AN ACT concerning driving under the influence; relating to testing; administrative penalties; crimes, punishment and criminal procedure; amending K.S.A. 2017 Supp. 8-235, 8-241, 8-262, 8-285, 8-2,142, 8-2,144, 8-1001, 8-1008, 8-1013, 8-1014, 8-1501, 8-1567, 12-4106, 12-4120, 12-4413, 12-4414, 12-4415, 12-4416, 12-4516, 12-4517, 21-5203, 21-6604, 21-6614, 21-6804, 21-6811, 22-2802, 22-2908, 22-2909, 22-2910, 22-3716, 22-4704, 60-427 and 74-2012 and repealing the existing sections; also repealing K.S.A. 2017 Supp. 8-1025 and 12-4516f.

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

Section 1. K.S.A. 2017 Supp. 8-235 is hereby amended to read as follows: 8-235. (a) No person, except those expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license. No person shall receive a driver's license unless and until such person surrenders or with the approval of the division, lists to the division all valid licenses in such person's possession issued to such person by any other jurisdiction. All surrendered licenses or the information listed on foreign licenses shall be returned by the division to the issuing department, together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid license at any time.

(b) Any person licensed under the motor vehicle drivers' license act may exercise the privilege granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any local authority. Nothing herein shall prevent cities from requiring licenses of persons who drive taxicabs or municipally franchised transit systems for hire upon city streets, to protect the public from drivers whose character or habits make them unfit to transport the public. If a license is denied, the applicant may appeal such decision to the district court of the county in which such city is located by filing within 14 days after such denial, a notice of appeal with the clerk of the district court and by filing a copy of such notice with the city clerk of the involved city. The city clerk shall certify a copy of such decision of the city governing body to the clerk of the district court and the matter shall be docketed as any other cause and the applicant shall be granted a trial of such person's
character and habits. The matter shall be heard by the court de novo in accordance with the code of civil procedure. The cost of such appeal shall be assessed in such manner as the court may direct.

(c) Any person operating in this state a motor vehicle, except a motorcycle, which is registered in this state other than under a temporary permit, pursuant to K.S.A. 8-2409, and amendments thereto, shall be the holder of a driver's license which is classified for the operation of such motor vehicle, and any person operating in this state a motorcycle which is registered in this state shall be the holder of a class M driver's license, except that any person operating in this state a motorcycle which is registered under a temporary permit, pursuant to K.S.A. 8-2409, and amendments thereto, shall be the holder of a driver's license for any class of motor vehicles.

(d) No person shall drive any motorized bicycle upon a highway of this state unless such person: (1) Has a valid driver's license which entitles the licensee to drive a motor vehicle in any class or classes; (2) is at least 15 years of age and has passed the written and visual examinations required for obtaining a class C driver's license, in which case the division shall issue to such person a class C license which clearly indicates such license is valid only for the operation of motorized bicycles; (3) has had their driving privileges suspended, for a violation other than a violation of K.S.A. 8-2,144, and amendments thereto, or a second or subsequent violation of K.S.A. 8-1567 or 8-1567a or K.S.A. 2017 Supp. 8-1025, and amendments thereto, and such person: (A) Has completed the mandatory period of suspension as provided in K.S.A. 8-1014, and amendments thereto; and (B) has made application and submitted a $40 nonrefundable application fee to the division for the issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the division shall issue to such person a class C license which clearly indicates such license is valid only for the operation of motorized bicycles; or (4) has had their driving privileges revoked under K.S.A. 8-286, and amendments thereto, has not had a test refusal or test failure or alcohol or drug-related conviction, as those terms are defined in K.S.A. 8-1013, and amendments thereto, in the last five years, has not been convicted of a violation of K.S.A. 8-1568(b), and amendments thereto, in the last five years and has made application to the division for issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the division shall issue such person a class C license which clearly indicates such license is valid only for the operation of motorized bicycles. As used in this subsection, "motorized bicycle" shall have the meaning ascribed to it in K.S.A. 8-126, and amendments thereto.

(e) All moneys received under subsection (d) from the nonrefundable
application fee shall be applied by the division of vehicles for the
additional administrative costs to implement restricted driving privileges.
The division shall remit all restricted driving privilege application fees 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 division of vehicles operating fund.

(f) Violation of this section shall constitute a class B misdemeanor.

Sec. 2. K.S.A. 2017 Supp. 8-241 is hereby amended to read as
follows: 8-241. (a) Except as provided in K.S.A. 8-2,125 through 8-2,142,
and amendments thereto, any person licensed to operate a motor vehicle in
this state shall submit to an examination whenever: (1) The division of
vehicles has good cause to believe that such person is incompetent or
otherwise not qualified to be licensed; or (2) the division of vehicles has
suspended such person's license pursuant to K.S.A. 8-1014, and
amendments thereto, as the result of a test refusal, test failure or conviction
for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of
a city ordinance or county resolution prohibiting the acts prohibited by
K.S.A. 8-1567, and amendments thereto, except that no person shall have
to submit to and successfully complete an examination more than once as
the result of separate suspensions arising out of the same occurrence.

(b) When a person is required to submit to an examination pursuant
to subsection (a)(1), the fee for such examination shall be in the amount
provided by K.S.A. 8-240, and amendments thereto. When a person is
required to submit to an examination pursuant to subsection (a)(2), the fee
for such examination shall be $25. In addition, any person required to
submit to an examination pursuant to subsection (a)(2) as the result of a
test failure, a conviction for a violation of K.S.A. 8-1567, and amendments
thereto, or a violation of a city ordinance or county resolution prohibiting
the acts prohibited by K.S.A. 8-1567, and amendments thereto, shall be
required, at the time of examination, to pay a reinstatement fee of $200
after the first occurrence, $400 after the second occurrence, $600 after the
third occurrence and $800 after the fourth or subsequent occurrence; and
as a result of a test refusal, a conviction for a violation of K.S.A. 2017
Supp. 8-1025, and amendments thereto, or a violation of a city ordinance
or county resolution prohibiting the acts prohibited by K.S.A. 2017 Supp.
8-1025, and amendments thereto, shall be required, at the time of
examination, to pay a reinstatement fee of $600 after the first occurrence,
$900 after the second occurrence, $1,200 after the third occurrence and
$1,500 after the fourth or subsequent occurrence.

(1) All examination fees collected pursuant to this section shall be
remitted to the state treasurer, in accordance with the provisions of K.S.A.
75-4215, and amendments thereto, who shall deposit the entire amount in
the state treasury and credit 80% to the state highway fund and 20% shall be disposed of as provided in K.S.A. 8-267, and amendments thereto.

(2) On and after July 1, 2014, through June 30, 2018, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 26% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 12% to the juvenile alternatives to detention fund created by K.S.A. 79-4803, and amendments thereto, 12% to the forensic laboratory and materials fee fund created by K.S.A. 28-176, and amendments thereto, 17% to the driving under the influence fund created by K.S.A. 75-5660, and amendments thereto, and 33% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 20-1a15, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(3) On and after July 1, 2018, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 35% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 20% to the juvenile alternatives to detention fund created by K.S.A. 79-4803, and amendments thereto, 20% to the forensic laboratory and materials fee fund created by K.S.A. 28-176, and amendments thereto, and 25% to the driving under the influence fund created by K.S.A. 75-5660, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(c) When an examination is required pursuant to subsection (a), at least five days' written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by K.S.A. 8-247(e), and amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a license subject to restrictions as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as
required by this section shall be grounds for suspension or revocation of
the license.
(e) The division may issue a driver's license with a DUI-IID
designation for a licensee that is operating under ignition interlock
restrictions required by K.S.A. 8-1014, and amendments thereto. The
reexamination requirement in subsection (a)(2) shall not require
reexamination and payment of reinstatement fees until the end of the
licensee's ignition interlock restriction period. If the applicant's Kansas
driver's license has been expired for one year or more, the applicant must
complete a reexamination and pay any applicable reinstatement fees before
qualifying for a driver's license with an ignition interlock designation. All
other requirements for issuance and renewal of a driver's license under
K.S.A. 8-240, and amendments thereto, shall continue to apply. The
renewal periods and other requirements in K.S.A. 8-247, and amendments
thereto, shall apply. The fees charged for the driver's license with ignition
interlock designation shall include: (1) The fee amounts set out in K.S.A.
8-240(f), and amendments thereto; (2) fees prescribed by the secretary of
revenue and required in K.S.A. 8-243(a), and amendments thereto; and (3)
a $10 fee to the DUI-IID designation fund. There is hereby created in the
state treasury the DUI-IID designation fund. All moneys credited to the
DUI-IID designation fund shall be used by the department of revenue only
for the purpose of funding the administration and oversight of state
certified ignition interlock manufacturers and their service providers.
Sec. 3. K.S.A. 2017 Supp. 8-262 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 subsection (a)(3) of K.S.A. 2017 Supp. 21-5405(a)(3), 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.

Sec. 4. K.S.A. 2017 Supp. 8-285 is hereby amended to read as follows: 8-285. Except as otherwise provided in this section, as used in this act, the words and phrases defined in K.S.A. 8-234a, and amendments thereto, shall have the meanings ascribed to them therein. The term "habitual violator" means any resident or nonresident person who, within the immediately preceding five years, has been convicted in this or any other state:

(a) Three or more times of:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2017 Supp. 21-5406, and amendments thereto, or as prohibited by any ordinance of any city in this state, any resolution of any county in this state or any law of another state which is in substantial conformity with that statute;

(2) violating K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, any resolution of any county in this state or any law of another state, which ordinance, resolution or law declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, 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, or, as prohibited by any ordinance of any city in this state, any resolution of any county in this state or any law of another state which is in substantial conformity with those statutes;

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

(5) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications, or violating the provisions of a law of another state which is in substantial conformity with that statute;

(6) any crime punishable as a felony, if a motor vehicle was used in the perpetration of the crime;
(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602 through 8-1604, and amendments thereto, or required by any ordinance of any city in this state, any resolution of any county in this state or a law of another state which is in substantial conformity with those statutes; or

(8) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage, or an ordinance of any city in this state or a resolution of any county in this state which is in substantial conformity with such statute;

(9) violating K.S.A. 2017 Supp. 8-1025, and amendments thereto, or an ordinance of any city in this state, a resolution of any county in this state or a law of another state which declares to be unlawful the acts prohibited by that statute.

