4) or (b), and amendments thereto, shall apply, not this section.~~

(4) If an offender violates the provisions of this section by engaging in lewd fondling or touching which would constitute a violation of ~~subsection (b)(2) of K.S.A. 2017 Supp. 21-5506(b)(2), and amendments thereto, the provisions of subsection (b)(2) of K.S.A. 2017 Supp. 21-5506(b)(2), and amendments thereto, shall apply, not this section.~~

(d) As used in this section:

(1) "Correctional institution" means the same as in K.S.A. 75-5202, and amendments thereto;

(2) "inmate" means the same as in K.S.A. 75-5202, and amendments thereto;

(3) "parole officer" means the same as in K.S.A. 75-5202, and amendments thereto;

(4) "postrelease supervision" means the same as in K.S.A. 2017 Supp. 21-6803, and amendments thereto;

(5) "juvenile detention facility" means the same as in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(6) "juvenile correctional facility" means the same as in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(7) "sanctions house" means the same as in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(8) "institution" means the same as in K.S.A. 76-12a01, and amendments thereto;

(9) "teacher" means and includes teachers, coaches, supervisors, principals, superintendents and any other professional employee in any public or private school offering any of grades kindergarten through 12;

(10) "community corrections" means the entity responsible for supervising adults and juvenile offenders for confinement, detention, care or treatment, subject to conditions imposed by the court pursuant to the community corrections act, K.S.A. 75-5290, and amendments thereto, and the revised Kansas juvenile justice code, K.S.A. 2017 Supp. 38-2301 et seq., and amendments thereto;

(11) "court services" means the entity appointed by the district court that is responsible for supervising adults and juveniles placed on probation and misdemeanants placed on parole by district courts of this state;

(12) "juvenile community supervision agency" means an entity that receives grants

for the purpose of providing direct supervision to juveniles in the custody of the department of corrections; and

(13) "surety" means the same as in K.S.A. 22-2809a, and amendments thereto."

On page 5, following line 17, by inserting:

"Sec. 4. K.S.A. 2017 Supp. 74-5605 is hereby amended to read as follows: 74-5605. (a) Every applicant for certification shall be an employee of a state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto; an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state; a manager or employee of the horsethief reservoir benefit district pursuant to K.S.A. 2017 Supp. 82a-2212, and amendments thereto; or a school security officer designated as a school law enforcement officer pursuant to K.S.A. 2017 Supp. 72-6146, and amendments thereto.

(b) Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant's appointing authority or agency head shall furnish to the director of police training and to the commission a statement certifying that the applicant has been found to meet the minimum requirements of certification established by this subsection. The commission may rely upon the statement of the appointing authority or agency head as evidence that the applicant meets the minimum requirements for certification to issue a provisional certification. Each applicant for certification shall meet the following minimum requirements:

(1) Be a United States citizen;

(2) have been fingerprinted and a search of local, state and national fingerprint files made to determine whether the applicant has a criminal record;

(3) not have been convicted of a crime that would constitute a felony under the laws of this state, a misdemeanor crime of domestic violence or a misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the commission;

(4) ~~have: (A) graduated from a high school accredited by the Kansas state board of education or the appropriate accrediting agency of another state jurisdiction or~~ have: (B) obtained a high school education from a nonaccredited private secondary school as defined in K.S.A. 2017 Supp. 72-4345, and amendments thereto; or (C) obtained the equivalent of a high school education as defined by rules and regulations of the commission;

(5) be of good moral character sufficient to warrant the public trust in the applicant as a police officer or law enforcement officer;

(6) have completed an assessment, including psychological testing approved by the commission, to determine that the applicant does not have a mental or personality disorder that would adversely affect the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgment;

(7) be free of any physical or mental condition which adversely affects the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgment; and

(8) be at least 21 years of age.

(c) The commission may deny a provisional or other certification upon a finding that the applicant has engaged in conduct for which a certificate may be revoked, suspended or otherwise disciplined as provided in K.S.A. 74-5616, and amendments

thereto. When it appears that grounds for denial of a certification exist under this subsection, after a conditional offer of employment has been made to an applicant seeking appointment as a police officer or law enforcement officer, the applicant's appointing authority or agency head may request an order from the commission to determine whether a provisional certification will be issued to that applicant.

(d) As used in this section, "conviction" includes rendering of judgment by a military court martial pursuant to the uniform code of military justice, by a court of the United States or by a court of competent jurisdiction in any state, whether or not expunged; and any diversion or deferred judgment agreement entered into for a misdemeanor crime of domestic violence or a misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations by the commission and any diversion agreement or deferred judgment entered into on or after July 1, 1995, for a felony.";

On page 5, in line 18, by striking "and" and inserting ", 21-5512,"; also in line 18, after "74-5602" by inserting "and 74-5605";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the second semicolon by inserting "crime of unlawful sexual relations;"; in line 3, by striking the first "and" and inserting ", 21-5512,"; also in line 3, after "74-5602" by inserting "and 74-5605";

And your committee on conference recommends the adoption of this report.

RICHARD WILBORN

JULIA LYNN

DAVID HALEY

Conferees on part of Senate

BLAINE FINCH

BRADLEY RALPH

JOHN CARMICHAEL

Conferees on part of House

On motion of Rep. Finch, the conference committee report on **HB 2523** was adopted.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alcalá, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelner, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple,

Whitmer, K. Williams, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Barker, Houser, Schwab.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2129** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 2, following line 28, by inserting:

"Sec. 5. K.S.A. 75-6521 is hereby amended to read as follows: 75-6521. As used in K.S.A. 75-6521 through 75-6523, and amendments thereto:

(a) "Commission" means the Kansas state employees health care commission established pursuant to K.S.A. 75-6502, and amendments thereto.

(b) "Director" means the director of accounts and reports.

(c) "Employee" means any person who is an elected or appointed officer or any employee of the state in the classified service or unclassified service under the Kansas civil service act, other than persons who are employed on a seasonal or temporary basis.

(d) "Long-term care insurance" means any long-term care insurance policy ~~which~~ that is authorized to be sold in the state of Kansas.

(e) "Indemnity insurance" means any supplemental liability insurance policy that protects an individual against loss arising from a specific cause and that is authorized to be sold in the state of Kansas.

(f) "State" means the state of Kansas and any state agency as defined in subsection (3) of K.S.A. 75-3701(3), and amendments thereto.

Sec. 6. K.S.A. 75-6522 is hereby amended to read as follows: 75-6522. (a) The Kansas state employees health care commission shall offer ~~to all employees~~ long-term care insurance and indemnity insurance to all employees. The commission may enter into one or more group insurance contracts to provide such ~~long-term care~~ insurance.

(b) ~~The Kansas state employees health care~~ commission is hereby authorized to negotiate and enter into contracts with qualified insurers for the purpose of providing long-term care insurance and indemnity insurance. The commission shall advertise for proposals, shall negotiate with not less than three firms or other parties submitting proposals, and shall select from among those submitting proposals the firm or other contracting party to contract with for the purpose of entering into contracts for long-term care insurance and indemnity insurance.

(c) The provisions of K.S.A. 75-4317 ~~to through~~ 75-4320a, inclusive, and amendments thereto, shall not apply to meetings of the ~~Kansas state employees health care~~ commission when the commission meets solely for the purpose of discussing and preparing strategies for negotiations for contracts for long-term care insurance or indemnity insurance.

(d) Contracts entered into pursuant to this section shall not be subject to the provisions of K.S.A. 75-3738 ~~to through~~ 75-3740, inclusive, and amendments thereto. Such contracts may be for terms of not more than three years and may be renegotiated and renewed. All such contracts shall be subject to the limits of appropriations made or

available therefor and subject to the provisions of appropriations acts relating thereto.

(e) In exercising and performing the powers, duties and functions prescribed by this section, the ~~Kansas state employees health care~~ commission may adopt rules and regulations and enter into such contracts as may be necessary.

Sec. 7. K.S.A. 75-6523 is hereby amended to read as follows: 75-6523. (a) The purchase of long-term care insurance and indemnity insurance by an employee shall be voluntary, and the cost of such insurance shall be paid by the employee. The cost of such insurance for such employee shall be established by the Kansas state employees health care commission.

(b) Periodic deductions from state payrolls may be made in accordance with procedures prescribed by the secretary of administration to cover the costs of the long-term care insurance and indemnity insurance payable to employees. All moneys deducted pursuant to this section shall be remitted to the commission and deposited in the cafeteria benefits fund in the manner provided by K.S.A. 75-6513, and amendments thereto.";

Also on page 2, in line 29, by striking the first "and" and inserting a comma; also in line 29, after "75-3744" by inserting ", 75-6521, 75-6522 and 75-6523";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the third semicolon by inserting "payroll deductions for indemnity insurance;"; in line 4, by striking the first "and" and inserting a comma; also in line 4, after "75-3744" by inserting ", 75-6521, 75-6522 and 75-6523";

And your committee on conference recommends the adoption of this report.

CAROLYN MCGINN

RICK BILLINGER

LAURA KELLY

Conferees on part of Senate

BILL SUTTON

CHUCK WEBER

TOM BURROUGHS

Conferees on part of House

On motion of Rep. Sutton, the conference committee report on **Sub HB 2129** was adopted.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alcala, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Clacys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Seiwert, Sloan, Smith,

A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Barker, Houser, Schwab.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Highland, the House nonconcurred in Senate amendments to **HB 2438** and asked for a conference.

Speaker Ryckman thereupon appointed Reps. Highland, Humphries and Ruiz as conferees on the part of the House.

INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Hineman pursuant to House Rule 2311, **SB 461** was advanced to Emergency Final Action Subject to Amendment and Debate.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 461, AN ACT reconciling amendments to certain statutes; amending K.S.A. 2017 Supp. 8-240, as amended by section 1 of 2018 House Bill No. 2606, 8-247, as amended by section 2 of 2018 House Bill No. 2606, 12-1775a, 21-6627, 79-213 and 79-32,117 and repealing the existing sections; also repealing K.S.A. 2017 Supp. 8-240, as amended by section 1 of 2018 House Bill No. 2472, 8-247, as amended by section 3 of 2018 House Bill No. 2472, 12-1775b, 21-6627a, 79-213g and 79-32,117o, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alcalá, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Barker, Houser, Schwab.

The bill passed.

MESSAGES FROM THE GOVERNOR

From Jeff Colyer, M.D., Governor of the State of Kansas; Executive Order No. 18-12, concerning Criminal History and State Employment Practices.

The above Executive Order is kept on file and open for inspection in the office of the Chief Clerk.

On motion of Rep. Hineman, the House recessed until 4:00 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker Ryckman in the chair.

MESSAGES FROM THE SENATE

The Senate announced the appointment of Senators Wilborn, Lynn, and Haley to replace Senators Estes, Olson, and Faust-Goudeau as conferees on **SB 284**.

The Senate accedes to the request of the House for a conference on **HB 2438** and has appointed Senators Estes, Olson and Faust-Goudeau as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Hineman, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **H Sub for SB 179, SB 199, SB 310, H Sub for SB 374**.

On motion of Rep. Hineman, the House recessed until 4:35 p.m.

LATE AFTERNOON SESSION

The House met pursuant to recess with Speaker Ryckman in the chair.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 179** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed as House Substitute for Senate Bill No. 179, as follows:

On page 1, in line 10, by striking "that causes the juvenile to be" and inserting "and is";

On page 2, in line 22, after the comma by inserting "the managed care organization, if the juvenile is a medicaid recipient, and"; also in line 22, by striking all after "center"; in line 23, by striking all before "discharged" and inserting "serving the area where the

juvenile is being"; in line 26, after the comma by inserting "the managed care organization, if the juvenile is a medicaid recipient, and the"; also in line 26, by striking all after "center"; in line 27, by striking all before "discharged" and inserting "serving the area where the juvenile is being"; in line 29, by striking all after "(1)"; by striking all in lines 30 through 36; in line 37, by striking all before the period and inserting "Upon admission to a juvenile crisis intervention center, and if the juvenile is a medicaid recipient, the managed care organization shall approve services as recommended by the head of the juvenile crisis intervention center. Within 14 days after admission, the head of the juvenile crisis intervention center shall develop a plan of treatment for the juvenile in collaboration with the managed care organization";

On page 3, in line 4, by striking all after "center"; in line 5, by striking "(1)"; in line 37, after "(1)" by inserting ""Head of a juvenile crisis intervention center" means the administrative director of a juvenile crisis intervention center or such person's designee; (2)";

Also on page 3, in line 39, after "disorder" by inserting "or mental condition";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 16, following line 25, by inserting:

"Sec. 8. K.S.A. 2017 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

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

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

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

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2017 Supp. 38-2242, and amendments thereto, who:

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

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

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

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

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

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

(7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 2017 Supp. 21-6301(a)(14), and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult

would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2017 Supp. 21-5102, and amendments thereto;

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

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

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

(12) while less than 10 years of age commits the offense defined in K.S.A. 2017 Supp. 21-6301(a)(14), and amendments thereto;

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

(14) has been subjected to an act which would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 2017 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422, and amendments thereto, or has committed an act which, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 2017 Supp. 21-6419, and amendments thereto.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2017 Supp. 38-2207 and 38-2208, and amendments thereto.

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

(g) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2017 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(h) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

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

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

(k) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil

specified in K.S.A. 72-89b03(a), and amendments thereto.

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

(m) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2017 Supp. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

(n) "Jail" means:

(1) An adult jail or lockup; or

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

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

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

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

(r) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(s) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 2017 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

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

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

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

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical

treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 2017 Supp. 38-2217(a)(2), and amendments thereto.

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

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

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

(x) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 2017 Supp. 38-2272, and amendments thereto.

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

(z) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(aa) "Reasonable and prudent parenting standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities.

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

(cc) "Runaway" means a child who is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian.

(dd) "Secretary" means the secretary for children and families or the secretary's designee.

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

(ff) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include, but is not limited to, allowing, permitting or encouraging a child to:

- (1) Be photographed, filmed or depicted in pornographic material; or
- (2) be subjected to aggravated human trafficking, as defined in K.S.A. 2017 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another, or be subjected to an act which would constitute conduct proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2017 Supp. 21-6419 or 21-6422, and amendments thereto.

(gg) "Shelter facility" means any public or private facility or home, other than a

juvenile detention facility or staff secure facility, that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(hh) "Staff secure facility" means a facility described in K.S.A. 2017 Supp. 65-535, and amendments thereto: (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. No staff secure facility shall be in a city or county jail.

(ii) "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

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

Sec. 9. On and after July 1, 2019, K.S.A. 2017 Supp. 38-2202, as amended by section 8 of this act, is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

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

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

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

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2017 Supp. 38-2242, and amendments thereto, who:

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

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

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

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

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

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

(7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 2017 Supp. 21-6301(a)(14), and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but

which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2017 Supp. 21-5102, and amendments thereto;

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

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

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

(12) while less than 10 years of age commits the offense defined in K.S.A. 2017 Supp. 21-6301(a)(14), and amendments thereto;

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

(14) has been subjected to an act which would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 2017 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422, and amendments thereto, or has committed an act which, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 2017 Supp. 21-6419, and amendments thereto.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2017 Supp. 38-2207 and 38-2208, and amendments thereto.

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

(g) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2017 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(h) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

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

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

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

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

(m) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2017 Supp. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

(n) "Jail" means:

(1) An adult jail or lockup; or

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

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

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

(q) "Kinship care placement" means the placement of a child in the home of an adult with whom the child or the child's parent already has close emotional ties.

(r) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(s) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 2017 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

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

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

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

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent

legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 2017 Supp. 38-2217(a)(2), and amendments thereto.

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

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

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

(x) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 2017 Supp. 38-2272, and amendments thereto.

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

(z) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(aa) "Reasonable and prudent parenting standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities.

(bb) "Relative" means a person related by blood, marriage or adoption.

(cc) "Runaway" means a child who is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian.

(dd) "Secretary" means the secretary for children and families or the secretary's designee.

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

(ff) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include, but is not limited to, allowing, permitting or encouraging a child to:

(1) Be photographed, filmed or depicted in pornographic material; or

(2) be subjected to aggravated human trafficking, as defined in K.S.A. 2017 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another, or be subjected to an act which would constitute conduct proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2017 Supp. 21-6419 or 21-6422, and amendments thereto.

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

(hh) "Staff secure facility" means a facility described in K.S.A. 2017 Supp. 65-535, and amendments thereto: (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. No staff secure facility shall be in a city or county jail.

(ii) "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

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

Sec. 10. K.S.A. 2017 Supp. 38-2254 is hereby amended to read as follows: 38-2254. (a) Unless waived by the persons entitled to notice, the court shall require notice of the time and place of the dispositional hearing be given to the parties and interested parties.

(b) The court shall require notice and the right to be heard as to proposals for living arrangements for the child, the services to be provided the child and the child's family, and the proposed permanency goal for the child to the following:

(1) The child's foster parent or parents or permanent custodian providing care for the child;

(2) preadoptive parents for the child, if any;

(3) the child's grandparents at their last known addresses or if no grandparent is living or if no living grandparent's address is known, to the closest relative of each of the child's parents whose address is known;

(4) the person having custody of the child; and

(5) upon request, by any person having close emotional ties with the child and who is deemed by the court to be essential to the deliberations before the court.

(c) The notice required by this subsection shall be given by first class mail, not less than 10 business days before the hearing.

(d) Individuals receiving notice pursuant to subsection (b) shall not be made a party or interested party to the action solely on the basis of this notice and the right to be heard. The right to be heard shall be at a time and in a manner determined by the court and does not confer an entitlement to appear in person at government expense.

(e) The provisions of this subsection shall not require additional notice to any person otherwise receiving notice of the hearing pursuant to K.S.A. 2017 Supp. 38-2239, and amendments thereto.

Sec. 11. K.S.A. 2017 Supp. 38-2255 is hereby amended to read as follows: 38-

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

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

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

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

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

- (B) allowing the child to remain in home is contrary to the welfare of the child; or
- (C) immediate placement of the child is in the best interest of the child; and
- (2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

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

(d) *Custody of a child removed from the custody of a parent.* If the court has made the findings required by subsection (c), the court shall enter an order awarding custody to: A relative of the child or to a person with whom the child has close emotional ties who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto; any other suitable person; a shelter facility; a youth residential facility; a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2017 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2017 Supp. 21-6419, and amendments thereto; or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to the secretary. Custody awarded under this subsection shall continue until further order of the court.

(1) When custody is awarded to the secretary, the secretary shall consider any placement recommendation by the court and notify the court of the placement or proposed placement of the child within 10 days of the order awarding custody. After providing the parties or interested parties notice and opportunity to be heard, the court may determine whether the secretary's placement or proposed placement is contrary to

the welfare or in the best interests of the child. In making that determination the court shall consider the health and safety needs of the child and the resources available to meet the needs of children in the custody of the secretary. If the court determines that the placement or proposed placement is contrary to the welfare or not in the best interests of the child, the court shall notify the secretary, who shall then make an alternative placement.

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

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

(4) The court may enter an order restraining any alleged perpetrator of physical, mental or emotional abuse or sexual abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to ~~subsection (a) of~~ K.S.A. 2017 Supp. 38-2237(a), and amendments thereto, on any alleged perpetrator to whom the order is directed.

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

(e) *Further determinations regarding a child removed from the home.* If custody has been awarded under subsection (d) to a person other than a parent, a permanency plan shall be provided or prepared pursuant to K.S.A. 2017 Supp. 38-2264, and amendments thereto. If a permanency plan is provided at the dispositional hearing, the court may determine whether reintegration is a viable alternative or, if reintegration is not a viable alternative, whether the child should be placed for adoption or a permanent custodian appointed. In determining whether reintegration is a viable alternative, the court shall consider:

(1) Whether a parent has been found by a court to have committed one of the following crimes or to have violated the law of another state prohibiting such crimes or to have aided and abetted, attempted, conspired or solicited the commission of one of these crimes: (A) Murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto; (B) murder in the second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2017 Supp. 21-5403, and amendments thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2017 Supp. 21-5401, and amendments thereto; (D) voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto; or (E) a felony battery that resulted in bodily injury;

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

(3) whether a parent has previously been found to be an unfit parent in proceedings

under this code or in comparable proceedings under the laws of another state or the federal government;

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

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

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

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

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

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

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

(2) If the court has reason to believe that a child is before the court due, in whole or in part, to the use or misuse of alcohol or a violation of K.S.A. 2017 Supp. 21-5701 through 21-5717, and amendments thereto, by the child, a parent of the child, or another person responsible for the care of the child, the court may order the child, parent of the child or other person responsible for the care of the child to submit to and complete an alcohol and drug evaluation by a qualified person or agency and comply with any recommendations. If the evaluation is performed by a community-based alcohol and drug safety program certified pursuant to K.S.A. 8-1008, and amendments thereto, the child, parent of the child or other person responsible for the care of the child shall pay a fee not to exceed the fee established by that statute. If the court finds that the child and those legally liable for the child's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary.

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

presently ordered to pay support for any child who is subject to the jurisdiction of the court and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 2017 Supp. 38-2277, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 2017 Supp. 23-3101 et seq., and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 2017 Supp. 38-2279, and amendments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

Sec. 12. K.S.A. 2017 Supp. 38-2268 is hereby amended to read as follows: 38-2268. (a) Prior to a hearing to consider the termination of parental rights, if the child's permanency plan is either adoption or appointment of a custodian, with the ~~consent approval~~ of the guardian ad litem and acceptance and approval of the secretary, either or both parents may; Relinquish parental rights to the child; to the secretary; consent to an adoption; or consent to appointment of a permanent custodian.

(b) *Relinquishment of child to secretary.* (1) Any parent or parents may relinquish a child to the secretary, and if the secretary accepts the relinquishment in writing, the secretary shall stand in loco parentis to the child and shall have and possess over the child all rights of a parent, including the power to place the child for adoption and give consent thereto.

(2) All relinquishments to the secretary shall be in writing, in substantial conformity with the form for relinquishment contained in the appendix of forms following K.S.A. 59-2143, and amendments thereto, and shall be executed by either parent of the child.

(3) The relinquishment shall be in writing and shall be acknowledged before a judge of a court of record or before an officer authorized by law to take acknowledgments. If the relinquishment is acknowledged before a judge of a court of record, it shall be the duty of the court to advise the relinquishing parent of the consequences of the relinquishment.

(4) Except as otherwise provided, in all cases where a parent has relinquished a child to the agency pursuant to K.S.A. 59-2111 through 59-2143, and amendments thereto, all the rights of the parent shall be terminated, including the right to receive notice in a subsequent adoption proceeding involving the child. Upon such relinquishment, all the rights of the parents to such child, including such parent's right to inherit from or through such child, shall cease.

(5) If a parent has relinquished a child to the secretary based on a belief that the child's other parent would relinquish the child to the secretary or would be found unfit, and this does not occur, the rights of the parent who has relinquished a child to the secretary shall not be terminated.

(6) A parent's relinquishment of a child shall not terminate the right of the child to inherit from or through the parent.

(c) *Permanent custody.* (1) A parent may consent to appointment of an individual as

permanent custodian and if the individual accepts the consent, such individual shall stand in loco parentis to the child and shall have and possess over the child all the rights of a legal guardian.

(2) All consents to appointment of a permanent custodian shall be in writing and shall be executed by either parent of the child.

(3) The consent shall be in writing and shall be acknowledged before a judge of a court of record or before an officer authorized by law to take acknowledgments. If the consent is acknowledged before a judge of a court of record, it shall be the duty of the court to advise the consenting parent of the consequences of the consent.

(4) If a parent has consented to appointment of a permanent custodian based upon a belief that the child's other parent would so consent or would be found unfit, and this does not occur, the consent shall be null and void.

(d) *Adoption.* If the child is in the custody of the secretary and the parental rights of both parents have been terminated or the parental rights of one parent have been terminated or that parent has relinquished parental rights to the secretary, ~~the other parent may consent to the adoption of the child may be adopted~~ by persons approved by the secretary ~~or approved by~~ and the court. If the child is no longer in the custody of the secretary, the court may approve adoption of the child by persons who: (1) Both parents consent to adopt; or (2) one parent consents to adopt, if the parental rights of the other parent have been terminated. The consent shall follow the form contained in the appendix of forms following K.S.A. 59-2143, and amendments thereto.

Sec. 13. K.S.A. 2017 Supp. 38-2269 is hereby amended to read as follows: 38-2269. (a) When the child has been adjudicated to be a child in need of care, the court may terminate parental rights or appoint a permanent custodian when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future.