(b) Three or more times, either singly or in combination, of any of the offenses enumerated in subsection (a).

For the purpose of subsections subsection (a)(2) and (a)(9), in addition to the definition of "conviction" otherwise provided by law, conviction includes, but is not limited to, a diversion agreement entered into in lieu of further criminal proceedings, or a plea of nolo contendere, on a complaint, indictment, information, citation or notice to appear alleging a violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or an ordinance of a city in this state, a resolution of a county in this state or a law of another state, which ordinance or law prohibits the acts prohibited by those statutes.

Sec. 5. K.S.A. 2017 Supp. 8-2,142 is hereby amended to read as follows: 8-2,142. (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year upon a first occurrence of any one of the following:

(1) While operating a commercial motor vehicle:
   (A) The person is convicted of violating K.S.A. 8-2,144, and amendments thereto;
   (B) the person is convicted of violating subsection (b) of K.S.A. 8-2,132(b), and amendments thereto;
   (C) the person is convicted of causing a fatality through the negligent operation of a commercial motor vehicle;
   (D) the person's test refusal or test failure, as defined in subsection (m); or
   (E) the person is convicted of a violation identified in subsection (a) (2)(A); or

(2) while operating a noncommercial motor vehicle:
   (A) The person is convicted of a violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or of a violation of an ordinance of any city in this state, a resolution of any county in this state
or any law of another state, which ordinance or law declares to be unlawful the acts prohibited by that statute; or
(B) the person's test refusal or test failure, as defined in K.S.A. 8-1013, and amendments thereto; or
(3) while operating any motor vehicle:
   (A) The person is convicted of leaving the scene of an accident; or
   (B) the person is convicted of a felony, other than a felony described in subsection (e), while using a motor vehicle to commit such felony.
(b) If any offenses, test refusal or test failure specified in subsection (a) occurred in a commercial motor vehicle while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.
(c) A person shall be disqualified for life upon the second or a subsequent occurrence of any offense, test refusal or test failure specified in subsection (a), or any combination thereof, arising from two or more separate incidents.
(d) The secretary of revenue may adopt rules and regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) may be reduced to a period of not less than 10 years.
(e) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.
(f) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period. Any disqualification period under this paragraph shall be in addition to any other previous period of disqualification. The beginning date for any three-year period within a ten-year period, required by this subsection, shall be the issuance date of the citation which resulted in a conviction.
(g) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a noncommercial motor vehicle arising from separate incidents occurring within a three-year period, if such convictions result in the revocation, cancellation or suspension of the person's driving privileges.
(h) (1) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order shall be disqualified from
driving a commercial motor vehicle for a period of not less than:

(A) Ninety days nor more than one year, if the driver is convicted of a first violation of an out-of-service order;

(B) one year nor more than five years if the person has one prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation; or

(C) three years nor more than five years if the person has two or more prior convictions for violating out-of-service orders in separate incidents and such prior offenses were committed within the 10 years immediately preceding the date of the present violation.

(2) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order while transporting a hazardous material required to be placarded under 49 U.S.C. § 5101 et seq. or while operating a motor vehicle designed to transport more than 15 passengers, including the driver, shall be disqualified from driving a commercial motor vehicle for a period of not less than:

(A) One hundred and eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service order; or

(B) three years nor more than five years if the person has a prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation.

(i) (1) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing shall be disqualified from driving a commercial motor vehicle for the period of time specified in paragraph (2):

(A) For persons who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(B) for persons who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(C) for persons who are always required to stop, failing to stop before driving onto the crossing;

(D) for all persons failing to have sufficient space to drive completely through the crossing without stopping;

(E) for all persons failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(F) for all persons failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) A driver shall be disqualified from driving a commercial motor vehicle for not less than:

(A) Sixty days if the driver is convicted of a first violation of a
railroad-highway grade crossing violation;
  (B) one hundred and twenty days if, during any three-year period, the 
driver is convicted of a second railroad-highway grade crossing violation 
in separate incidents; or 
  (C) one year if, during any three-year period, the driver is convicted 
of a third or subsequent railroad-highway grade crossing violation in 
separate incidents.
(j) After suspending, revoking or canceling a commercial driver's 
license, the division shall update its records to reflect that action within 10 
days. After suspending, revoking or canceling a nonresident commercial 
driver's privileges, the division shall notify the licensing authority of the 
state which issued the commercial driver's license or nonresident 
commercial driver's license within 10 days. The notification shall include 
both the disqualification and the violation that resulted in the 
disqualification, suspension, revocation or cancellation.
(k) Upon receiving notification from the licensing authority of 
another state, that it has disqualified a commercial driver's license holder 
licensed by this state, or has suspended, revoked or canceled such 
commercial driver's license holder's commercial driver's license, the 
division shall record such notification and the information such 
notification provides on the driver's record.
(l) Upon suspension, revocation, cancellation or disqualification of a 
commercial driver's license under this act, the license shall be immediately 
surrendered to the division if still in the licensee's possession. If otherwise 
eligible, and upon payment of the required fees, the licensee may be issued 
a noncommercial driver's license for the period of suspension, revocation, 
cancellation or disqualification of the commercial driver's license under 
the same identifier number.
(m) As used in this section, "test refusal" means a person's refusal to 
submit to and complete a test requested pursuant to K.S.A. 8-2,145, and 
amendments thereto; "test failure" means a person's submission to and 
completion of a test which determines that the person's alcohol 
concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and 
amendments thereto.
Sec. 6. K.S.A. 2017 Supp. 8-2,144 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 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
(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) of 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 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) 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), and amendments thereto; (E) aggravated battery as described in K.S.A. 2017 Supp. 21-5413(b)(3), and amendments thereto; and (F) 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); (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;

(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

(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 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 subsection 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) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (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; (D) aggravated battery as described in K.S.A. 2017 Supp. 21-
(b)(3) or (b)(4), and amendments thereto; and (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 an offense 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 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.

(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.

Sec. 7. K.S.A. 2017 Supp. 8-1001 is hereby amended to read as follows: 8-1001. (a) Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent may be requested, subject to the provisions of this article, to submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing—deemed consented
to herein shall include all quantitative and qualitative tests for alcohol and
drugs. A person who is dead or unconscious shall be deemed not to have
withdrawn the person's consent to such test or tests, which shall be
administered in the manner provided by this section. The test must be
administered at the direction of a law enforcement officer, and the law
enforcement officer shall determine which manner of test is to be
conducted or requested.

(b) (1) A law enforcement officer shall request a person to submit to a
test or tests deemed consented to under subsection (a): (1) If, at the time of
the request, the officer has reasonable grounds to believe the person was
operating or attempting to operate a vehicle while under the influence of
alcohol or drugs, or both. One or more tests may be required of a person
when, at the time of the request, a law enforcement officer has probable
cause to believe the person has committed a violation of K.S.A. 8-1567(a),
and amendments thereto, or to believe that the person was driving a
commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments
thereto, while having alcohol or other drugs in such person's system, or
was to believe the person is under the age of 21 years and was operating or
attempting to operate a vehicle while having alcohol or other drugs in such
person's system; and one of the following conditions exists: (A) The
person has been arrested or otherwise taken into custody for any violation
of any state statute, county resolution or city ordinance; or (B) the person
has been involved in a motor vehicle accident or collision resulting in
property damage or, personal injury other than serious injury; or (2) if the
person was operating or attempting to operate a vehicle and such vehicle
has been involved in an accident or collision resulting in serious injury or
death of any person and the operator could be cited for any traffic offense,
as defined in K.S.A. 8-2117, and amendments thereto. The traffic offense
violation shall constitute probable cause for purposes of paragraph (2). The
test or tests under paragraph (2) shall not be required if a law enforcement
officer has reasonable grounds to believe the actions of the operator did
not contribute to the accident or collision or death.

(2) The law enforcement officer directing administration of the test or
tests may act on personal knowledge or on the basis of the collective
information available to law enforcement officers involved in the accident
investigation or arrest.

(c) When requesting a test or tests of breath or other bodily substance
other than blood or urine, under this section, the person shall be given
oral and written notice that:

(1) There is no right to consult with an attorney regarding whether to
submit to testing, but, after the completion of the testing, the person may
request and has the right to consult with an attorney and may secure
additional testing;
(2) if the person refuses to submit to and complete the test or tests, or
if the person fails a test, the person's driving privileges will be suspended
for a period of at least 30 days and up to one year;
(3) refusal to submit to testing may be used against the person at any
trial or hearing on a charge arising out of refusal to submit to testing or
the operation or attempted operation of a vehicle while under the
influence of alcohol or drugs, or both; and
(4) the results of the testing may be used against the person at any
trial or hearing on a charge arising out of the operation or attempted
operation of a vehicle while under the influence of alcohol or drugs, or
both.
(d) When requesting a test or tests of blood or urine, under this
section, the person shall be given oral and written notice that:
(1) If the person refuses to submit to and complete the test or tests, or
if the person fails a test, the person's driving privileges will be suspended
for a period of at least 30 days and up to one year;
(2) the results of the testing may be used against the person at any
trial or hearing on a charge arising out of the operation or attempted
operation of a vehicle while under the influence of alcohol or drugs, or
both; and
(3) after the completion of the testing, the person may request and
has the right to consult with an attorney and may secure additional
testing.
(e) Nothing in this section shall be construed to limit the right of a
law enforcement officer to conduct any search of a person's breath or
other bodily substance, other than blood or urine, incident to a lawful
arrest pursuant to the constitution of the United States, with or without
providing the person the advisories authorized in subsection (c), nor limit
the admissibility at any trial or hearing of alcohol or drug concentration
testing results obtained pursuant to such a search.
(f) Nothing in this section shall be construed to limit the right of a
law enforcement officer to conduct or obtain a blood or urine test of a
person pursuant to a warrant under K.S.A. 22-2502, and amendments
thereto, the constitution of the United States or a judicially recognized
exception to the search warrant requirement, with or without providing the
person the advisories authorized in subsection (d), nor limit the
admissibility at any trial or hearing of alcohol or drug concentration
testing results obtained pursuant to such a search.
(g) A law enforcement officer may direct a medical professional, as
described in subsection (h), to draw one or more samples of blood from a
person to determine the blood's alcohol or drug concentration:
(1) If the person has given consent, with or without the advisories in
subsection (d), and meets the requirements of subsection (b);
(2) if law enforcement has obtained a search warrant authorizing the collection of blood from the person; or

(3) if the person refuses or is unable to consent to submit to and complete a test, and another judicially recognized exception to the warrant requirement applies.

(h) If a law enforcement officer requests a person to submit to a test, is authorized to collect one or more tests of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by: (1) A person licensed to practice medicine and surgery, licensed as a physician assistant, or a person acting under the direction of any such licensed person; (2) a registered nurse or a licensed practical nurse; (3) any qualified medical technician, including, but not limited to, an emergency medical technician-intermediate, mobile intensive care technician, an emergency medical technician-intermediate defibrillator, an advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, and amendments thereto, authorized by medical protocol; or (4) a phlebotomist.

(d) A law enforcement officer may direct a medical professional described in this section to draw a sample of blood from a person:

(1) If the person has given consent and meets the requirements of subsection (b);

(2) if medically unable to consent, if the person meets the requirements of paragraph (2) of subsection (b); or

(3) if the person refuses to submit to and complete a test, if the person meets the requirements of paragraph (2) of subsection (b).

(e)(i) When so directed by a law enforcement officer through a written statement, the medical professional shall withdraw the sample of blood as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the sample does not jeopardize the person's life, cause serious injury to the person or seriously impede the person's medical assessment, care or treatment. The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with the written statement provided for under this subsection. The medical professional shall not require the person to sign that is the subject of the test or tests to provide any additional consent or sign any waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

(f) Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting
the blood sample shall complete the collection portion of a document, if provided by law enforcement.

(g) If a person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.

(h) A law enforcement officer may request a urine sample upon meeting the requirements of paragraph (1) of subsection (b) and shall request a urine sample upon meeting the requirements of paragraph (2) of subsection (b).

(i) If a law enforcement officer requests a person to submit to a test is authorized to collect one or more tests of urine under this section, the collection of the urine sample shall be supervised by: (1) A person licensed to practice medicine and surgery, licensed as a physician assistant, or a person acting under the direction of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) a law enforcement officer of the same sex as the person being tested. The collection of the urine sample shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in subsections (d) and (e) (g) and (i) shall apply to the collection of a urine sample.

(j) No law enforcement officer who is acting in accordance with this section shall be liable in any civil or criminal proceeding involving the action.

(k) Before a test or tests are administered under this section, the person shall be given oral and written notice that:

(1) Kansas law requires the person to submit to and complete one or more tests of breath, blood or urine to determine if the person is under the influence of alcohol or drugs, or both;

(2) the opportunity to consent to or refuse a test is not a constitutional right;

(3) there is no constitutional right to consult with an attorney regarding whether to submit to testing;
(4) if the person refuses to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, the person may be charged with a separate crime of refusing to submit to a test to determine the presence of alcohol or drugs, which carries criminal penalties that are greater than or equal to the criminal penalties for the crime of driving under the influence, if such person has:

(A) Any prior test refusal as defined in K.S.A. 8-1013, and amendments thereto, which occurred: (i) On or after July 1, 2001; and (ii) when such person was 18 years of age or older; or

(B) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which 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, which occurred: (i) On or after July 1, 2001; and (ii) when such person was 18 years of age or older;

(5) if the person refuses to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, the person's driving privileges will be suspended for one year for the first or subsequent occurrence;

(6) if the person submits to and completes the test or tests and the test results show:

(A) An alcohol concentration of .08 or greater, the person's driving privileges will be suspended for 30 days for the first occurrence and one year for the second or subsequent occurrence; or

(B) an alcohol concentration of .15 or greater, the person's driving privileges will be suspended for one year for the first or subsequent occurrence;

(7) refusal to submit to testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both;

(8) the results of the testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both; and

(9) after the completion of the testing, the person has the right to consult with an attorney and may secure additional testing, which, if desired, should be done as soon as possible and is customarily available from medical care facilities willing to conduct such testing.

(4)(m) If a law enforcement officer has reasonable grounds probable cause to believe that the person has been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, the person shall also be provided the oral and written notice pursuant to K.S.A. 8-2,145, and
amendments thereto. Any failure to give the notices required by K.S.A. 8-2,145, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section. If a law enforcement officer has reasonable grounds, probable cause to believe that the person has been operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system and such person was under 21 years of age, the person also shall be given the notices required by K.S.A. 8-1567a, and amendments thereto. Any failure to give the notices required by K.S.A. 8-1567a, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section.

(m) After giving the foregoing information, a law enforcement officer shall request the person to submit to testing. The selection of the test or tests shall be made by the officer. If the test results show a blood or breath alcohol concentration of .08 or greater, the person's driving privileges shall be subject to suspension, or suspension and restriction, as provided in K.S.A. 8-1002 and 8-1014, and amendments thereto.

(n) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both. The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged violation of K.S.A. 2017 Supp. 8-1025, and amendments thereto.

(o) If a law enforcement officer had reasonable grounds, probable cause to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A. 8-2,142, and amendments thereto. If a law enforcement officer had reasonable grounds, probable cause to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .08 or greater any motor vehicle, the person fails a test, as defined in K.S.A. 8-1013(h), and amendments thereto, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in addition to being disqualified from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

(p) An officer shall have probable cause to believe that the person operated a vehicle while under the influence of alcohol or drugs, or both, if the vehicle was operated by such person in such a manner as to have caused the death of or serious injury to a person. In such event, such test or tests may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant.
under the authority of K.S.A. 22-2501, and amendments thereto.

(q) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(r) It shall not be a defense that the person did not understand the written or oral notice required by this section.

(s) No test results shall be suppressed because of technical irregularities not affecting the substantial rights of the accused in the consent or notice required pursuant to this act. Failure to provide any or all of the notices set forth in subsection (c) or (d) shall not be an issue or defense in any action other than an administrative action regarding the subject's driving privileges.

(t) Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant or other judicially recognized exception to the warrant requirement.

(u) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person when available.

(v) This act is remedial law and shall be liberally construed to promote public health, safety and welfare.

(w) As used in this section, "serious injury" means a physical injury to a person, as determined by law enforcement, which has the effect of:

(1) Disabling a person from the physical capacity to remove-themselves from the scene;

(2) Renders a person unconscious;

(3) The immediate loss of or absence of the normal use of at least one-limb;

(4) An injury determined by a physician to require surgery; or

(5) Otherwise indicates the person may die or be permanently disabled by the injury.

Sec. 8. K.S.A. 2017 Supp. 8-1008 is hereby amended to read as follows: 8-1008. (a) As used in this section, "provider" means: (1) A professional licensed by the behavioral sciences regulatory board to diagnose and treat mental or substance use disorders at the independent level who is compliant with the requirements set forth by the secretary for aging and disability services as described in subsection (f); or (2) A professional licensed by the behavioral sciences regulatory board who is working in an alcohol and drug treatment facility licensed by the secretary for aging and disability services as meeting the requirements described in subsection (f).
(b) A provider shall provide:

(1) Alcohol and drug evaluations, prior to sentencing, of any person who is convicted of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025 or amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes; and

(2) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by that statute.

(c) A provider shall be capable of providing, within the judicial district: (1) The evaluations required under subsection (b); (2) the alcohol and drug evaluation report required under subsection (d) or (e); (3) the follow-up duties specified under subsection (d) or (e) for persons who prepare the alcohol and drug evaluation report; and (4) any other functions and duties specified by law. The secretary for aging and disability services shall provide each judicial district with an electronic list of providers, and, except as provided further, such list shall be used when selecting a provider to be used as described in subsections (d) and (e). The secretary for aging and disability services shall also make all such lists publicly available on the official website of the Kansas department for aging and disability services. Any provider performing services in any judicial district under this section prior to July 1, 2011, may continue to perform those services until July 1, 2013.

(d) (1) Except as provided further, prior to sentencing, an alcohol and drug evaluation shall be conducted on any person who is 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 the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes. The alcohol and drug evaluation report shall be made available to and shall be considered by the court prior to sentencing. Except as provided further, the court shall order that the cost of any alcohol and drug evaluation for any person shall be paid by such person to the provider at the time of service. If the court finds that such person is indigent, the provider shall agree to accept payment as ordered by the court and the court shall order that the cost of any alcohol and drug evaluation be paid to the provider by such person as part of the judgment. The cost of any such evaluation shall be not less than $150.

(2) The provisions of this subsection shall not apply to any person convicted pursuant to subsection (b)(1)(C) of K.S.A. 8-2,144, subsection (b)(1)(C), subsection (b)(1)(D) or subsection (b)(1)(E) of (b)(1)(C) or K.S.A. 8-1567 or
subsection (b)(1)(B), (b)(1)(C) or (b)(1)(D) of K.S.A. 2017 Supp. 8-1025, (b)(1)(B), (b)(1)(C) or (b)(1)(D), and amendments thereto.

(e) An alcohol and drug evaluation shall be conducted on any person whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by that statute. The alcohol and drug evaluation report shall be made available to the prosecuting attorney and shall be considered by the prosecuting attorney. The cost of any alcohol and drug evaluation for any person shall be paid by such person to the provider at the time of service, and shall be not less than $150.

(f) On and after July 1, 2013, all alcohol and drug evaluations conducted pursuant to this section shall utilize a standardized substance use evaluation approved by the secretary for aging and disability services and be submitted in a format approved by the secretary for aging and disability services. On or before July 1, 2013, the secretary for aging and disability services shall promulgate rules and regulations to implement this section.

Sec. 9. K.S.A. 2017 Supp. 8-1013 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, 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, or conviction of a violation of aggravated battery as described in subsection (b)(3) of K.S.A. 2017 Supp. 21-5413(h)(3), 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 .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.
Sec. 10. K.S.A. 2017 Supp. 8-1014 is hereby amended to read as
follows: 8-1014. (a) Except as provided by subsection (e) and K.S.A. 8-
2,142, and amendments thereto, if a person refuses a test, the division,
pursuant to K.S.A. 8-1002, and amendments thereto, shall:

(1) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(2) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(3) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device;

(4) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for five years to driving only a motor vehicle equipped with an ignition interlock device; and

(5) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(b) (1) Except as provided by subsections (b)(2) and (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state, the division shall:

(A) On the person's first occurrence, suspend the person's driving privileges for 30 days and at the end of the suspension, restrict the person's driving privileges as provided by subsection (b) of K.S.A. 8-1015(b), and amendments thereto;

(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.
vehicle equipped with an ignition interlock device.