(b) In making a determination of unfitness the court shall consider, but is not limited to, the following, if applicable:

(1) Emotional illness, mental illness, mental deficiency or physical disability of the parent, of such duration or nature as to render the parent unable to care for the ongoing physical, mental and emotional needs of the child;

(2) conduct toward a child of a physically, emotionally or sexually cruel or abusive nature;

(3) the use of intoxicating liquors or narcotic or dangerous drugs of such duration or nature as to render the parent unable to care for the ongoing physical, mental or emotional needs of the child;

(4) physical, mental or emotional abuse or neglect or sexual abuse of a child;

(5) conviction of a felony and imprisonment;

(6) unexplained injury or death of another child or stepchild of the parent or any child in the care of the parent at the time of injury or death;

(7) failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family;

(8) lack of effort on the part of the parent to adjust the parent's circumstances, conduct or conditions to meet the needs of the child; and

(9) whether ~~the child has been in extended out of home placement,~~ as a result of the actions or inactions attributable to the parent and one or more of the factors listed in

subsection (c) apply, the child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date on which a child in the secretary's custody was removed from the child's home.

(c) In addition to the foregoing, when a child is not in the physical custody of a parent, the court, shall consider, but is not limited to, the following:

- (1) Failure to assure care of the child in the parental home when able to do so;
- (2) failure to maintain regular visitation, contact or communication with the child or with the custodian of the child;
- (3) failure to carry out a reasonable plan approved by the court directed toward the integration of the child into a parental home; and
- (4) failure to pay a reasonable portion of the cost of substitute physical care and maintenance based on ability to pay.

In making the above determination, the court may disregard incidental visitations, contacts, communications or contributions.

(d) A finding of unfitness may be made as provided in this section if the court finds that the parents have abandoned the child, the custody of the child was surrendered pursuant to K.S.A. 2017 Supp. 38-2282, and amendments thereto, or the child was left under such circumstances that the identity of the parents is unknown and cannot be ascertained, despite diligent searching, and the parents have not come forward to claim the child within three months after the child is found.

(e) If a person is convicted of a felony in which sexual intercourse occurred, or if a juvenile is adjudicated a juvenile offender because of an act which, if committed by an adult, would be a felony in which sexual intercourse occurred, and as a result of the sexual intercourse, a child is conceived, a finding of unfitness may be made.

(f) The existence of any one of the above factors standing alone may, but does not necessarily, establish grounds for termination of parental rights.

(g) (1) If the court makes a finding of unfitness, the court shall consider whether termination of parental rights as requested in the petition or motion is in the best interests of the child. In making the determination, the court shall give primary consideration to the physical, mental and emotional health of the child. If the physical, mental or emotional needs of the child would best be served by termination of parental rights, the court shall so order. A termination of parental rights under the code shall not terminate the right of a child to inherit from or through a parent. Upon such termination all rights of the parent to such child, including, such parent's right to inherit from or through such child, shall cease.

(2) If the court terminates parental rights, the court may authorize adoption pursuant to K.S.A. 2017 Supp. 38-2270, and amendments thereto, appointment of a permanent custodian pursuant to K.S.A. 2017 Supp. 38-2272, and amendments thereto, or continued permanency planning.

(3) If the court does not terminate parental rights, the court may authorize appointment of a permanent custodian pursuant to K.S.A. 2017 Supp. 38-2272, and amendments thereto, or continued permanency planning.

(h) If a parent is convicted of an offense as provided in ~~subsection (a)(7) of K.S.A. 2017 Supp. 38-2271(a)(7)~~, and amendments thereto, or is adjudicated a juvenile offender because of an act which if committed by an adult would be an offense as provided in ~~subsection (a)(7) of K.S.A. 2017 Supp. 38-2271(a)(7)~~, and amendments thereto, and if the victim was the other parent of a child, the court may disregard such

convicted or adjudicated parent's opinions or wishes in regard to the placement of such child.

(i) A record shall be made of the proceedings.

(j) When adoption, proceedings to appoint a permanent custodian or continued permanency planning has been authorized, the person or agency awarded custody of the child shall within 30 days submit a written plan for permanent placement which shall include measurable objectives and time schedules.

Sec. 14. K.S.A. 2017 Supp. 38-2282 is hereby amended to read as follows: 38-2282. (a) This section shall be known and may be cited as the newborn infant protection act. The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent, and to provide safe and secure alternatives to such abandonment.

(b) As used in this section:

(1) "Non-relinquishing parent" means the biological parent of an infant who does not leave the infant with any person listed in subsection (c) in accordance with this section; and

(2) "relinquishing parent" means the biological parent or person having legal custody of an infant who leaves the infant with any person listed in subsection (c) in accordance with this section.

(c) A person purporting to be an infant's parent or other person having lawful custody of an infant ~~which is 45~~ who is 60 days old or younger and ~~which who~~ has not suffered bodily harm may surrender physical custody of the infant to any employee who is on duty at a police station, sheriff's office, law enforcement center, fire station, city or county health department or medical care facility as defined by K.S.A. 65-425, and amendments thereto. Such employee shall, without a court order, take physical custody of an infant surrendered pursuant to this section. A relinquishing parent or other person voluntarily surrendering an infant under this subsection shall not be required to reveal personally identifiable information, but may be offered the opportunity to provide information concerning the infant's familial or medical history.

~~(d)~~ (d) A person or Any employee of a facility described in subsection (c) to whom an infant is delivered pursuant to this subsection shall not reveal the name or other personally identifiable information of the person who delivered the infant unless there is a reasonable suspicion that the infant has been abused or neglected, and such person or such facility and its employees shall be immune from administrative, civil or criminal liability for any action taken pursuant to this subsection. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of the infant.

(e) If an infant is delivered pursuant to this section to any facility described in subsection (c) that is not a medical care facility, the employee of such facility who takes physical custody of the infant shall arrange for the immediate transportation of the infant to the nearest medical care facility as defined by K.S.A. 65-425, and amendments thereto. The medical care facility, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health and safety of the infant and shall be immune from administrative, civil and criminal liability for treatment performed consistent with such standard.

~~(f)~~ (f) As soon as possible after a person an employee of any facility described in subsection (c) takes physical custody of an infant ~~under~~ without a court order pursuant

to this section, such person shall notify a local law enforcement agency that the person has taken physical custody of an infant pursuant to this section. Upon receipt of such notice a law enforcement officer from such law enforcement agency shall take custody of the infant as an abandoned infant. The law enforcement agency shall deliver the infant to a facility or person designated by the secretary pursuant to K.S.A. 2017 Supp. 38-2232, and amendments thereto.

~~(e)~~(g) Any person, city or county or agency thereof or medical care facility taking physical custody of an infant surrendered pursuant to this section shall perform any act necessary to protect the physical health or safety of the infant, and shall be immune from liability for any injury to the infant that may result therefrom.

(h) (1) A relinquishing parent shall be immune from civil or criminal liability for action taken pursuant to this section only if:

(A) The relinquishing parent voluntarily delivered the infant safely to the physical custody of an employee at a facility described in subsection (c);

(B) the infant was no more than 60 days old when delivered by the relinquishing parent to the physical custody of an employee at a facility described in subsection (c); and

(C) the infant was not abused or neglected by the relinquishing parent prior to such delivery.

(2) The relinquishing parent's voluntary delivery of an infant in accordance with this section shall constitute the parent's implied consent to the adoption of such infant and a voluntary relinquishment of such parent's parental rights.

(i) (1) In any termination of parental rights proceeding initiated after the relinquishment of an infant pursuant to this section, the state shall publish notice pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, that an infant has been relinquished, including the sex of the infant and the date and location of such relinquishment. Within 30 days after publication of such notice, a non-relinquishing parent seeking to establish parental rights shall notify the court where the termination of parental rights proceeding is filed and state such parent's intentions regarding the infant. The court shall initiate proceedings to establish parentage if no person notifies the court within 30 days. There shall be an examination of the putative father registry to determine whether attempts have previously been made to preserve parental rights to the infant. If such attempts have been made, the state shall make reasonable efforts to provide notice of the abandonment of the infant to such putative father.

(2) If a relinquishing parent of an infant relinquishes custody of the infant in accordance with this section, to preserve the parental rights of the non-relinquishing parent, the non-relinquishing parent shall take the steps necessary to establish parentage within 30 days after the published notice or specific notice provided in paragraph (1).

(3) If a non-relinquishing parent fails to take the steps necessary to establish parentage within the 30-day period specified in paragraph (2), the non-relinquishing parent may have all of such parent's rights terminated with respect to the child.

(4) If a non-relinquishing parent inquires at a facility described in subsection (c) regarding an infant whose custody was relinquished pursuant to this section, such facility shall refer the non-relinquishing parent to the Kansas department for children and families and the court exercising jurisdiction over the child.

~~(f)~~(j) Upon request, all medical records of the infant shall be made available to the

Kansas department for children and families and given to the person awarded custody of such infant. The medical facility providing such records shall be immune from liability for such records release.

Sec. 15. K.S.A. 2017 Supp. 39-708c is hereby amended to read as follows: 39-708c. (a) The secretary for children and families shall develop state plans, as provided under the federal social security act, whereby the state cooperates with the federal government in its program of assisting the states financially in furnishing assistance and services to eligible individuals. The secretary shall undertake to cooperate with the federal government on any other federal program providing federal financial assistance and services in the field of social welfare not inconsistent with this act. The secretary is not required to develop a state plan for participation or cooperation in all federal social security act programs or other federal programs that are available. The secretary shall also have the power, but is not required, to develop a state plan in regard to assistance and services in which the federal government does not participate.

(b) The secretary shall have the power and duty to determine the general policies relating to all forms of social welfare which are administered or supervised by the secretary and to adopt the rules and regulations therefor.

(c) The secretary shall hire, in accordance with the provisions of the Kansas civil service act, such employees as may be needed, in the judgment of the secretary, to carry out the provisions of this act. The secretary shall advise the governor and the legislature on all social welfare matters covered in this act.

(d) The secretary shall establish and maintain intake offices throughout the state. The secretary may establish and create area offices to coordinate and supervise the administration of the intake offices located within the area. The number and location of intake offices and area offices shall be within the discretion of the secretary. Each intake office shall be open at least 12 hours of each working week on a regularly scheduled basis. The secretary shall supervise all social welfare activities of the intake offices and area offices. The secretary may lease office or business space, but no lease or rental contract shall be for a period to exceed 10 years. A person desiring public assistance, or if the person is incapable or incapacitated, a relative, friend, personal representative or conservator of the person shall make application at the intake office. When it is necessary, employees may take applications elsewhere at any time. The applications shall contain a statement of the amount of property, both personal and real, in which the applicant has an interest and of all income which the applicant may have at the time of the filing of the application and such other information as may be required by the secretary. When a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for assistance unless otherwise prohibited by law. The form of application, the procedure for the determination of eligibility and the amount and kind of assistance or service shall be determined by the secretary.

(e) The secretary shall provide special inservice training for employees of the secretary and may provide the training as a part of the job or at accredited educational institutions.

(f) The secretary shall establish an adequate system of financial records. The secretary shall make annual reports to the governor and shall make any reports required by federal agencies.

(g) The secretary shall sponsor, operate or supervise community work experience

programs whereby recipients of assistance shall work out a part or all of their assistance and conserve work skills and develop new skills. The compensation credited to recipients for the programs shall be based upon an hourly rate equal to or in excess of the federal minimum wage hourly rate. The programs shall be administered by the secretary. In the programs, the secretary shall provide protection to the recipient under the workmen's compensation act or shall provide comparable protection and may enter into cooperative arrangements with other public officials and agencies or with private not-for-profit corporations providing assistance to needy persons in developing, subject to the approval of the secretary, the programs under this section.

(h) The secretary may receive, have custody of, protect, administer, disburse, dispose of and account for federal or private commodities, equipment, supplies and any kind of property, including food stamps or coupons, which are given, granted, loaned or advanced to the state of Kansas for social welfare works, and for any other purposes provided for by federal laws or rules and regulations or by private devise, grant or loan, or from corporations organized to act as federal agencies, and to do all things and acts which are necessary or required to perform the functions and carry out the provisions of federal laws, rules and regulations under which such commodities, equipment, supplies and other property may be given, granted, loaned or advanced to the state of Kansas, and to act as an agent of the federal government when designated as an agent, and do and perform all things and acts that may be required by the federal laws or rules and regulations not inconsistent with the act.