(2) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state and the person's blood or breath alcohol concentration is 0.15 or greater, the division shall:

(A) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(3) Whenever a person's driving privileges have been restricted to driving only a motor vehicle equipped with an ignition interlock device for 10 years under this section, such person may petition any district court for relief from such restriction after five years of such restriction have been served. The court shall consider, but not be limited to, whether: (A) Such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court; and (B) such person proves installation, maintenance and use of an ignition interlock device approved by the division throughout the five-year period. If the court finds that the person's driving privileges should be restored, then the court shall electronically report such order to the division. The division, upon receiving such order, shall restore such person's driving privileges, unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(c) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person who is less than 21 years of age fails a test or has an alcohol or drug-related conviction in this state, penalties shall be
imposed pursuant to subsection (b).

(d) Whenever the division is notified by a provider, as defined in K.S.A. 8-1008, and amendments thereto, or a court that the person has failed to follow any recommendation made by the provider or otherwise ordered by a court for a conviction of a violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, the division shall suspend the person's driving privileges until the division receives notice of the person's completion of such recommendation.

(e) Except as provided in K.S.A. 8-2,142, and amendments thereto, if a person's driving privileges are subject to suspension pursuant to this section for a test refusal, test failure or alcohol or drug-related conviction arising from the same arrest, the period of such suspension shall not exceed the longest applicable period authorized by subsection (a) or (b), and such suspension periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of such suspension as authorized by subsection (a) or (b), such person shall receive credit for any period of time for which such person's driving privileges were suspended while awaiting any hearing or final order authorized by this act.

If a person's driving privileges are subject to restriction pursuant to this section for a test failure or alcohol or drug-related conviction arising from the same arrest, the restriction periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of restriction, the person shall receive credit for any period of suspension imposed for a test refusal arising from the same arrest.

(f) If the division has taken action under subsection (a) for a test refusal or under subsection (b) for a test failure and such action is stayed pursuant to K.S.A. 8-259, and amendments thereto, or if temporary driving privileges are issued pursuant to K.S.A. 8-1020, and amendments thereto, the stay or temporary driving privileges shall not prevent the division from taking the action required by subsection (b) for an alcohol or drug-related conviction.

(g) The provisions of subsections (a), (b) and (c), as amended by this act and section 14 of chapter 105 of the 2011 Session Laws of Kansas, may be applied retroactively only if requested by a person who has had such person's driving privileges suspended or restricted pursuant to subsection (a), (b) or (c) prior to such amendment. Such person may apply to the division to have the penalties applied retroactively, as provided under subsection (g) of K.S.A. 8-1015(g), and amendments thereto.

(h) When modifying penalties pursuant to subsection (g), the division shall credit any suspension or revocation time in excess of one year which was imposed and served prior to proactive application of the provisions of subsections (a), (b) and (c), as amended by this act and section 14 of
chapter 105 of the 2011 Session Laws of Kansas, toward the required
ignition interlock restriction period imposed pursuant to the retroactive
application of such provisions if: (1) The person's driving record indicates
no driving by the person during the applicable suspension or revocation
period; and (2) the person completes a form prescribed by the division
indicating that the person did not drive during the applicable suspension or
revocation period.

(i) As used in this section, "suspension" includes any period of
suspension and any period of restriction as provided in subsection (a) of
K.S.A. 8-1015(a), and amendments thereto.

Sec. 11. K.S.A. 2017 Supp. 8-1501 is hereby amended to read as
follows: 8-1501. The provisions of this article relating to the operation of
vehicles refer exclusively to the operation of vehicles upon highways
except:

(a) Where a different place is specifically referred to in a given
section; and

(b) The provisions of K.S.A. 8-1566 to through 8-1568, inclusive,
K.S.A. 2017 Supp. 8-1025 and the provisions of article 10 of chapter 8 of
the Kansas Statutes Annotated, and amendments thereto, shall apply upon
highways and elsewhere throughout the state.

Sec. 12. K.S.A. 2017 Supp. 8-1567 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 paragraph (1) of subsection (f) of 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' impris-4
onment, 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
imprisonment 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
ever 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 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 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) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. 2017 Supp. 21-5405, and amendments thereto; (E) aggravated battery as described in subsection (b)(3) of K.S.A. 2017 Supp. 21-5413, and amendments thereto; and (F) 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 (i)(2); (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;
(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

(1) Convictions for a violation of this section, or a violation of an ordinance of any city or resolution of any county 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 subsection 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) Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; (B) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (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; (D) aggravated battery as described in K.S.A. 2017 Supp. 21-5413(b)(3) or (b)(4), and amendments thereto; and (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 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 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 or an ordinance that prohibits the acts of this section 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) (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.

(m) (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.

(n) (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.

(o) (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.

(p) (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
75-52,113, and amendments thereto.

Sec. 13. K.S.A. 2017 Supp. 12-4106 is hereby amended to read as
follows: 12-4106. (a) The municipal judge shall have the power to
administer the oaths and enforce all orders, rules and judgments made by
such municipal judge, and may fine or imprison for contempt in the same
manner and to the same extent as a judge of the district court.

(b) The municipal judge shall have the power to hear and determine
all cases properly brought before such municipal judge to: Grant
continuances; sentence those found guilty to a fine or confinement in jail,
or both; commit accused persons to jail in default of bond; determine
applications for parole; release on probation; grant time in which a fine
may be paid; correct a sentence; suspend imposition of a sentence; set
aside a judgment; permit time for post trial motions; and discharge accused
persons.

(c) The municipal judge shall maintain a docket in which every case
commenced before such municipal judge shall be entered. Such docket
shall contain the names of the accused persons and complainant, the nature
or character of the offense, the date of trial, the names of all witnesses
sworn and examined, the finding of the court, the judgment and sentence,
the date of payment, the date of issuing commitment, if any, and every
other fact necessary to show the full proceedings in each case.

(d) The municipal judge shall promptly make such reports and
furnish the information requested by any departmental justice or the
judicial administrator, in the manner and form prescribed by the supreme
court.

(e) The municipal judge shall ensure that information concerning
dispositions of city ordinance violations that result in convictions
comparable to convictions for offenses under Kansas criminal statutes is
forwarded to the Kansas bureau of investigation central repository. This
information shall be transmitted, on a form or in a format approved by the
attorney general, within 30 days of final disposition.

(f) In all cases alleging a violation of a city ordinance prohibiting the acts
prohibited by K.S.A. 8-2,144, 8-1567 or 32-1131 or K.S.A. 2017
Supp.—8-1025, 21-6419 or 21-6421, and amendments thereto, the
municipal court judge shall ensure that the municipal court reports the filing
and disposition of such case to the Kansas bureau of investigation central
repository, and, on and after July 1, 2014, reports the filing and
disposition of such case electronically to the Kansas bureau of investigation central repository.

(g) In all cases in which a fine is imposed for a violation of a city
ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or
K.S.A. 2017 Supp.—8-1025 or 21-6421, and amendments thereto, the
municipal court judge shall ensure that the municipal court remits the
appropriate amount of such fine to the state treasurer as provided in K.S.A.

Sec. 14. K.S.A. 2017 Supp. 12-4120 is hereby amended to read as
follows: 12-4120. (a) On and after July 1, 2012, the amount of $250 from
each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, shall be remitted by the judge or clerk of the municipal 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.

(b) One-half of each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 2017 Supp. 21-6421, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and the remainder shall be remitted as otherwise permitted by law. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the human trafficking victim assistance fund established by K.S.A. 2017 Supp. 75-758, and amendments thereto.

(c) On and after July 1, 2017, the amount of $20 from each fine imposed for a violation of a city ordinance requiring the use of safety belts for those individuals required by K.S.A. 8-2503(a)(1), and amendments thereto, shall be remitted by the judge or clerk of the municipal 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 seat belt safety fund established by K.S.A. 2017 Supp. 8-1,181, and amendments thereto.

Sec. 15. K.S.A. 2017 Supp. 12-4413 is hereby amended to read as follows: 12-4413. As used in K.S.A. 8-1009 and 12-4413 through 12-4418, inclusive and amendments thereto:

(a) "City attorney" means a city attorney of a city of this state.

(b) "Complaint" means complaint, citation or notice to appear in a municipal court.

(c) "Diversion" means referral of a defendant in a criminal case charging an alcohol related offense to a supervised performance program prior to adjudication.

(d) "Diversion agreement" means the specification of formal terms and conditions which a defendant must fulfill in order to have the charges against such person dismissed.

(e) "Alcohol related offense" means violation of an ordinance of a city of this state that prohibits the acts prohibited by K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or violation of such statute.

Sec. 16. K.S.A. 2017 Supp. 12-4414 is hereby amended to read as follows: 12-4414. (a) Except as provided in K.S.A. 8-1567 and K.S.A.
and amendments thereto, after a complaint has been filed charging a defendant with violation of an alcohol or drug related offense and prior to conviction thereof, and after the city attorney has considered the factors listed in K.S.A. 12-4415, and amendments thereto, if it appears to the city attorney that diversion of the defendant would be in the interests of justice and of benefit to the defendant and the community, the city attorney may propose a diversion agreement to the defendant. The terms of each diversion agreement shall be established by the city attorney in accordance with K.S.A. 12-4416, and amendments thereto.

(b) Each city attorney shall adopt written policies and guidelines for the implementation of a diversion program in accordance with K.S.A. 8-1009 and 12-4412 through 12-4417, inclusive, and amendments thereto. Such policies and guidelines shall provide for a diversion conference and other procedures in those cases where the city attorney elects to offer diversion in lieu of further criminal proceedings on the complaint.

(c) Each defendant shall be informed in writing of the diversion program and the policies and guidelines adopted by the city attorney. The city attorney may require any defendant requesting diversion to provide information regarding prior criminal charges, education, work experience and training, family, residence in the community, medical history, including any psychiatric or psychological treatment or counseling, and other information relating to the diversion program. In all cases, the defendant shall be present and shall have the right to be represented by counsel at the diversion conference with the city attorney.