(i) The secretary may assist other departments, agencies and institutions of the state and federal government and of other states under interstate agreements, when so requested, by performing services in conformity with the purpose of this act.

(j) The secretary shall have authority to lease real and personal property whenever the property is not available through the state or a political subdivision of the state, for carrying on the functions of the secretary.

(k) All contracts shall be made in the name of the secretary for children and families and in that name the secretary may sue and be sued on such contracts. The grant of authority under this subsection shall not be construed to be a waiver of any rights retained by the state under the 11th amendment to the United States constitution and shall be subject to and shall not supersede the provisions of any appropriations act of this state.

(l) All moneys and property of any kind whatsoever received from the Kansas emergency relief committee or from any other state department or political subdivision of the state shall be used by the secretary in the administration and promotion of social welfare in the state of Kansas. The property may be given, loaned or placed at the disposal of any county, city or state agency engaged in the promotion of social welfare.

(m) The secretary shall prepare annually, at the time and in the form directed by the governor, a budget covering the estimated receipts and expenditures of the secretary for the ensuing year.

(n) The secretary shall have authority to make grants of funds, commodities or other needed property to local units of government under rules and regulations adopted by the secretary for the promotion of social welfare in local units of government.

(o) The secretary shall have authority to sell any property in the secretary's possession received from any source whatsoever for which there is no need or use in the administration or the promotion of social welfare in the state of Kansas.

(p) The secretary shall adopt a seal.

(q) The secretary shall initiate or cooperate with other agencies in developing programs for the prevention of blindness, the restoration of eyesight and the vocational rehabilitation of blind persons and shall establish a division of services for the blind. The secretary may initiate or cooperate with other agencies in developing programs for the prevention and rehabilitation of other handicapped persons.

(r) The secretary shall develop a children and youth service program and shall administer or supervise program activities including the care and protection of ~~children who are deprived, defective, wayward, miscreant, delinquent or~~ children in need of care, as defined in K.S.A. 2017 Supp. 38-2202, and amendments thereto. The secretary shall cooperate with the federal government through its appropriate agency or instrumentality in establishing, extending and strengthening such services and undertake other services to children authorized by law. Nothing in this act shall be construed as authorizing any state official, agent or representative, in carrying out any of the provisions of this act, to take charge of any child over the objection of either of the parents of such child or of the person standing in loco parentis to such child except pursuant to a proper court order.

(s) The secretary shall develop plans financed by federal funds or state funds or both for providing medical care for needy persons. The secretary, in developing the plan, may enter into an agreement with an agent or intermediary for the purpose of performing certain functions, including the making of medical payment reviews, determining the amount due the medical vendors from the state in accordance with standards set by the secretary, preparing and certifying to the secretary lists of medical vendors and the amounts due them and other related functions determined by the secretary. The secretary may also provide medical, remedial, preventive or rehabilitative care and services for needy persons by the payment of premiums to the federal social security system for the purchase of supplemental medical insurance benefits as provided by the federal social security act and amendments thereto. Medicaid recipients who were residents of a nursing facility on September 1, 1991, and who subsequently lost eligibility in the period September 1, 1991, through June 30, 1992, due to an increase in income shall be considered to meet the 300% income cap eligibility test.

(t) The secretary shall carry on research and compile statistics relative to the entire social welfare program throughout the state, ~~including all phases of dependency, defectiveness, delinquency and related problems~~; develop plans in cooperation with other public and private agencies for the prevention as well as treatment of conditions giving rise to social welfare problems.

(u) The secretary may receive grants, gifts, bequests, money or aid of any character whatsoever, for state welfare work. All moneys coming into the hands of the secretary shall be deposited in the state social welfare fund provided for in this act.

(v) The secretary may enter into agreements with other states or the welfare department of other states, in regard to the manner of determining the state of residence in disputed cases, the manner of returning persons to the place of residence and the bearing or sharing of the costs.

(w) The secretary shall perform any other duties and services necessary to carry out the purposes of this act and promote social welfare in the state of Kansas, not inconsistent with the state law.

(x) The secretary shall establish payment schedules for each group of health care

providers. Any payment schedules which are a part of the state medicaid plan shall conform to state and federal law. The secretary shall not be required to make any payments under the state medicaid plan which do not meet requirements for state and federal financial participation.

(1) The secretary shall consider budgetary constraints as a factor in establishing payment schedules so long as the result complies with state and federal law.

(2) The secretary shall establish payment schedules for providers of hospital and adult care home services under the medicaid plan that are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards. The secretary shall not be required to establish rates for any such facility that are in excess of the minimum necessary to efficiently and economically meet those standards regardless of any excess costs incurred by any such facility.

(y) The secretary shall maintain a system of centralized payment for all welfare expenditures.

Sec. 16. K.S.A. 39-713c is hereby amended to read as follows: 39-713c. The secretary shall find suitable homes for children who are ~~deprived, wayward, miscreant, delinquent or~~ children in need of care, as defined in K.S.A. 2017 Supp. 38-2202, and amendments thereto, referred to the secretary by the district court, and place and supervise the children in such homes. This shall not prevent the use of licensed private child-placing agencies by the secretary or district court when desired.";

Also on page 16, in line 26, before "K.S.A." by inserting "K.S.A. 39-713c and"; also in line 26, after "Supp." by inserting "38-2202,"; also in line 26, after the fourth comma by inserting "38-2254, 38-2255, 38-2268, 38-2269, 38-2282,"; in line 27, after "2330" by inserting ", 39-708c"; following line 27, by inserting:

"Sec. 18. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2202, as amended by section 23 of chapter 46 of the 2016 session laws of Kansas, and K.S.A. 2017 Supp. 38-2202, as amended by section 8 of this act, are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "the revised Kansas code for care of children; newborn infant protection act; powers and duties of the secretary for children and families"; also in line 2, after "amending" by inserting "K.S.A. 39-713c and"; in line 3, after "Supp." by inserting "38-2202, 38-2202, as amended by section 8 of this act,"; also in line 3, after the fourth comma by inserting "38-2254, 38-2255, 38-2268, 38-2269, 38-2282,"; also in line 3, after "38-2330" by inserting ", 39-708c"; in line 4, after "sections" by inserting "; also repealing K.S.A. 2015 Supp. 38-2202, as amended by section 23 of chapter 46 of the 2016 session laws of Kansas";

And your committee on conference recommends the adoption of this report.

BLAINE FINCH
BRADLEY RALPH
JOHN CARMICHAEL

Conferees on part of House

RICHARD WILBORN

JULIA LYNN

DAVID HALEY

Conferees on part of Senate

On motion of Rep. Finch, the conference committee report on **H Sub for SB 179** was adopted.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcala, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Barker, Houser, Schwab, Winn.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 199** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 2, in line 42, by striking "(B) and"; also in line 42, after "(C)" by inserting "and (D)";

On page 3, in line 12, after "(B)" by inserting "(i) There shall be a rebuttable presumption that an appellant will suffer an undue hardship pursuant to subparagraph (A) when the:

- (a) Judgment amount exceeds \$2,500,000;
- (b) defendant is a small business; and
- (c) judgment is for a claim arising from activities within the appellant's ordinary course of business.

(ii) For the purposes of this subparagraph, "small business" means a sole proprietorship, partnership, limited liability company, corporation or other business entity, whether for-profit or not-for-profit, that has between two and 50 employees and is not a corporate affiliate or subsidiary of, or owned in whole or in part by, any other business.

(C)";

Also on page 3, in line 15, by striking "paragraph" and inserting "subparagraph"; also in line 15, by striking "or" and inserting a comma; also in line 15, after "(B)" by inserting "or (C)"; in line 16, by striking the colon; in line 17, by striking "(i)"; in line 19, after "business" by inserting ", or is likely to purposefully dissipate or divert assets outside of the ordinary course of its business,"; also in line 19, after the second "the" by inserting "primary"; in line 20, by striking ", and" and inserting a period; in line 23, by striking all after "judgment"; by striking all in lines 28 through 31; in line 32, by striking "judgment";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

And your committee on conference recommends the adoption of this report.

BLAINE FINCH

BRADLEY RALPH

JOHN CARMICHAEL

Conferees on part of House

RICHARD WILBORN

JULIA LYNN

DAVID HALEY

Conferees on part of Senate

On motion of Rep. Finch, the conference committee report on **SB 199** was adopted.

On roll call, the vote was: Yeas 118; Nays 3; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Arnberger, Aurand, Averkamp, Baker, Ballard, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeyes, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hoffman, Holscher, Horn, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Raffie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wolfe Moore.

Nays: Hodge, Miller, Ward.

Present but not voting: None.

Absent or not voting: Barker, Houser, Schwab, Winn.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 310** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 1, by striking all in lines 7 through 36;

By striking all on page 2;

On page 3, by striking all in lines 1 through 13 and inserting:

"New Section 1. (a) No antique amusement ride, limited-use amusement ride or registered agritourism activity shall be operated in this state unless a valid permit for such ride has been issued by the department. The owner of any such ride shall make application for a permit for such ride to the secretary on such form and in such manner as prescribed by the secretary. The application for a permit shall include, but is not limited to, the following:

(1) The name of the owner and operator of the antique amusement ride, limited-use amusement ride or registered agritourism activity;

(2) the location of the ride, or the location where such ride is stored when not in use;

(3) valid certificate of inspection; and

(4) proof of insurance.

(b) Each applicant shall submit a permit fee of \$50 along with the application.

(c) Upon approval of an application and receipt of the required fee, the secretary shall issue a permit for the antique amusement ride, limited-use amusement ride or registered agritourism activity. Such permit shall be valid for one year from the date of issuance. Any permit fee paid by an applicant shall be returned to the applicant if the application is denied.

(d) In addition to the permit fee required under subsection (b), no antique amusement ride, limited-use amusement ride or registered agritourism activity shall be operated in this state unless the owner of such ride has registered as an antique amusement ride, limited-use amusement ride or registered agritourism activity owner with the department. Registration shall be valid for a period of one year. The owner of an antique amusement ride, limited-use amusement ride or registered agritourism activity shall register with the department in such form and in such manner as prescribed by the secretary and by paying a registration fee of \$50. The fee required under this subsection shall be an annual fee paid by the owner, regardless of the number of rides owned by such owner.

(e) All fees received by the secretary pursuant to this section shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the amusement ride safety fund.

Sec. 2. K.S.A. 2017 Supp. 40-4801 is hereby amended to read as follows: 40-4801. As used in K.S.A. 40-4802 and 40-4803, and amendments thereto, the terms "amusement ride," "antique amusement ride." "limited-use amusement ride." "operator," and "owner" and "registered agritourism activity" shall have the same meanings as

those terms are defined in K.S.A. 2017 Supp. 44-1601, and amendments thereto.

Sec. 3. K.S.A. 2017 Supp. 40-4802 is hereby amended to read as follows: 40-4802. No amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity shall be operated in this state unless at the time of operation the owner has in effect an insurance policy insuring the owner and operator against liability for bodily injury to persons arising out of the operation of the amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity. The insurance policy shall be written by an insurance company doing business in Kansas, or by a surplus lines insurer. Such insurance policy shall:

(a) (1) For an owner or operator of an amusement ride, provide for coverage in an amount not less than \$1,000,000 per occurrence with a \$2,000,000 annual aggregate, except that this requirement shall be satisfied if the owner of such amusement ride is the state or any subdivision of the state and such owner self-insures, or participates in a public entity self-insurance pool in accordance with K.S.A. 75-6111, and amendments thereto; and or

(2) for an owner or operator of an antique amusement ride, limited-use amusement ride or registered agritourism activity, provide for coverage in an amount not less than \$750,000 per occurrence with a \$1,000,000 annual aggregate; and

(b) name as an additional insured any person contracting with the owner for the ~~amusement ride's~~ operation of the amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity.

Sec. 4. K.S.A. 2017 Supp. 44-1601 is hereby amended to read as follows: 44-1601. As used in this act:

(a) (1) "Amusement ride" means any mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement ~~and shall include all rides and devices included under ASTM international F24 committee standards~~, including, but not be limited to:

(A) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love, roller coasters, boat rides, water slides, inflatable devices, commercial zip lines, trampoline courts and go-karts;

(B) equipment generally associated with winter activities, such as ski lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways; and

(C) equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride.