Sec. 17. K.S.A. 2017 Supp. 12-4415 is hereby amended to read as follows: 12-4415. (a) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the city attorney shall consider at least the following factors among all factors considered:

(1) The nature of the crime charged and the circumstances surrounding it;
(2) any special characteristics or circumstances of the defendant;
(3) whether the defendant is a first-time offender of an alcohol related offense and if the defendant has previously participated in diversion, according to the certification of the division of vehicles of the state department of revenue;
(4) whether there is a probability that the defendant will cooperate with and benefit from diversion;
(5) whether there is a probability that the defendant committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United
States of America;

(6) if subsection (a)(5) applies to the defendant, whether there is a probability that the defendant will cooperate with and benefit from inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard with the consent of the defendant, as a condition of diversion;

(7) whether the available diversion program is appropriate to the needs of the defendant;

(8) the impact of the diversion of the defendant upon the community;

(9) recommendations, if any, of the involved law enforcement agency;

(10) recommendations, if any, of the victim;

(11) provisions for restitution; and

(12) any mitigating circumstances.

(b) A city attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an alcohol related offense if the defendant:

(1) Has previously participated in diversion of an alcohol related offense;

(2) has previously been convicted of or pleaded nolo contendere to an alcohol related offense in this state or has previously been convicted of or pleaded nolo contendere to a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or of a law of another state, or of a political subdivision thereof, which prohibits the acts prohibited by those statutes; or

(3) during the time of the alleged alcohol related offense was involved in a motor vehicle accident or collision resulting in personal injury or death.

(c) "Major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A. 2017 Supp. 21-6630, and amendments thereto.

Sec. 18. K.S.A. 2017 Supp. 12-4416 is hereby amended to read as follows: 12-4416. (a) A diversion agreement shall provide that if the defendant fulfills the obligations of the program described therein, as determined by the city attorney, the city attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to counsel, a speedy arraignment, a speedy trial, and the right to trial by jury. The diversion agreement may include, but is not limited to, provisions concerning payment of restitution, including court costs and diversion costs, residence in a specified facility, maintenance of gainful employment,
and participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services. The diversion agreement shall state:

(1) The defendant's full name;
(2) the defendant's full name at the time the complaint was filed, if different from the defendant's current name;
(3) the defendant's sex, race and date of birth;
(4) the crime with which the defendant is charged;
(5) the date the complaint was filed; and
(6) the municipal court with which the agreement is filed.

(b) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 2017 Supp. 21-6421, and amendments thereto, the agreement:

(1) Shall include a requirement that the defendant pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 2017 Supp. 21-6421, and amendments thereto; and
(2) may include a requirement that the defendant enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.

(c) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging an alcohol related offense, the diversion agreement shall include a stipulation, agreed to by the defendant and the city attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint. In addition, the agreement shall include a requirement that the defendant:

(1) Pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, for a first offense or, in lieu of payment of the fine, perform community service specified by the agreement, consonant with K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto; and
(2) participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(d) If the person entering into a diversion agreement is a nonresident, the city attorney shall transmit a copy of the diversion agreement to the division. The division shall forward a copy of the diversion agreement to the motor vehicle administrator of the person's state of residence.

(e) If the city attorney elects to offer diversion in lieu of further
criminal proceedings on the complaint and the defendant agrees to all of
the terms of the proposed agreement, the diversion agreement shall be
filed with the municipal court and the municipal court shall stay further
proceedings on the complaint. If the defendant declines to accept
diversion, the municipal court shall resume the criminal proceedings on
the complaint.
(f) The city attorney shall forward to the division of vehicles of the
state department of revenue a copy of the diversion agreement at the time
such agreement is filed with the municipal court. The copy of the
agreement shall be made available upon request to any county, district or
city attorney or court.
Sec. 19. K.S.A. 2017 Supp. 12-4516 is hereby amended to read as
follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d), (e)
and (f), any person who has been convicted of a violation of a city
ordinance of this state may petition the convicting court for the
expungement of such conviction and related arrest records if three or more
years have elapsed since the person:
(A) Satisfied the sentence imposed; or
(B) was discharged from probation, parole or a suspended sentence.
(2) Except as provided in subsections (b), (c), (d), (e) and (f), any
person who has fulfilled the terms of a diversion agreement based on a
violation of a city ordinance of this state may petition the court for the
expungement of such diversion agreement and related arrest records if
three or more years have elapsed since the terms of the diversion
agreement were fulfilled.
(b) Any person convicted of a violation of any ordinance that is
prohibited by either K.S.A. 2017 Supp. 12-16,134(a) or (b), and
amendments thereto, and which was adopted prior to July 1, 2014, or who
entered into a diversion agreement in lieu of further criminal proceedings
for such violation, may petition the convicting court for the expungement
of such conviction or diversion agreement and related arrest records.
(c) Any person convicted of the violation of a city ordinance which
would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a
violation of K.S.A. 2017 Supp. 21-6419, and amendments thereto, or who
entered into a diversion agreement in lieu of further criminal proceedings
for such violation, may petition the convicting court for the expungement
of such conviction or diversion agreement and related arrest records if:
(1) One or more years have elapsed since the person satisfied the
sentence imposed or the terms of a diversion agreement or was discharged
from probation, parole, conditional release or a suspended sentence; and
(2) such person can prove they were acting under coercion caused by
the act of another. For purposes of this subsection, "coercion" means:
Threats of harm or physical restraint against any person; a scheme, plan or
pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

(d) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2017 Supp. 21-5406, and amendments thereto;
(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto;
(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto;
(4) a violation of the provisions of K.S.A. 8-142 Fifth, and amendments thereto, relating to fraudulent applications;
(5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;
(6) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and amendments thereto;
(7) a violation of the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or
(8) a violation of K.S.A. 21-3405b, prior to its repeal.

(e) (1) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of a first violation of a city ordinance which would also constitute a first violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto.
(2) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of a second or subsequent violation of a city ordinance which would also constitute a second or subsequent violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto.
(3) The provisions of this subsection shall apply to all violations committed on or after July 1, 2006.

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

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

(A) Defendant's full name;
(B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;
(C) defendant's sex, race and date of birth;
(D) crime for which the defendant was arrested, convicted or diverted;
(E) date of the defendant's arrest, conviction or diversion; and
(F) identity of the convicting court, arresting law enforcement agency or diverting authority.

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

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

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

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;
(2) the circumstances and behavior of the petitioner warrant the expungement; and
(3) the expungement is consistent with the public welfare.

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

(1) Upon conviction for any subsequent crime, the conviction that
was expunged may be considered as a prior conviction in determining the
sentence to be imposed;
(2) the petitioner shall disclose that the arrest, conviction or diversion
occurred if asked about previous arrests, convictions or diversions:
   (A) In any application for licensure as a private detective, private
detective agency, certification as a firearms trainer pursuant to K.S.A.
2017 Supp. 75-7b21, and amendments thereto, or employment as a
detective with a private detective agency, as defined by K.S.A. 75-7b01,
and amendments thereto; as security personnel with a private patrol
operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
the Kansas department for aging and disability services;
   (B) in any application for admission, or for an order of reinstatement,
to the practice of law in this state;
   (C) to aid in determining the petitioner's qualifications for
employment with the Kansas lottery or for work in sensitive areas within
the Kansas lottery as deemed appropriate by the executive director of the
Kansas lottery;
   (D) to aid in determining the petitioner's qualifications for executive
director of the Kansas racing and gaming commission, for employment
with the commission or for work in sensitive areas in parimutuel racing as
deemed appropriate by the executive director of the commission, or to aid
in determining qualifications for licensure or renewal of licensure by the
commission;
   (E) to aid in determining the petitioner's qualifications for the
following under the Kansas expanded lottery act: (i) Lottery gaming
facility manager or prospective manager, racetrack gaming facility
manager or prospective manager, licensee or certificate holder; or (ii) an
officer, director, employee, owner, agent or contractor thereof;
   (F) upon application for a commercial driver's license under K.S.A.
8-2,125 through 8-2,142, and amendments thereto;
   (G) to aid in determining the petitioner's qualifications to be an
employee of the state gaming agency;
   (H) to aid in determining the petitioner's qualifications to be an
employee of a tribal gaming commission or to hold a license issued
pursuant to a tribal-state gaming compact;
   (I) in any application for registration as a broker-dealer, agent,
investment adviser or investment adviser representative all as defined in
K.S.A. 17-12a102, and amendments thereto;
   (J) in any application for employment as a law enforcement officer, as
defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;
   (K) for applications received on and after July 1, 2006, to aid in
determining the petitioner's qualifications for a license to carry a concealed
weapon pursuant to the personal and family protection act, K.S.A. 2017 Supp. 75-7c01 et seq., and amendments thereto; or
  (L) for applications received on and after July 1, 2016, to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto;
  (3) the court, in the order of expungement, may specify other circumstances under which the arrest, conviction or diversion is to be disclosed; and
  (4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged.

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

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

(l) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:
  (1) The person whose record was expunged;
  (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
  (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
  (4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services of any person whose record has been expunged;
  (5) a person entitled to such information pursuant to the terms of the expungement order;
  (6) a prosecuting attorney, and such request is accompanied by a
statement that the request is being made in conjunction with a prosecution
of an offense that requires a prior conviction as one of the elements of such
offense;
(7) the supreme court, the clerk or disciplinary administrator thereof,
the state board for admission of attorneys or the state board for discipline
of attorneys, and the request is accompanied by a statement that the
request is being made in conjunction with an application for admission, or
for an order of reinstatement, to the practice of law in this state by the
person whose record has been expunged;
(8) the Kansas lottery, and the request is accompanied by a statement
that the request is being made to aid in determining qualifications for
employment with the Kansas lottery or for work in sensitive areas within
the Kansas lottery as deemed appropriate by the executive director of the
Kansas lottery;
(9) the governor or the Kansas racing and gaming commission, or a
designee of the commission, and the request is accompanied by a
statement that the request is being made to aid in determining
qualifications for executive director of the commission, for employment
with the commission, for work in sensitive areas in parimutuel racing as
deemed appropriate by the executive director of the commission or for
licensure, renewal of licensure or continued licensure by the commission;
(10) the Kansas racing and gaming commission, or a designee of the
commission, and the request is accompanied by a statement that the
request is being made to aid in determining qualifications of the following
under the Kansas expanded lottery act:
(A) Lottery gaming facility managers and prospective managers,
racetrack gaming facility managers and prospective managers, licensees
and certificate holders; and
(B) their officers, directors, employees, owners, agents and
contractors;
(11) the state gaming agency, and the request is accompanied by a
statement that the request is being made to aid in determining
qualifications:
(A) to be an employee of the state gaming agency; or
(B) to be an employee of a tribal gaming commission or to hold a
license issued pursuant to a tribal-state gaming compact;
(12) the Kansas securities commissioner, or a designee of the
commissioner, and the request is accompanied by a statement that the
request is being made in conjunction with an application for registration as
a broker-dealer, agent, investment adviser or investment adviser
representative by such agency and the application was submitted by the
person whose record has been expunged;
(13) the attorney general, and the request is accompanied by a
statement that the request is being made to aid in determining qualifications for a license to:
(A) Carry a concealed weapon pursuant to the personal and family protection act; or
(B) act as a bail enforcement agent pursuant to K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto;
(14) the Kansas sentencing commission;
(15) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or
(16) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto.