(2) "Amusement ride" does not include:

(A) Games, concessions and associated structures;

(B) any single passenger coin-operated ride that: (i) Is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;

(C) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides and physical fitness devices; ~~or~~

(D) home-owned antique amusement rides;

(E) limited-use amusement rides;

(F) registered agritourism activities;

(G) any ride commonly known as a hayrack ride in which patrons sit in a wagon or

cart that is then pulled by horses or a tractor or other motor vehicle:

(H) any ride commonly known as a barrel train, which has a series of handmade cars fashioned from barrels that are connected and pulled by a tractor or other motor vehicle; or

(I) any amusement ride owned by an individual and operated solely within a single county for strictly private use.

(b) "Antique amusement ride" means an amusement ride, as defined in subsection (a)(1), manufactured prior to January 1, 1930.

(c) "Certificate of inspection" means a certificate, signed and dated by a qualified inspector, showing that an amusement ride has satisfactorily passed inspection by such inspector.

~~(e)~~(d) "Class A amusement ride" means an amusement ride designed for use primarily by individuals aged 12 or less.

~~(f)~~(e) "Class B amusement ride" means an amusement ride that is not classified as a class A amusement ride.

~~(g)~~(f) "Department" means the department of labor.

~~(h)~~(g) "Home-owned Limited-use amusement ride" means an amusement ride, as defined in subsection (a)(1), owned by an individual and operate solely within a single county for strictly private use and operated by a nonprofit, community-based organization that is operated for less than 20 days, or 160 hours, in a year and is operated at only one location each year.

~~(i)~~(h) "Nondestructive testing" means the development and application of technical methods in accordance with ASTM F747 standards such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

(1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;

(2) assess integrity, properties and composition; and

(3) measure geometrical characters.

~~(j)~~(i) "Operator" means a person actually supervising, or engaged in or directly controlling the operations of an amusement ride.

~~(k)~~(j) "Owner" means a person who owns, leases, controls or manages the operations of an amusement ride and may include the state or any political subdivision of the state.

~~(l)~~(k) "Parent or guardian" means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by K.S.A. 59-3051, and amendments thereto.

~~(m)~~(l) (1) "Patron" means any individual who is:

(A) Waiting in the immediate vicinity of an amusement ride to get on the ride;

(B) getting on an amusement ride;

(C) using an amusement ride;

(D) getting off an amusement ride; or

(E) leaving an amusement ride and still in the immediate vicinity of the ride.

(2) "Patron" does not include employees, agents or servants of the owner while engaged in the duties of their employment.

~~(h)~~(m) "Person" means any individual, association, partnership, corporation, limited liability company, government or other entity.

~~(m)~~(n) "Qualified inspector" means a person who:

(1) Is a licensed professional engineer, as defined in K.S.A. 74-7003, and amendments thereto, and has completed at least two years of experience in the amusement ride field, consisting of at least one year of actual inspection of amusement rides under a qualified inspector for a manufacturer, governmental agency, amusement park, carnival or insurance underwriter, and an additional year of practicing any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair or operation;

(2) provides satisfactory evidence of completing a minimum of five years of experience in the amusement ride field, at least two years of which consisted of actual inspection of amusement rides under a qualified inspector for a manufacturer, governmental agency, amusement park, carnival or insurance underwriter, and the remaining experience consisting of any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair or operation; ~~or~~

(3) has received qualified training from a third party, such as attainment of level ~~H~~I certification from the national association of amusement ride safety officials (NAARSO), attainment of level ~~H~~I certification from the amusement industry manufacturers and suppliers international (AIMS), attainment of a qualified inspector certification from the association for challenge course technology (ACCT), ~~Pennsylvania department of agriculture — general qualified inspector status, when applicable, or~~ other similar qualification from another nationally recognized organization; ~~or~~

(4) for purposes of inspecting inflatable devices that are rented on a regular basis and erected at temporary locations, provides satisfactory evidence of completing a minimum of five years of experience working with inflatable devices and has received qualified training from a third party, such as attainment of an advanced inflatable safety operations certification from the safe inflatable operators training organization or other nationally recognized organization.

(o) "Registered agritourism activity" means an amusement ride, as defined in subsection (a)(1), that is a registered agritourism activity, as defined in K.S.A. 2017 Supp. 32-1432, and amendments thereto.

~~(n)~~(p) "Secretary" means the secretary of labor.

~~(o)~~(q) "Serious injury" means an injury that results in:

(1) Death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system;

(2) a compound fracture; or

(3) other injury or illness that requires immediate ~~medical treatment~~ admission and overnight hospitalization, and observation by a licensed physician.

~~(p)~~(r) "Sign" means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

~~(q)~~(s) "Water slide" means a slide that is at least ~~15~~ 35 feet in height and that uses water to propel the patron through the ride.

Sec. 5. K.S.A. 2017 Supp. 44-1602 is hereby amended to read as follows: 44-1602.

(a) No amusement ride shall be operated in this state unless such ride has a valid certificate of inspection. An amusement ride erected in this state shall be inspected by a qualified inspector at least every 12 months.

The certificate of an inspection required by this subsection shall be signed and dated by the inspector and shall be available to any person contracting with the owner for the ~~amusement ride's operation of such amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity~~. In addition, a visible inspection decal provided by the department or other evidence of inspection shall be posted in plain view on or near the amusement ride, ~~antique amusement ride, limited-use amusement ride or registered agritourism activity~~ in a location where it can easily be seen.

(b) Inspections performed pursuant to this section shall be paid for by the owner of the amusement ride, ~~antique amusement ride, limited-use amusement ride or registered agritourism activity~~, or in the case of a state agency or political subdivision of the state, such governmental entity shall pay for the inspection.

(c) In addition to the annual inspection required by subsection (a), the operator of an amusement ride, ~~antique amusement ride, limited-use amusement ride or registered agritourism activity~~ shall perform and record daily inspections of the ~~amusement ride~~. The daily inspection shall include an inspection of equipment identified for daily inspection in accordance with the applicable codes and the manufacturer's recommendations.

(d) The secretary shall conduct random compliance audits of amusement rides erected both at permanent locations and at temporary locations. A warning citation for violation of this act shall be issued against any owner or operator for a first violation.

(e) The secretary shall develop an inspection checklist, which shall be posted on the department's website.

Sec. 6. K.S.A. 2017 Supp. 44-1603 is hereby amended to read as follows: 44-1603. The owner of an amusement ride, ~~antique amusement ride, limited-use amusement ride or registered agritourism activity~~ shall retain at all times current records relating to the construction, repair and maintenance of its operation, including safety, inspection, maintenance records and ride operator training activities for such ride. Such records shall be available to any person contracting with the owner for the ~~amusement ride's operation of such ride~~, and shall be made available to the department at reasonable times, including during an inspection upon the department's request. Records of daily inspections must be available for inspection at the location where the ride or device is operated. All records must be maintained for a period of three years.

Sec. 7. K.S.A. 2017 Supp. 44-1605 is hereby amended to read as follows: 44-1605. (a) No amusement ride shall be operated in this state unless the operator has satisfactorily completed training that includes, at a minimum:

- (1) Instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;
- (2) demonstration of physical operation of the ride; and
- (3) supervised observation of the operator's physical operation of the ride.

(b) No amusement ride shall be operated in this state unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of such training, signed and dated by the trainer, is available to any person contracting with the owner for the amusement ride's operation on the

premises where the amusement ride is operated, during the hours of operation of the ride.

(c) No inflatable device that is rented on a regular basis and erected at a temporary location shall be operated in this state unless the operator has been trained by a person who has attained a basic inflatable safety operations certification from the safe inflatable operators training organization or other nationally recognized organization.

(d) No slide that uses water to propel the patron through the ride and that is at least 15 feet in height shall be operated in this state unless there is an attendant stationed at such slide to ensure patrons are properly adhering to the safety standards in place.

Sec. 8. K.S.A. 2017 Supp. 44-1606 is hereby amended to read as follows: 44-1606. No amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity shall be operated in this state unless there is posted in plain view on or near the ride, in a location where they can be easily read, all safety instructions for the ride.

Sec. 9. K.S.A. 2017 Supp. 44-1607 is hereby amended to read as follows: 44-1607. (a) Each patron of an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.

(b) Each patron of ~~an amusement~~ a ride has a duty to:

(1) Exercise the judgment and act in the manner of an ordinary prudent person while participating in ~~an amusement~~ a ride;

(2) obey all instructions and warnings, written or oral, prior to and during participation in ~~an amusement~~ a ride;

(3) refrain from participation in ~~an amusement~~ a ride while under the influence of alcohol or drugs;

(4) engage all safety devices that are provided;

(5) refrain from disconnecting or disabling any safety device except at the express direction of the owner's agent or employee; and

(6) refrain from extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee.

(c) Any parent or guardian of a patron shall have a duty to reasonably ensure that the patron complies with all provisions of this act.

Sec. 10. K.S.A. 2017 Supp. 44-1608 is hereby amended to read as follows: 44-1608. Any person contracting with an owner for the ~~amusement ride's~~ operation of an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity shall ensure that:

(a) Inspection certificates required by K.S.A. 2017 Supp. 44-1602, and amendments thereto, are available;

(b) maintenance and inspection records required by K.S.A. 2017 Supp. 44-1603, and amendments thereto, are available; and

(c) safety instructions for the ride are posted as required by K.S.A. 2017 Supp. 44-1606, and amendments thereto.

Sec. 11. K.S.A. 2017 Supp. 44-1609 is hereby amended to read as follows: 44-1609. Whenever a serious injury results from the operation of an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity:

(a) Operation of the ride shall immediately be discontinued;

(b) operation of the ride shall not be resumed until it has been inspected and the

qualified inspector has approved resumption of operation; and

(c) the owner, within 30 days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

Sec. 12. K.S.A. 2017 Supp. 44-1610 is hereby amended to read as follows: 44-1610. (a) It is a class B misdemeanor for an owner or operator of an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity knowingly to operate, or cause or permit to be operated, any amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity without a valid permit issued by the secretary.

(b) A notice of violation may be issued by the department when an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity is found to be out of compliance with the provisions of this act, or any rules or regulations adopted pursuant thereto. The notice of violation may include an order to cease and desist operation of the specific ~~amusement~~ ride until all violations are satisfactorily corrected.

(c) Within 10 business days after a notice of violation has been issued, the person issued such notice may file a written request with the department for an informal conference regarding the notice. If the person issued the notice of violation does not request an informal conference within this time frame, all provisions of the notice shall become final. If the notice of violation is not resolved within the prescribed time frame, the department may seek judicial enforcement of the notice of violation, or an enforcement order may be issued.

(d) The secretary may impose a fine of not more than \$1,000 for any violation of the provisions of this act, or any rules or regulations adopted pursuant thereto. All fines received by the secretary pursuant to this section shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the amusement ride safety fund.

(e) Each day a violation continues shall constitute a separate offense.

(f) The provisions of this section shall be subject to the Kansas administrative procedure act.

~~(g) No prosecution for an offense described in subsection (a) shall be brought prior to January 1, 2018. The provisions of this subsection shall expire on June 30, 2018.~~

Sec. 13. K.S.A. 2017 Supp. 44-1611 is hereby amended to read as follows: 44-1611. The attorney general, or the county or district attorney in a county in which an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity is located or operated, may apply to the district court for an order enjoining operation of any amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity operated in violation of this act.

Sec. 14. K.S.A. 2017 Supp. 44-1612 is hereby amended to read as follows: 44-1612. The governing body of any city or county may establish and enforce safety standards for amusement rides, antique amusement ride, limited-use amusement rides or registered agritourism activities in addition to, but not in conflict with, the standards established by this act.

Sec. 15. K.S.A. 2017 Supp. 44-1613 is hereby amended to read as follows: 44-1613. The provisions of K.S.A. 2017 Supp. 44-1601 through 44-1619, and section 1,

and amendments thereto, shall be known as the Kansas amusement ride act.

Sec. 16. K.S.A. 2017 Supp. 44-1614 is hereby amended to read as follows: 44-1614. (a) The secretary of labor shall adopt rules and regulations necessary to implement provisions of the Kansas amusement ride act, K.S.A. 2017 Supp. 44-1601 et seq., and amendments thereto.

(b) (1) On or before January 1, 2018, the secretary shall adopt rules and regulations necessary to implement the amendments made to the Kansas amusement ride act, K.S.A. 2017 Supp. 44-1601 et seq., and amendments thereto, and the amusement ride insurance act, K.S.A. 40-4801 et seq., and amendments thereto, by this act.