Sec. 20. K.S.A. 2017 Supp. 12-4517 is hereby amended to read as follows: 12-4517. (a) (1) The municipal court judge shall ensure that all persons convicted of violating municipal ordinance provisions that prohibit conduct comparable to a class A or B misdemeanor or assault as defined in subsection (a) of K.S.A. 2017 Supp. 21-5412(a), and amendments thereto, under a Kansas criminal statute are fingerprinted and processed.
(2) The municipal court judge shall ensure that all persons arrested or charged with a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, are fingerprinted and processed at the time of booking or first appearance, whichever occurs first.
(b) The municipal court judge shall order the individual to be fingerprinted at an appropriate location as determined by the municipal court judge. Failure of the person to be fingerprinted after court order issued by the municipal judge shall constitute contempt of court. To reimburse the city or other entity for costs associated with fingerprinting, the municipal court judge may assess reasonable court costs, in addition to other court costs imposed by the state or municipality.

Sec. 21. K.S.A. 2017 Supp. 21-5203 is hereby amended to read as follows: 21-5203. A person may be guilty of a crime without having a culpable mental state if the crime is:
(a) A misdemeanor, cigarette or tobacco infraction or traffic infraction and the statute defining the crime clearly indicates a legislative purpose to impose absolute liability for the conduct described;
(b) a felony and the statute defining the crime clearly indicates a legislative purpose to impose absolute liability for the conduct described;
(c) a violation of K.S.A. 8-1567 or 8-1567a, and amendments thereto;
(d) a violation of K.S.A. 8-2,144, and amendments thereto;
(e) a violation of K.S.A. 2017 Supp. 8-1025, and amendments thereto;
or
(f) a violation of K.S.A. 22-4901 et seq., and amendments thereto.

Sec. 22. K.S.A. 2017 Supp. 21-6604 is hereby amended to read as follows: 21-6604. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567; or 8-2,144 and K.S.A. 2017 Supp. 8-1025, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by K.S.A. 2017 Supp. 21-6602(c), and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes
of conviction of the defendant includes escape from custody or aggravated
escape from custody, as defined in K.S.A. 2017 Supp. 21-5911, and
amendments thereto; repay expenses incurred by a fire district, fire
department or fire company responding to a fire which has been
determined to be arson or aggravated arson as defined in K.S.A. 2017
Supp. 21-5812, and amendments thereto, if the defendant is convicted of
such crime; repay the amount of any public funds utilized by a law
enforcement agency to purchase controlled substances from the defendant
during the investigation which leads to the defendant's conviction; or repay
the amount of any medical costs and expenses incurred by any law
enforcement agency or county. Such repayment of the amount of any such
costs and expenses incurred by a county, law enforcement agency, fire
district, fire department or fire company or any public funds utilized by a
law enforcement agency shall be deposited and credited to the same fund
from which the public funds were credited to prior to use by the county,
law enforcement agency, fire district, fire department or fire company;
(9) order the defendant to pay the administrative fee authorized by
K.S.A. 22-4529, and amendments thereto, unless waived by the court;
(10) order the defendant to pay a domestic violence special program
fee authorized by K.S.A. 20-369, and amendments thereto;
(11) if the defendant is convicted of a misdemeanor or convicted of a
felony specified in K.S.A. 2017 Supp. 21-6804(i), and amendments
thereto, assign the defendant to work release program, other than a
program at a correctional institution under the control of the secretary of
corrections as defined in K.S.A. 75-5202, and amendments thereto,
provided such work release program requires such defendant to return to
confinement at the end of each day in the work release program. On a
second or subsequent conviction of K.S.A. 8-1567, and amendments
thereto, an offender placed into a work release program shall serve the
total number of hours of confinement mandated by that section;
(12) order the defendant to pay the full amount of unpaid costs
associated with the conditions of release of the appearance bond under
K.S.A. 22-2802, and amendments thereto;
(13) impose any appropriate combination of (1), (2), (3), (4), (5), (6),
(7), (8), (9), (10), (11) and (12); or
(14) suspend imposition of sentence in misdemeanor cases.
(b) (1) In addition to or in lieu of any of the above, the court shall
order the defendant to pay restitution, which shall include, but not be
limited to, damage or loss caused by the defendant's crime, unless the
court finds compelling circumstances which would render a plan of
restitution unworkable. In regard to a violation of K.S.A. 2017 Supp. 21-
6107, and amendments thereto, such damage or loss shall include, but not
be limited to, attorney fees and costs incurred to repair the credit history or
rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. In regard to a violation of K.S.A. 2017 Supp. 21-5801, 21-5807 or 21-5813, and amendments thereto, such damage or loss shall include the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by K.S.A. 2017 Supp. 21-6602(d), and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.
(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2017 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed during a period of time during which the defendant would have been on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony had the defendant not been granted release by the court pursuant to K.S.A. 2017 Supp. 21-6608(d), and amendments thereto, or the prisoner review board pursuant to K.S.A. 22-3717, and amendments thereto, the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(3) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2017 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(4) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed
consecutively pursuant to the provisions of K.S.A. 2017 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, and who offense does not meet the requirements of K.S.A. 2017 Supp. 21-6824, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2017 Supp. 21-6824, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendments thereto, or a community intermediate sanction center. Pursuant to this subsection the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or community intermediate sanction center and the defendant meets all of the conservation camp's or community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or community intermediate sanction center.
In committing a defendant to the custody of the secretary of corrections, the court shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if:

1. Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes
committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of
the sentencing guidelines grid for drug crimes committed on or after July
1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of
the sentencing guidelines grid for drug crimes committed prior to July 1,
2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines
grid for drug crimes committed on or after July 1, 2012, and such offense
does not meet the requirements of K.S.A. 2017 Supp. 21-6824, and
amendments thereto; and

(2) otherwise meets admission criteria of the camp.

If the inmate successfully completes a conservation camp program, the
secretary of corrections shall report such completion to the sentencing
court and the county or district attorney. The inmate shall then be assigned
by the court to six months of follow-up supervision conducted by the
appropriate community corrections services program. The court may also
order that supervision continue thereafter for the length of time authorized
by K.S.A. 2017 Supp. 21-6608, and amendments thereto.

(m) When it is provided by law that a person shall be sentenced
pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions
of this section shall not apply.

(n) (1) Except as provided by K.S.A. 2017 Supp. 21-6630 and 21-
6805(f), and amendments thereto, in addition to any of the above, for
felony violations of K.S.A. 2017 Supp. 21-5706, and amendments thereto,
the court shall require the defendant who meets the requirements
established in K.S.A. 2017 Supp. 21-6824, and amendments thereto, to
participate in a certified drug abuse treatment program, as provided in
K.S.A. 2017 Supp. 75-52,144, and amendments thereto, including, but not
limited to, an approved after-care plan. The amount of time spent
participating in such program shall not be credited as service on the
underlying prison sentence.

(2) If the defendant fails to participate in or has a pattern of
intentional conduct that demonstrates the defendant's refusal to comply
with or participate in the treatment program, as established by judicial
finding, the defendant shall be subject to sanction or revocation pursuant
to the provisions of K.S.A. 22-3716, and amendments thereto. If the
defendant's probation is revoked, the defendant shall serve the underlying
prison sentence as established in K.S.A. 2017 Supp. 21-6805, and
amendments thereto.

(A) Except as provided in subsection (n)(2)(B), for those offenders
who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon
completion of the underlying prison sentence, the offender shall not be
subject to a period of postrelease supervision.

(B) Offenders whose crime of conviction was committed on or after
July 1, 2013, and whose probation is revoked pursuant to K.S.A. 22-
3716(c), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to K.S.A. 22-3716(c)(1)(C) or (c)(1)(D), and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 2017 Supp. 21-5706, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to
the division and the division shall forward a copy of it to the motor vehicle
administrator of such person's state of residence. Such judge shall furnish
to any person whose driver's license has had conditions imposed on it
under this paragraph a copy of the order, which shall be recognized as a
valid Kansas driver's license until such time as the division shall issue the
restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are
imposed pursuant to this subsection, the licensee may apply to the division
for the return of the license previously surrendered by such licensee. In the
event such license has expired, such person may apply to the division for a
new license, which shall be issued immediately by the division upon
payment of the proper fee and satisfaction of the other conditions
established by law, unless such person's privilege to operate a motor
vehicle on the highways of this state has been suspended or revoked prior
thereto. If any person shall violate any of the conditions imposed under
this paragraph, such person's driver's license or privilege to operate a
motor vehicle on the highways of this state shall be revoked for a period of
not less than 60 days nor more than one year by the judge of the court in
which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" mean the same
as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

(p) In addition to any of the above, for any criminal offense that
includes the domestic violence designation pursuant to K.S.A. 2017 Supp.
22-4616, and amendments thereto, the court shall require the defendant to:
(1) Undergo a domestic violence offender assessment conducted by a
certified batterer intervention program; and (2) follow all
recommendations made by such program, unless otherwise ordered by the
court or the department of corrections. The court may order a domestic
violence offender assessment and any other evaluation prior to sentencing
if the assessment or evaluation would assist the court in determining an
appropriate sentence. The entity completing the assessment or evaluation
shall provide the assessment or evaluation and recommendations to the
court and the court shall provide the domestic violence offender
assessment to any entity responsible for supervising such defendant. A
defendant ordered to undergo a domestic violence offender assessment
shall be required to pay for the assessment and, unless otherwise ordered
by the court or the department of corrections, for completion of all
recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in
installments. In lieu of payment of any fine imposed, 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 by the later of one year after the fine is imposed or one year after release from imprisonment or jail, 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 shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission 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. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2017 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order of the court, unless:

(1) The court has specifically withheld this authority in its sentencing order; or

(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses to waive such right.