(2) The secretary shall adopt rules and regulations specifying nationally recognized organizations that issue certifications or other evidence of qualification to inspect amusement rides, and that require education, experience and training at least equivalent to that required for a level-HI certification from NAARSO as of July 1, 2017.

(3) All references to the American society for testing and materials (ASTM) standards shall be to those standards ~~adopted~~ developed by the ASTM international F24 committee, as published in ASTM international standards volume 15.07, or any later version adopted by the secretary in rules and regulations.

Sec. 17. K.S.A. 2017 Supp. 44-1616 is hereby amended to read as follows: 44-1616. (a) No amusement ride shall be operated in this state unless a valid permit for such ride has been issued by the department. The owner of an amusement ride shall make application for a permit for such amusement ride to the secretary on such form and in such manner as prescribed by the secretary. The application for a permit shall include, but is not limited to, the following:

- (1) The name of the owner and operator of the amusement ride;
- (2) the location of the amusement ride, or the location where such ride is stored when not in use;
- (3) valid certificate of inspection;
- (4) proof of insurance; and
- (5) (A) for amusement rides manufactured prior to July 1, 2018, certification that such ride qualifies as service proven, as that term is used in the applicable ASTM international F24 committee standards; and
(B) for amusement rides manufactured on and after July 1, 2018, certification that such ride meets the applicable ASTM international F24 committee standards pertaining to ride maintenance and operation.

(b) Each applicant shall submit a permit fee along with the application in an amount as follows:

- (1) For amusement rides erected at a permanent location, \$75 for a class A amusement ride, and \$100 for a class B amusement ride;
- (2) for amusement rides erected at a temporary location, \$30; and
- (3) for amusement rides owned or operated by a municipality or a nonprofit entity, whether erected at a permanent or temporary location, \$10.

(c) Upon approval of an application and receipt of the required fee, the secretary shall issue a permit for the amusement ride. Such permit shall be valid for one year from the date of issuance. Any permit fee paid by an applicant shall be returned to the applicant if the application is denied.

(d) In addition to the permit fees required under subsection ~~(a)(b)~~, no amusement ride shall be operated in this state unless the owner of such ride has registered as an

amusement ride owner with the department. Registration shall be valid for a period of one year. The owner of an amusement ride shall register with the department in such form and in such manner as prescribed by the secretary, and by paying a registration fee as follows:

- (1) For amusement rides erected at a permanent location, \$500;
- (2) for amusement rides erected at a temporary location, \$250; and
- (3) for amusement rides owned by a municipality or nonprofit entity, whether erected at a permanent or temporary location, \$50.

The fee required under this subsection shall be an annual fee paid by the owner, regardless of the number of amusement rides owned by such owner.

(e) All fees received by the secretary pursuant to this section shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the amusement ride safety fund.

Sec. 18. K.S.A. 2017 Supp. 44-1617 is hereby amended to read as follows: 44-1617. There is hereby established in the state treasury the amusement ride safety fund, which shall be administered by the department of labor. The amusement ride safety fund shall consist of those moneys credited to the amusement ride safety fund pursuant to K.S.A. 44-1610, and amendments thereto, and K.S.A. 2017 Supp. 44-1616 and section 1, and amendments thereto. All expenditures from the amusement ride safety fund shall be for the administration and enforcement of the Kansas amusement ride act, and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary, or the secretary's designee.

Sec. 19. K.S.A. 2017 Supp. 44-1618 is hereby amended to read as follows: 44-1618. (a) (1) A patron, or a patron's parent or guardian on a patron's behalf, shall report in writing to the owner any injury sustained on an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity before leaving the premises. Such report shall include:

- (A) The name, address and phone number of the injured person;
 - (B) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
 - (C) the cause of the injury, if known; and
 - (D) the names, addresses and phone numbers of any witnesses to the incident.
- (2) If a patron, or a patron's parent or guardian, is unable to file a report because of the severity of the patron's injuries, the patron or the patron's parent or guardian shall file the report as soon as reasonably possible.

(3) The owner shall prominently display signage at the point of admission or ticket sale and at least two other locations in close proximity to the amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity explaining a patron's duty to report injuries sustained on such ~~amusement~~-ride. Such signage shall include instructions on how to contact the owner's representatives if immediate assistance is needed and how to make an injury report.

(4) The failure of a patron, or the patron's parent or guardian, to report an injury under this subsection shall have no effect on the patron's right to commence a civil action.

(b) The owner of an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity shall notify the department of any serious injury reported by a patron, or any injury caused by a malfunction or failure of ~~an amusement~~ a ride or caused by an operator or patron error. Such notification shall be submitted to the department within 72 hours of the time that the operator becomes aware of the injury.

(c) If a serious injury occurs, the equipment or conditions that caused the injury shall be preserved for the purpose of an investigation by the department and such ~~amusement ride~~ shall be immediately removed from service ~~until an investigation is completed or deemed unnecessary by the secretary~~. Except as provided in subsection (d), if upon notification, the department shall acknowledge receipt of such notice and determine if an investigation of a serious injury is necessary. If an investigation is not commenced within 24 hours after the department receives notification of such injury, then an investigation shall be deemed unnecessary.

(d) If the serious injury results in the death of a patron, the owner shall notify the department of the injury as soon as possible. Such notification shall be by telephone initially with a written notification sent within 24 hours after the initial notice. If the patron's death is related to a major malfunction of the ~~amusement ride~~, an investigation shall be required and the department shall commence such investigation within 24 hours after receiving initial notice of the injury. No part of the ~~amusement ride~~ or the ride itself, shall be moved or repaired without the written approval of the secretary, or the secretary's designee, except that nothing in this subsection shall be construed so as to hinder emergency response personnel from performing their duties, or to prevent the elimination of an obvious safety hazard. The owner shall provide the department with complete access to the ~~amusement ride~~ and all related premises for the purposes of the investigation and shall provide all information related to the cause of the injury to the department.

Sec. 20. K.S.A. 2017 Supp. 44-1619 is hereby amended to read as follows: 44-1619. The provisions of this act shall not be enforced by the secretary prior to the date of publication of the rules and regulations adopted by the secretary pursuant to K.S.A. 2017 Supp. 44-1614(b), and amendments thereto. Prior to taking any action pursuant to K.S.A. 2017 Supp. 44-1610, and amendments thereto, the secretary shall provide the owner or operator of an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity a reasonable period of time to comply with the provisions of K.S.A. 2017 Supp. 44-1601 et seq., and amendments thereto, and K.S.A. 40-4801 et seq., and amendments thereto.

Sec. 21. K.S.A. 2017 Supp. 40-4801, 40-4802, 44-1601, 44-1602, 44-1603, 44-1605, 44-1606, 44-1607, 44-1608, 44-1609, 44-1610, 44-1611, 44-1612, 44-1613, 44-1614, 44-1616, 44-1617, 44-1618 and 44-1619 are hereby repealed.

Sec. 22. On and after July 1, 2018, section 1 of House Substitute for Senate Bill No. 307 and K.S.A. 2017 Supp. 40-4801, as amended by section 2 of 2018 House Substitute for Senate Bill No. 307, 40-4802, as amended by section 3 of 2018 House Substitute for Senate Bill No. 307, 44-1601, as amended by section 4 of 2018 House Substitute for Senate Bill No. 307, 44-1602, as amended by section 5 of 2018 House Substitute for Senate Bill No. 307, 44-1603, as amended by section 6 of 2018 House Substitute for Senate Bill No. 307, 44-1605, as amended by section 7 of 2018 House Substitute for Senate Bill No. 307, 44-1606, as amended by section 8 of 2018 House

Substitute for Senate Bill No. 307, 44-1607, as amended by section 9 of 2018 House Substitute for Senate Bill No. 307, 44-1608, as amended by section 10 of 2018 House Substitute for Senate Bill No. 307, 44-1609, as amended by section 11 of 2018 House Substitute for Senate Bill No. 307, 44-1610, as amended by section 12 of 2018 House Substitute for Senate Bill No. 307, 44-1611, as amended by section 13 of 2018 House Substitute for Senate Bill No. 307, 44-1612, as amended by section 14 of 2018 House Substitute for Senate Bill No. 307, 44-1613, as amended by section 15 of 2018 House Substitute for Senate Bill No. 307, 44-1614, as amended by section 16 of 2018 House Substitute for Senate Bill No. 307, 44-1616, as amended by section 17 of 2018 House Substitute for Senate Bill No. 307, 44-1617, as amended by section 18 of 2018 House Substitute for Senate Bill No. 307, 44-1618, as amended by section 19 of 2018 House Substitute for Senate Bill No. 307, and 44-1619, as amended by section 20 of 2018 House Substitute for Senate Bill No. 307, are hereby repealed.,"

Also on page 3, in line 15, by striking "statute book" and inserting "Kansas register"; And by redesignating sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 and 3; in line 4, by striking all before the period and inserting "amusement rides; relating to the Kansas amusement ride act; relating to antique amusement rides, limited-use amusement rides and registered agritourism activities; amending K.S.A. 2017 Supp. 40-4801, 40-4802, 44-1601, 44-1602, 44-1603, 44-1605, 44-1606, 44-1607, 44-1608, 44-1609, 44-1610, 44-1611, 44-1612, 44-1613, 44-1614, 44-1616, 44-1617, 44-1618 and 44-1619 and repealing the existing sections; also repealing section 1 of 2018 House Substitute for Senate Bill No. 307 and K.S.A. 2017 Supp. 40-4801, as amended by section 2 of 2018 House Substitute for Senate Bill No. 307, 40-4802, as amended by section 3 of 2018 House Substitute for Senate Bill No. 307, 44-1601, as amended by section 4 of 2018 House Substitute for Senate Bill No. 307, 44-1602, as amended by section 5 of 2018 House Substitute for Senate Bill No. 307, 44-1603, as amended by section 6 of 2018 House Substitute for Senate Bill No. 307, 44-1605, as amended by section 7 of 2018 House Substitute for Senate Bill No. 307, 44-1606, as amended by section 8 of 2018 House Substitute for Senate Bill No. 307, 44-1607, as amended by section 9 of 2018 House Substitute for Senate Bill No. 307, 44-1608, as amended by section 10 of 2018 House Substitute for Senate Bill No. 307, 44-1609, as amended by section 11 of 2018 House Substitute for Senate Bill No. 307, 44-1610, as amended by section 12 of 2018 House Substitute for Senate Bill No. 307, 44-1611, as amended by section 13 of 2018 House Substitute for Senate Bill No. 307, 44-1612, as amended by section 14 of 2018 House Substitute for Senate Bill No. 307, 44-1613, as amended by section 15 of 2018 House Substitute for Senate Bill No. 307, 44-1614, as amended by section 16 of 2018 House Substitute for Senate Bill No. 307, 44-1616, as amended by section 17 of 2018 House Substitute for Senate Bill No. 307, 44-1617, as amended by section 18 of 2018 House Substitute for Senate Bill No. 307, 44-1618, as amended by section 19 of 2018 House Substitute for Senate Bill No. 307, and 44-1619, as amended by section 20 of 2018 House Substitute for Senate Bill No. 307";

And your committee on conference recommends the adoption of this report.

BLAINE FINCH
 BRADLEY RALPH
 JOHN CARMICHAEL

Conferees on part of House

RICHARD WILBORN
 JULIA LYNN
 DAVID HALEY

Conferees on part of Senate

On motion of Rep. Finch, the conference committee report on **SB 310** was adopted.

On roll call, the vote was: Yeas 114; Nays 7; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcala, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Henderson, Hibbard, Highberger, Highland, Hineman, Hoffman, Holscher, Horn, Huebert, Humphries, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Seiwert, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wolfe Moore.

Nays: Carlin, Carmichael, Helgerson, Hodge, Jacobs, Kuether, Sloan.

Present but not voting: None.

Absent or not voting: Barker, Houser, Schwab, Winn.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 374** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed as House Substitute for Senate Bill No. 374, as follows:

On page 1, following line 9, by inserting:

"WHEREAS, The Legislature intends that the provisions of this act related to comparability of an out-of-jurisdiction offense to a Kansas offense shall be liberally construed to allow comparable offenses, regardless of whether the elements are identical to or narrower than the corresponding Kansas offense, to be included in a person's criminal history; and

WHEREAS, The Legislature intends to promote the inclusion of convictions for such offenses in a person's criminal history, including, but not limited to, any violation of: Wichita municipal ordinance section 11.38.150; Missouri, V.A.M.S. § 577.010 or V.A.M.S. § 577.012; Oklahoma, 47 Okl. St. Ann. § 11-902; Colorado, C.R.S.A. § 42-4-1301(1); and Nebraska, Neb. Rev. St. § 60-6,196.