(t) Whenever the court has assigned the defendant to a community correctional services program pursuant to subsection (a)(4), the defendant's community corrections officer, with the concurrence of the community corrections director, may impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order of the court unless:

(1) The court has specifically withheld this authority in its sentencing order; or

(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses to waive such right.
Sec. 23. K.S.A. 2017 Supp. 21-6614 is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, any nongrid felony or felony ranked in severity levels 6 through 10 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

(b) Any person convicted of prostitution, as defined in K.S.A. 21-3512, prior to its repeal, convicted of a violation of K.S.A. 2017 Supp. 21-6419, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; and

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

(c) Except as provided in subsections (e) and (f), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any felony ranked in severity levels 1 through 5 of the
nondrug grid, or for crimes committed on or after July 1, 1993, but prior to
July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug
grid, or for crimes committed on or after July 1, 2012, any felony ranked
in severity levels 1 through 4 of the drug grid, or:
  (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
repeal, or K.S.A. 2017 Supp. 21-5406, and amendments thereto, or as
prohibited by any law of another state which is in substantial conformity
with that statute;
  (2) driving while the privilege to operate a motor vehicle on the
public highways of this state has been canceled, suspended or revoked, as
prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
any law of another state which is in substantial conformity with that
statute;
  (3) perjury resulting from a violation of K.S.A. 8-261a, and
amendments thereto, or resulting from the violation of a law of another
state which is in substantial conformity with that statute;
  (4) violating the provisions of K.S.A. 8-142 Fifth, and amendments
thereto, relating to fraudulent applications or violating the provisions of a
law of another state which is in substantial conformity with that statute;
  (5) any crime punishable as a felony wherein a motor vehicle was
used in the perpetration of such crime;
  (6) failing to stop at the scene of an accident and perform the duties
required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and
amendments thereto, or required by a law of another state which is in
substantial conformity with those statutes;
  (7) violating the provisions of K.S.A. 40-3104, and amendments
thereto, relating to motor vehicle liability insurance coverage; or
  (8) a violation of K.S.A. 21-3405b, prior to its repeal.
(d) (1) No person may petition for expungement until five or more
years have elapsed since the person satisfied the sentence imposed or the
terms of a diversion agreement or was discharged from probation, a
community correctional services program, parole, postrelease supervision,
conditional release or a suspended sentence, if such person was convicted
of a first violation of K.S.A. 8-1567—or K.S.A. 2017 Supp. 8-1025, and
amendments thereto, including any diversion for such violation.
  (2) No person may petition for expungement until 10 or more years
have elapsed since the person satisfied the sentence imposed or was
discharged from probation, a community correctional services program,
parole, postrelease supervision, conditional release or a suspended
sentence, if such person was convicted of a second or subsequent violation
  (3) Except as provided further, the provisions of this subsection shall
apply to all violations committed on or after July 1, 2006. The provisions
of subsection (d)(2) shall not apply to violations committed on or after July 1, 2014, but prior to July 1, 2015.

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

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2017 Supp. 21-5503, and amendments thereto;
(2) indecent liberties with a child or aggravated indecent liberties with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or K.S.A. 2017 Supp. 21-5506, and amendments thereto;
(3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2017 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;
(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2017 Supp. 21-5504, and amendments thereto;
(5) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2017 Supp. 21-5508, and amendments thereto;
(6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto;
(7) internet trading in child pornography or aggravated internet trading in child pornography, as defined in K.S.A. 2017 Supp. 21-5514, and amendments thereto;
(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2017 Supp. 21-5604, and amendments thereto;
(9) endangering a child or aggravated endangering a child, as defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2017 Supp. 21-5601, and amendments thereto;
(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2017 Supp. 21-5602, and amendments thereto;
(11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2017 Supp. 21-5401, and amendments thereto;
(12) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto;
(13) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2017 Supp. 21-5403, and amendments thereto;
(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto;
(15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2017 Supp. 21-5405, and amendments thereto;
(16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2017 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;
(17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
its repeal, or K.S.A. 2017 Supp. 21-5505, and amendments thereto;
(18) a violation of K.S.A. 8-2,144, and amendments thereto,
including any diversion for such violation; or
(19) any conviction for any offense in effect at any time prior to July
1, 2011, that is comparable to any offense as provided in this subsection.
(f) Notwithstanding any other law to the contrary, for any offender
who is required to register as provided in the Kansas offender registration
act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
expungement of any conviction or any part of the offender's criminal
record while the offender is required to register as provided in the Kansas
offender registration act.
(g)(1) When a petition for expungement is filed, the court shall set a
date for a hearing of such petition and shall cause notice of such hearing to
be given to the prosecutor and the arresting law enforcement agency. The
petition shall state the:
(A) Defendant's full name;
(B) full name of the defendant at the time of arrest, conviction or
diversion, if different than the defendant's current name;
(C) defendant's sex, race and date of birth;
(D) crime for which the defendant was arrested, convicted or
diverted;
(E) date of the defendant's arrest, conviction or diversion; and
(F) identity of the convicting court, arresting law enforcement
authority or diverting authority.
(2) Except as otherwise provided by law, a petition for expungement
shall be accompanied by a docket fee in the amount of $176. On and after
July 1, 2017, through June 30, 2019, the supreme court may impose a
charge, not to exceed $19 per case, to fund the costs of non-judicial
personnel. The charge established in this section shall be the only fee
collected or moneys in the nature of a fee collected for the case. Such
charge shall only be established by an act of the legislature and no other
authority is established by law or otherwise to collect a fee.
(3) All petitions for expungement shall be docketed in the original
criminal action. Any person who may have relevant information about the
petitioner may testify at the hearing. The court may inquire into the
background of the petitioner and shall have access to any reports or
records relating to the petitioner that are on file with the secretary of
corrections or the prisoner review board.
(h) At the hearing on the petition, the court shall order the petitioner's
arrest record, conviction or diversion expunged if the court finds that:
(1) The petitioner has not been convicted of a felony in the past two
years and no proceeding involving any such crime is presently pending or
being instituted against the petitioner;

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

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

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

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2017 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services;

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

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

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

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

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

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

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

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

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

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 2017 Supp. 75-7c01 et seq., and amendments thereto; or

(L) for applications received on and after July 1, 2017, to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto;

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

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

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

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

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

(2) Notwithstanding the provisions of subsection (k)(1), and except as
provided in K.S.A. 2017 Supp. 21-6304(a)(3)(A), and amendments
thereto, the expungement of a prior felony conviction does not relieve the
individual of complying with any state or federal law relating to the use,
shipment, transportation, receipt or possession of firearms by persons
previously convicted of a felony.

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

(1) The person whose record was expunged;
(2) a private detective agency or a private patrol operator, and the
request is accompanied by a statement that the request is being made in
conjunction with an application for employment with such agency or
operator by the person whose record has been expunged;
(3) a court, upon a showing of a subsequent conviction of the person
whose record has been expunged;
(4) the secretary for aging and disability services, or a designee of the
secretary, for the purpose of obtaining information relating to employment
in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
of the Kansas department for aging and disability services of any person
whose record has been expunged;
(5) a person entitled to such information pursuant to the terms of the
expungement order;
(6) a prosecutor, and such request is accompanied by a statement that
the request is being made in conjunction with a prosecution of an offense
that requires a prior conviction as one of the elements of such offense;
(7) the supreme court, the clerk or disciplinary administrator thereof,
the state board for admission of attorneys or the state board for discipline
of attorneys, and the request is accompanied by a statement that the
request is being made in conjunction with an application for admission, or
for an order of reinstatement, to the practice of law in this state by the
person whose record has been expunged;
(8) the Kansas lottery, and the request is accompanied by a statement
that the request is being made to aid in determining qualifications for
employment with the Kansas lottery or for work in sensitive areas within
the Kansas lottery as deemed appropriate by the executive director of the
Kansas lottery;
(9) the governor or the Kansas racing and gaming commission, or a
designee of the commission, and the request is accompanied by a
statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

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

(11) the Kansas sentencing commission;

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

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

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

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

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

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

(B) act as a bail enforcement agent pursuant to K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto; or

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

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

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

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

Sec. 24. K.S.A. 2017 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:
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<tr>
<th>Category</th>
<th>A</th>
<th>B</th>
<th>C</th>
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<th>F</th>
<th>G</th>
<th>H</th>
<th>I</th>
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<td>2 Person Felonies</td>
<td>1 Person &amp; 1 Nonperson Felonies</td>
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<td>3 Person Nonperson Felonies</td>
<td>2 Nonperson Felonies</td>
<td>1 Nonperson Felony</td>
<td>2 Person Misdemeanors</td>
<td>1 Person Misdemeanor No Record</td>
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LEGEND
Presumptive Probation
No Probation
Presumptive Imprisonment
(b) Sentences expressed in the sentencing guidelines grid for nondrug crimes represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:
   (A) Prison sentence;
   (B) maximum potential reduction to such sentence as a result of good time; and
   (C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:
   (A) Prison sentence; and
   (B) duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of K.S.A. 2017 Supp. 21-5412(d), and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be
presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A. 2017 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. and 8-1567; and K.S.A. 2017 Supp. 21-5414(b)(3), K.S.A. 2017 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2017 Supp. 21-6412 and K.S.A. 2017 Supp. 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 2017 Supp. 21-6807, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 2017 Supp. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 2017 Supp. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 2017 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. and 8-1567; and K.S.A. 2017 Supp. 21-5414(b)(3), K.S.A. 2017 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2017 Supp. 21-6412 and K.S.A. 2017 Supp. 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 2017 Supp. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:
(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2017 Supp. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

(A) The commission of one or more person felonies; or

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

(C) its members have a common name or common identifying sign or symbol; and

(D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of K.S.A. 2017 Supp. 21-5807(a)(1), and amendments thereto, or any
attempt or conspiracy, as defined in K.S.A. 2017 Supp. 21-5301 and 21-
5302, and amendments thereto, to commit such offense, when such person
being sentenced has a prior conviction for a violation of K.S.A. 21-3715(a)
or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A. 2017 Supp.
21-5807(a)(1) or (a)(2); or K.S.A. 2017 Supp. 21-5807(b), and
amendments thereto, or any attempt or conspiracy to commit such offense,
shall be presumptive imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 2017
Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive
imprisonment. If an offense under such sections is classified in grid blocks
5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison
sentence as provided in subsection (q).