Now, therefore:"

On page 5, by striking lines 24 through 43;

By striking all on page 6;

On page 7, by striking all in lines 1 through 9; following line 9, by inserting:

"Sec. 3. K.S.A. 2017 Supp. 8-262, as amended by section 3 of 2018 House Bill No. 2439, is hereby amended to read as follows: 8-262. (a) (1) Any person who drives a motor vehicle on any highway of this state at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, shall be guilty of a class B nonperson misdemeanor on the first conviction and a class A nonperson misdemeanor on the second or subsequent conviction.

(2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.

(3) Except as otherwise provided by subsection (a)(4) or (c), every person convicted under this section shall be sentenced to at least five days' imprisonment and fined at least \$100 and upon a second conviction shall not be eligible for parole until completion of five days' imprisonment.

(4) Except as otherwise provided by subsection (c), if a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes; and (B) is or has been also convicted of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or any ordinance of any city or resolution of any county or law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

(b) The division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section, upon a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days.

(c) (1) The person found guilty of a class A nonperson misdemeanor on a third or subsequent conviction of this section shall be sentenced to not less than 90 days' imprisonment and fined not less than \$1,500 if such person's privilege to drive a motor vehicle is canceled, suspended or revoked because such person:

(A) Refused to submit and complete any test of blood, breath or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;

(B) Was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;

(C) Was convicted of vehicular homicide, K.S.A. 21-3405, prior to its repeal, or

K.S.A. 2017 Supp. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as defined in K.S.A. 2017 Supp. 21-5405(a)(3) and (a)(5), and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or

(D) was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.

(2) The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.

(d) For the purposes of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section.";

On page 11, by striking all in lines 35 through 43;

By striking all on pages 12 through 17;

On page 18, by striking all in lines 1 through 37; following line 37, by inserting:

"Sec. 6. K.S.A. 2017 Supp. 8-2,144, as amended by section 4 of 2018 House Bill No. 2439, is hereby amended to read as follows: 8-2,144. (a) Driving a commercial motor vehicle under the influence is operating or attempting to operate any commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this state while:

(1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, as defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.04 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within three hours of the time of driving a commercial motor vehicle, is 0.04 or more; or

(3) committing a violation of K.S.A. 8-1567(a), and amendments thereto, or the ordinance of a city or resolution of a county which prohibits any of the acts prohibited thereunder or is otherwise comparable.

(b)(1) Driving a commercial motor vehicle under the influence is:

(A) On a first conviction a class B, nonperson misdemeanor. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion, 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation, suspension or reduction of sentence or parole or other release;

(B) on a second conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's

imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours; and

(C) on a third or subsequent conviction a nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) In addition, for any conviction pursuant to subsection (b)(1)(C), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2017 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk

assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office designated by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a Kansas department for aging and disability services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the aging and disability services department designated treatment provider and the offender. An offender for whom a warrant has been issued by the court alleging a violation of such supervision shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it is found the offender has violated the provisions of this supervision, the court shall determine whether the time from the issuing of the warrant to the date of the court's determination of an alleged violation, or any part of it, shall be counted as time served on supervision. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof. The term of supervision may be extended at the court's discretion beyond one year, and any violation of the conditions of such extended term of supervision may subject such person to the revocation of supervision and imprisonment in jail of up to the remainder of the original sentence, not the term of the extended supervision.

(3) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person 18 years of age or older convicted of a violation of this section, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, who had one or more children under the age of ~~14~~ 18 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment shall be served consecutively to any other minimum mandatory penalty imposed for a violation of this section, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) If a person is charged with a violation of K.S.A. 8-1567(a)(4) or (a)(5), and amendments thereto, as incorporated in this section ~~involving drugs~~, the fact that the person is or has been entitled to use the drug under the laws of this state shall not

constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) Prior to filing a complaint alleging a violation of this section, a prosecutor shall request and shall receive from the: (1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and (2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(h) The court shall electronically report every conviction of a violation of this section ~~and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section~~ to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the: (1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and (2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(i) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall: (1) Disqualify the person from driving a commercial motor vehicle under K.S.A. 8-2,142, and amendments thereto; and (2) suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(j) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this section as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

(3) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(k) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the: (A) Division

of vehicles a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and (B) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution. The county or district attorney shall accept such referral and pursue a disposition of such violation, and shall not refer any such violation back to the city attorney.

(l) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance or resolution.

(m) The alternatives set out in ~~subsections (a)(1), (a)(2) and (a)(3)~~ subsection (a) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, elect one or ~~two of the three~~ more of such alternatives prior to submission of the case to the fact finder.

(n) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county ~~which that~~ prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account: (A) This section; (B) ~~refusing to submit to a test to determine the presence of alcohol or drugs, K.S.A. 2017 Supp. 8-1025, and amendments thereto;~~ (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; ~~(D)~~ (C) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 2017 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto; ~~(E)~~ (D) aggravated battery as described in K.S.A. 2017 Supp. 21-5413(b)(3) or (b)(4), and amendments thereto; and ~~(F)~~ (E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) "conviction" includes: (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (n)(2); and (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another ~~state which would constitute a crime described in subsection (n)(1) or (n)(2); and (C) receiving punishment under the uniform code of military justice or Kansas code of military justice~~

~~for an act which was committed on a military reservation and which would constitute a crime described in subsection (n)(1) or (n)(2) if committed off a military reservation in this state jurisdiction that would constitute an offense that is comparable to the offense described in subsection (n)(1) or (n)(2);~~

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(5) multiple convictions of any crime described in subsection (n)(1) or (n)(2) arising from the same arrest shall only be counted as one conviction.

(O) For the purposes of determining whether an offense is comparable, the following shall be considered:

(1) The name of the out-of-jurisdiction offense;

(2) the elements of the out-of-jurisdiction offense; and

(3) whether the out-of-jurisdiction offense prohibits similar conduct to the conduct prohibited by the closest approximate Kansas offense.

(p) For the purpose of this section:

(1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;

(2) "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and

(3) "drug" includes toxic vapors as such term is defined in K.S.A. 2017 Supp. 21-5712, and amendments thereto.

~~(p)(q)~~ On and after July 1, 2011, the amount of \$250 from each fine imposed pursuant to this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 2017 Supp. 75-52,113, and amendments thereto.";

On page 19, in line 6, by striking "manner" and inserting "type";

On page 20, in line 5, by striking all after "of";

On page 21, in line 12, by striking "an emergency"; by striking all in line 13; in line 14, by striking all before "an";

On page 27, by striking all in lines 21 through 43;

On page 28, by striking all in lines 1 through 40; following line 40, by inserting:

"Sec. 9. K.S.A. 2017 Supp. 8-1013, as amended by section 5 of 2018 House Bill No. 2439, is hereby amended to read as follows: 8-1013. As used in K.S.A. 8-1001 through ~~8-1010, 8-1011, 8-1012, 8-1014, 8-1015, 8-1016, 8-1017 and 8-1018, and amendments thereto, and this section:~~

(a) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(b) (1) "Alcohol or drug-related conviction" means any of the following: (A) Conviction of vehicular battery or aggravated vehicular homicide, prior to their repeal, if the crime is committed while committing a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by that statute, or conviction of a violation of K.S.A. 8-2,144 or 8-1567 ~~or K.S.A. 2017 Supp. 8-1025,~~ and amendments thereto,

conviction of a violation of aggravated battery as described in K.S.A. 2017 Supp. 21-5413(b)(3) or (b)(4), and amendments thereto, or conviction of a violation of involuntary manslaughter as described in K.S.A. 2017 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto; (B) conviction of a violation of a law of another state which would constitute a crime described in subsection (b)(1)(A) if committed in this state; (C) conviction of a violation of an ordinance of a city in this state or a resolution of a county in this state which would constitute a crime described in subsection (b)(1)(A), whether or not such conviction is in a court of record; or (D) conviction of an act which was committed on a military reservation and which would constitute a violation of K.S.A. 8-2,144 or 8-1567 or ~~K.S.A. 2017 Supp. 8-1025~~, and amendments thereto, or would constitute a crime described in subsection (b)(1)(A) if committed off a military reservation in this state.

(2) For the purpose of determining whether an occurrence is a first, second or subsequent occurrence: (A) "Alcohol or drug-related conviction" also includes entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging commission of a crime described in subsection (b)(1), including a diversion agreement entered into prior to the effective date of this act; and (B) it is irrelevant whether an offense occurred before or after conviction or diversion for a previous offense.

(c) "Division" means the division of vehicles of the department of revenue.

(d) "Ignition interlock device" means a device which uses a breath analysis mechanism to prevent a person from operating a motor vehicle if such person has consumed an alcoholic beverage.

(e) "Occurrence" means a test refusal, test failure or alcohol or drug-related conviction, or any combination thereof arising from one arrest, including an arrest which occurred prior to the effective date of this act.

(f) "Other competent evidence" includes: (1) Alcohol concentration tests obtained from samples taken three hours or more after the operation or attempted operation of a vehicle; and (2) readings obtained from a partial alcohol concentration test on a breath testing machine.

(g) "Samples" includes breath supplied directly for testing, which breath is not preserved.

(h) "Test failure" or "fails a test" refers to a person's having results of a test administered pursuant to this act, other than a preliminary screening test, which show an alcohol concentration of 0.08 or greater in the person's blood or breath, and includes failure of any such test on a military reservation.

(i) "Test refusal" or "refuses a test" refers to a person's failure to submit to or complete any test of the person's blood, breath, urine or other bodily substance, other than a preliminary screening test, in accordance with this act, and includes refusal of any such test on a military reservation.

(j) "Law enforcement officer" has the meaning provided by K.S.A. 2017 Supp. 21-5111, and amendments thereto, and includes any person authorized by law to make an arrest on a military reservation for an act which would constitute a violation of K.S.A. 8-1567 or ~~K.S.A. 2017 Supp. 8-1025~~, and amendments thereto, if committed off a military reservation in this state."

On page 32, following line 10, by inserting:

"Sec. 11. K.S.A. 2017 Supp. 8-1024 is hereby amended to read as follows: 8-1024.

No medical care facility, clinical laboratory, medical clinic, other medical institution, person licensed to practice medicine or surgery, person acting under the direction of any such licensed person, licensed physician assistant, registered nurse, licensed practical nurse, medical technician, paramedic, advanced emergency medical technician, phlebotomist, health care provider or person who participates in good faith in the obtaining, withdrawal, collection or testing of blood, breath, urine or other bodily substance at the direction of a law enforcement officer pursuant to K.S.A. 8-1001, and amendments thereto, or as otherwise authorized by law, shall incur any civil, administrative or criminal liability as a result of such participation, regardless of whether or not the patient resisted or objected to the administration of the procedure or test.";

Also on page 32, by striking all in lines 21 through 43;

By striking all on pages 33 through 40;

On page 41, by striking all in lines 1 through 40; following line 40, by inserting:

"Sec. 13. K.S.A. 2017 Supp. 8-1567, as amended by section 7 of 2018 House Bill No. 2439, is hereby amended to read as follows: 8-1567. (a) Driving under the influence is operating or attempting to operate any vehicle within this state while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.08 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is 0.08 or more;

(3) under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) (1) Driving under the influence is:

(A) On a first conviction a class B, nonperson misdemeanor. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;

(B) on a second conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted,

if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;

(C) on a third conviction a class A, nonperson misdemeanor, except as provided in subsection (b)(1)(D). The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours;

(D) on a third conviction a nonperson felony if the person has a prior conviction which occurred within the preceding 10 years, not including any period of incarceration. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a

house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours; and

(E) on a fourth or subsequent conviction a nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 72 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 72 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 72 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) The court may order that the term of imprisonment imposed pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in the custody of the secretary of corrections in a facility designated by the secretary for the provision of substance abuse treatment pursuant to the provisions of K.S.A. 2017 Supp. 21-6804, and amendments thereto. The person shall remain imprisoned at the state facility only while participating in the substance abuse treatment program designated by the secretary and shall be returned to the custody of the sheriff for execution of the balance of the term of imprisonment upon completion of or the person's discharge from the substance abuse treatment program. Custody of the person shall be returned to the sheriff for execution of the sentence imposed in the event the secretary of corrections determines: (A) That substance abuse treatment resources or the capacity of the facility designated by the secretary for the incarceration and treatment of the person is not available; (B) the person fails to meaningfully participate in the treatment program of the designated facility; (C) the person is disruptive to the security or operation of the designated facility; or (D) the medical or mental health condition of the person renders the person unsuitable for confinement at the designated facility. The determination by the secretary that the person either is not to be admitted into the designated facility or is to be transferred from the designated facility is not subject to review. The sheriff shall be responsible for all transportation expenses to and from the state correctional facility.

(3) In addition, for any conviction pursuant to subsection (b)(1)(C), (b)(1)(D) or (b)(1)(E), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2017 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office designated by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a Kansas department for aging and disability services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the Kansas department for aging and disability services designated treatment provider and the offender. An offender for whom a warrant has been issued by the court alleging a violation of this supervision shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it is found the offender has violated the provisions of this supervision, the court shall determine whether the time from the issuing of the warrant to the date of the court's determination of an alleged violation, or any part of it, shall be counted as time served on supervision. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof. The term of supervision may be extended at the court's discretion beyond one year, and any violation of the conditions of such extended term of supervision may subject such person to the revocation of supervision and imprisonment in jail of up to the remainder of the original sentence, not the term of the extended supervision.

(4) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person 18 years of age or older convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had one or more children under the age of ~~14~~ 18 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section

prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) If a person is charged with a violation of ~~this section involving drugs~~ subsection (a)(4) or (a)(5), the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) Prior to filing a complaint alleging a violation of this section, a prosecutor shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(h) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division including any finding regarding the alcohol concentration in the offender's blood or breath. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(i) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of this section, or a violation of an ordinance of any city or resolution of any county ~~which that~~ prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account: (A) ~~Refusing to submit to a test to determine the presence of alcohol or drugs, K.S.A. 2017 Supp. 8-1025, and amendments thereto;~~ (B) Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; ~~(C) (B) operating a vessel under the influence~~

of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; ~~(D)~~ (C) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 2017 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto; ~~(E)~~ (D) aggravated battery as described in K.S.A. 2017 Supp. 21-5413(b)(3) or (b)(4), and amendments thereto; and ~~(F)~~ (E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) "conviction" includes: (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging ~~a violation of a crime~~ an offense described in subsection (i)(2); and (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another ~~state which would constitute a crime described in subsection (i)(1) or (i)(2); and~~ (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (i)(1) or (i)(2) if committed off a military reservation in this state jurisdiction that would constitute an offense that is comparable to the offense described in subsection (i)(1) or (i)(2);

(4) multiple convictions of any crime described in subsection (i)(1) or (i)(2) arising from the same arrest shall only be counted as one conviction;

(5) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(6) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.

(j) For the purposes of determining whether an offense is comparable, the following shall be considered:

(1) The name of the out-of-jurisdiction offense;

(2) the elements of the out-of-jurisdiction offense; and

(3) whether the out-of-jurisdiction offense prohibits similar conduct to the conduct prohibited by the closest approximate Kansas offense.

(k) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

~~(l)~~ (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

(3) On and after July 1, 2007, and retroactive for ordinance violations committed on or after July 1, 2006, an ordinance may grant to a municipal court jurisdiction over a

violation of such ordinance which is concurrent with the jurisdiction of the district court over a violation of this section, notwithstanding that the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony.

(4) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

~~(m)~~(m) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(A) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(B) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution.

~~(n)~~(n) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

~~(o)~~(o) The alternatives set out in ~~subsections (a)(1), (a)(2) and (a)(3)~~ subsection (a) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, ~~may~~ elect one or ~~two of the three~~ more of such alternatives prior to submission of the case to the fact finder.

~~(p)~~(p) As used in this section: (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;

(2) "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and

(3) "drug" includes toxic vapors as such term is defined in K.S.A. 2017 Supp. 21-5712, and amendments thereto.

~~(q)~~(q) (1) The amount of the increase in fines as specified in this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of remittance of the increase provided in this act, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit 50% to the community alcoholism and intoxication programs fund and 50% to the department of corrections alcohol and drug abuse treatment fund, which is hereby created in the state treasury.

(2) On and after July 1, 2011, the amount of \$250 from each fine imposed pursuant to this section shall be remitted by the clerk of the district court to the state treasurer in

accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 2017 Supp. 75-52,113, and amendments thereto.";

On page 81, by striking all in lines 13 through 43;

By striking all on pages 82 and 83;

On page 84, by striking all in line 1; following line 1, by inserting:

"Sec. 26. K.S.A. 2017 Supp. 21-6811, as amended by section 1 of 2018 House Bill No. 2567, is hereby amended to read as follows: 21-6811. In addition to the provisions of K.S.A. 2017 Supp. 21-6810, and amendments thereto, the following shall apply in determining an offender's criminal history classification as contained in the presumptive sentencing guidelines grids:

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender's criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined in K.S.A. 21-3408, prior to its repeal, or K.S.A. 2017 Supp. 21-5412(a), and amendments thereto, occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes.

(b) A conviction of criminal possession of a firearm as defined in K.S.A. 21-4204(a)(1) or (a)(5), prior to its repeal, criminal use of weapons as defined in K.S.A. 2017 Supp. 21-6301(a)(10) or (a)(11), and amendments thereto, or unlawful possession of a firearm as in effect on June 30, 2005, and as defined in K.S.A. 21-4218, prior to its repeal, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for K.S.A. 21-3404(b), as in effect on June 30, 1996, involuntary manslaughter in the commission of driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for a violation of K.S.A. 2017 Supp. 21-5405(a)(3), and amendments thereto, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A) Any act described in K.S.A. 8-2,144 or 8-1567 ~~or K.S.A. 2017 Supp. 8-1025~~, and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567 ~~or K.S.A. 2017 Supp. 8-1025~~, and amendments thereto, shall count as one person felony for criminal history purposes.

(3) If the current crime of conviction is for a violation of K.S.A. 2017 Supp. 21-5413(b)(3), and amendments thereto:

(A) The first prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one nonperson felony for criminal history purposes: (i) Any act described in K.S.A. 8-2,144 or 8-1567 ~~or K.S.A. 2017 Supp. 8-1025~~, and amendments thereto; or (ii) a violation of a law of another state or an

ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567 or ~~K.S.A. 2017 Supp. 8-1025~~, and amendments thereto; and

(B) each second or subsequent prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one person felony for criminal history purposes: (i) Any act described in K.S.A. 8-2,144 or 8-1567 or ~~K.S.A. 2017 Supp. 8-1025~~, and amendments thereto; or (ii) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567 or ~~K.S.A. 2017 Supp. 8-1025~~, and amendments thereto.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A. 21-3715(a), prior to its repeal, or K.S.A. 2017 Supp. 21-5807(a)(1), and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A. 21-3715(b) or (c), prior to its repeal, or K.S.A. 2017 Supp. 21-5807(a)(2) or (a)(3), and amendments thereto.

The facts required to classify prior burglary adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(e) (1) Out-of-state convictions and juvenile adjudications shall be used in classifying the offender's criminal history.

(2) An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction.

(A) If a crime is a felony in the convicting jurisdiction, it will be counted as a felony in Kansas.

(B) If a crime is a misdemeanor in the convicting jurisdiction, the state of Kansas shall refer to the comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed to classify the out-of-state crime as a class A, B or C misdemeanor. If the comparable offense in the state of Kansas is a felony, the out-of-state crime shall be classified as a class A misdemeanor. If the state of Kansas does not have a comparable offense in effect on the date the current crime of conviction was committed, the out-of-state crime shall not be used in classifying the offender's criminal history.

(C) If a crime is not classified as either a felony or a misdemeanor in the convicting jurisdiction, the state of Kansas shall refer to the comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed to classify the out-of-state crime as either a felony or a misdemeanor. If the state of Kansas does not have a comparable offense in effect on the date the current crime of conviction was committed, the out-of-state crime shall not be used in classifying the offender's criminal history.

(3) The state of Kansas shall classify the crime as person or nonperson. In designating a crime as person or nonperson, comparable offenses under the Kansas criminal code in effect on the date the current crime of conviction was committed shall be referred to. If the state of Kansas does not have a comparable offense in effect on the date the current crime of conviction was committed, the out-of-state crime shall be classified as a nonperson crime.

(4) Convictions or adjudications occurring within the federal system, other state

systems, the District of Columbia, foreign, tribal or military courts are considered out-of-state convictions or adjudications.

(5) The facts required to classify out-of-state adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(f) Except as provided in K.S.A. 21-4710(d)(4), (d)(5) and (d)(6), prior to its repeal, or K.S.A. 2017 Supp. 21-6810(d)(3)(B), (d)(3)(C), (d)(3)(D), (d)(4) and (d)(5), and amendments thereto, juvenile adjudications will be applied in the same manner as adult convictions. Out-of-state juvenile adjudications will be treated as juvenile adjudications in Kansas.

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, to commit a crime shall be treated as a person or nonperson crime in accordance with the designation assigned to the underlying crime.

(h) Drug crimes are designated as nonperson crimes for criminal history scoring.

(i) If the current crime of conviction is for a violation of K.S.A. 8-1602(b)(3) through (b)(5), and amendments thereto, each of the following prior convictions for offenses committed on or after July 1, 2011, shall count as a person felony for criminal history purposes: K.S.A. 8-235, 8-262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605 and 40-3104, and amendments thereto, and K.S.A. 2017 Supp. 21-5405(a)(3) and 21-5406, and amendments thereto, or a violation of a city ordinance or law of another state which would also constitute a violation of such sections.

(j) The amendments made to this section by chapter 5 of the 2015 Session Laws of Kansas are procedural in nature and shall be construed and applied retroactively.";

On page 103, in line 15, following "8-262" by inserting ", as amended by section 3 of 2018 House Bill No. 2439"; in line 16, after "2,144" by inserting ", as amended by section 4 of 2018 House Bill No. 2439"; also in line 16, following "8-1013" by inserting ", as amended by section 5 of 2018 House Bill No. 2439"; also in line 16, before "8-1025" by inserting "8-1024,"; also in line 16, following "8-1567" by inserting ", as amended by section 7 of 2018 House Bill No. 2439"; in line 18, following "21-6811" by inserting ", as amended by section 1 of 2018 House Bill No. 2567";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, following "8-262" by inserting ", as amended by section 3 of 2018 House Bill No. 2439"; in line 4, after "2,144" by inserting ", as amended by section 4 of 2018 House Bill No. 2439"; also in line 4, following "8-1013" by inserting ", as amended by section 5 of 2018 House Bill No. 2439"; also in line 4, after "8-1014," by inserting "8-1024,"; also in line 4, following "8-1567" by inserting ", as amended by section 7 of 2018 House Bill No. 2439"; in line 6, following "21-6811" by inserting ", as amended by section 1 of 2018 House Bill No. 2567";

And your committee on conference recommends the adoption of this report.

BLAINE FINCH
BRADLEY RALPH
JOHN CARMICHAEL

Conferees on part of House

RICHARD WILBORN

JULIA LYNN

DAVID HALEY

Conferees on part of Senate

On motion of Rep. Finch, the conference committee report on **H Sub for SB 374** was adopted.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Barker, Houser, Schwab, Winn.

MESSAGES FROM THE SENATE

The Senate adopts the Conference Committee report on **SB 180**.

The Senate adopts the Conference Committee report on **SB 260**.

The Senate adopts the Conference Committee report on **SB 266**.

The Senate adopts the Conference Committee report on **SB 328**.

The Senate adopts the Conference Committee report on **HB 2280**.

The Senate adopts the Conference Committee report on **HB 2458**.

The Senate adopts the Conference Committee report on **HB 2479**.

The Senate adopts the Conference Committee report on **HB 2579**.

REPORT ON ENGROSSED BILLS

HB 2549 reported correctly re-engrossed May 2, 2018.

REPORT ON ENROLLED RESOLUTIONS

HR 6062 reported correctly enrolled and properly signed on May 2, 2018.

On motion of Rep. Hineman, the House adjourned until 11:00 a.m., Thursday, May 3, 2018.

JENNY HAUGH, JULIA WERNER, *Journal Clerks*.

SUSAN W. KANNARR, *Chief Clerk*.