(n) The sentence for a violation of criminal deprivation of property, as
defined in K.S.A. 2017 Supp. 21-5803, and amendments thereto, when
such property is a motor vehicle, and when such person being sentenced
has any combination of two or more prior convictions of K.S.A. 21-
3705(b), prior to its repeal, or of criminal deprivation of property, as
defined in K.S.A. 2017 Supp. 21-5803, and amendments thereto, when
such property is a motor vehicle, shall be presumptive imprisonment. Such
sentence shall not be considered a departure and shall not be subject to
appeal.

(o) The sentence for a felony violation of theft of property as defined
in K.S.A. 2017 Supp. 21-5801, and amendments thereto, or burglary as
defined in K.S.A. 2017 Supp. 21-5807(a), and amendments thereto, when
such person being sentenced has no prior convictions for a violation of
K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as
defined in K.S.A. 2017 Supp. 21-5801, and amendments thereto, or
burglary as defined in K.S.A. 2017 Supp. 21-5807(a), and amendments
thereto; or the sentence for a felony violation of theft of property as
defined in K.S.A. 2017 Supp. 21-5801, and amendments thereto, when
such person being sentenced has one or two prior felony convictions for a
violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or
theft of property as defined in K.S.A. 2017 Supp. 21-5801, and
amendments thereto, or burglary or aggravated burglary as defined in
K.S.A. 2017 Supp. 21-5807, and amendments thereto; or the sentence for a
felony violation of burglary as defined in K.S.A. 2017 Supp. 21-5807(a),
and amendments thereto, when such person being sentenced has one prior
felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716,
prior to their repeal, or theft of property as defined in K.S.A. 2017 Supp.
21-5801, and amendments thereto, or burglary or aggravated burglary as
defined in K.S.A. 2017 Supp. 21-5807, and amendments thereto, shall be
the sentence as provided by this section, except that the court may order an
optional nonprison sentence for a defendant to participate in a drug
treatment program, including, but not limited to, an approved after-care
plan, if the court makes the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of
the crime;
(2) substance abuse treatment in the community is likely to be more
effective than a prison term in reducing the risk of offender recidivism;
and
(3) participation in an intensive substance abuse treatment program
will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this
subsection shall be supervised by community correctional services. The
provisions of K.S.A. 2017 Supp. 21-6824(f)(1), and amendments thereto,
shall apply to a defendant sentenced under this subsection. The sentence
under this subsection shall not be considered a departure and shall not be
subject to appeal.

(p) The sentence for a felony violation of theft of property as defined
in K.S.A. 2017 Supp. 21-5801, and amendments thereto, when such
person being sentenced has any combination of three or more prior felony
convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to
their repeal, or theft of property as defined in K.S.A. 2017 Supp. 21-5801,
and amendments thereto, or burglary or aggravated burglary as defined in
K.S.A. 2017 Supp. 21-5807, and amendments thereto; or the sentence for a
violation of burglary as defined in K.S.A. 2017 Supp. 21-5807(a), and
amendments thereto, when such person being sentenced has any
combination of two or more prior convictions for violations of K.S.A. 21-
3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as
defined in K.S.A. 2017 Supp. 21-5801, and amendments thereto, or
burglary or aggravated burglary as defined in K.S.A. 2017 Supp. 21-5807,
and amendments thereto, shall be presumed imprisonment and the
defendant shall be sentenced to prison as provided by this section, except
that the court may recommend that an offender be placed in the custody of
the secretary of corrections, in a facility designated by the secretary to
participate in an intensive substance abuse treatment program, upon
making the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of
the crime;
(2) substance abuse treatment with a possibility of an early release
from imprisonment is likely to be more effective than a prison term in
reducing the risk of offender recidivism; and
(3) participation in an intensive substance abuse treatment program
with the possibility of an early release from imprisonment will serve
community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined
by the secretary of corrections, but shall be for a period of at least four
months. Upon the successful completion of such intensive treatment
program, the offender shall be returned to the court and the court may
modify the sentence by directing that a less severe penalty be imposed in
lieu of that originally adjudged within statutory limits. If the offender's
term of imprisonment expires, the offender shall be placed under the
applicable period of postrelease supervision. The sentence under this
subsection shall not be considered a departure and shall not be subject to
appeal.

(q) As used in this section, an "optional nonprison sentence" is a
sentence which the court may impose, in lieu of the presumptive sentence,
upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be
more effective than the presumptive prison term in reducing the risk of
offender recidivism; and

(2) the recommended treatment program is available and the offender
can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by
promoting offender reformation.

Any decision made by the court regarding the imposition of an optional
nonprison sentence shall not be considered a departure and shall not be
subject to appeal.

(r) The sentence for a violation of K.S.A. 2017 Supp. 21-5413(c)(2),
and amendments thereto, shall be presumptive imprisonment and shall be
served consecutively to any other term or terms of imprisonment imposed.
Such sentence shall not be considered a departure and shall not be
subject to appeal.

(s) The sentence for a violation of K.S.A. 2017 Supp. 21-5512, and
amendments thereto, shall be presumptive imprisonment. Such sentence
shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding beyond a reasonable doubt
that an offender wore or used ballistic resistant material in the commission
of, or attempt to commit, or flight from any felony, in addition to the
sentence imposed pursuant to the Kansas sentencing guidelines act, the
offender shall be sentenced to an additional 30 months’ imprisonment.

(2) The sentence imposed pursuant to subsection (t)(1) shall be
presumptive imprisonment and shall be served consecutively to any other
term or terms of imprisonment imposed. Such sentence shall not be
considered a departure and shall not be subject to appeal.

(3) As used in this subsection, "ballistic resistant material" means:
(A) Any commercially produced material designed with the purpose of
providing ballistic and trauma protection, including, but not limited to,
bulletproof vests and kevlar vests; and (B) any homemade or fabricated
substance or item designed with the purpose of providing ballistic and
trauma protection.

(u) The sentence for a violation of K.S.A. 2017 Supp. 21-6107, and
amendments thereto, or any attempt or conspiracy, as defined in K.S.A.
2017 Supp. 21-5301 and 21-5302, and amendments thereto, to commit
such offense, when such person being sentenced has a prior conviction for
a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2017 Supp. 21-
6107, and amendments thereto, or any attempt or conspiracy to commit
such offense, shall be presumptive imprisonment. Such sentence shall not
be considered a departure and shall not be subject to appeal.

(v) The sentence for a third or subsequent violation of K.S.A. 8-1568,
and amendments thereto, shall be presumptive imprisonment and shall be
served consecutively to any other term or terms of imprisonment imposed.
Such sentence shall not be considered a departure and shall not be subject
to appeal.

(w) The sentence for aggravated criminal damage to property as
defined in K.S.A. 2017 Supp. 21-5813(b), and amendments thereto, when
such person being sentenced has a prior conviction for any nonperson
felony shall be presumptive imprisonment. Such sentence shall not be
considered a departure and shall not be subject to appeal.

(x) The sentence for a violation of K.S.A. 2017 Supp. 21-5807(a)(1),
and amendments thereto, shall be presumptive imprisonment if the offense
under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such
sentence shall not be considered a departure and shall not be subject to
appeal.

(y) (1) Except as provided in subsection (y)(3), if the trier of fact
makes a finding beyond a reasonable doubt that an offender committed a
nondrug felony offense, or any attempt or conspiracy, as defined in K.S.A.
2017 Supp. 21-5301 and 21-5302, and amendments thereto, to commit a
nondrug felony offense, against a law enforcement officer, as defined in
K.S.A. 2017 Supp. 21-5111(p)(1) and (3), and amendments thereto, while
such officer was engaged in the performance of such officer's duty, or in
whole or in any part because of such officer's status as a law enforcement
officer, the sentence for such offense shall be:

(A) If such offense is classified in severity level 2 through 10, one
severity level above the appropriate level for such offense; and

(B) (i) if such offense is classified in severity level 1, except as
otherwise provided in subsection (y)(1)(B)(ii), imprisonment for life, and
such offender shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, such offender shall not
be eligible for parole prior to serving 25 years' imprisonment, and such 25
years' imprisonment shall not be reduced by the application of good time
credits. No other sentence shall be permitted.
(ii) The provisions of subsection (y)(1)(B)(i) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the offender, because of the offender's criminal history classification, is subject to presumptive imprisonment and the sentencing range exceeds 300 months. In such case, the offender is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(2) The sentence imposed pursuant to subsection (y)(1) shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to an offense described in subsection (y)(1) if the factual aspect concerning a law enforcement officer is a statutory element of such offense.

Sec. 25. K.S.A. 2017 Supp. 21-6811 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 another state, it will be counted as a
felony in Kansas.
(B) If a crime is a misdemeanor in another state, the state of Kansas shall refer to the comparable offense in order to classify the out-of-state crime as a class A, B or C misdemeanor. If the comparable misdemeanor crime 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 crime, 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 conviction 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.

Sec. 26. K.S.A. 2017 Supp. 22-2802 is hereby amended to read as follows: 22-2802. (1) Any person charged with a crime shall, at the person's first appearance before a magistrate, be ordered released pending preliminary examination or trial upon the execution of an appearance bond in an amount specified by the magistrate and sufficient to assure the appearance of such person before the magistrate when ordered and to assure the public safety. If the person is being bound over for a felony, the bond shall also be conditioned on the person's appearance in the district court or by way of a two-way electronic audio-video communication as provided in subsection (14) at the time required by the court to answer the charge against such person and at any time thereafter that the court requires. Unless the magistrate makes a specific finding otherwise, if the person is being bonded out for a person felony or a person misdemeanor, the bond shall be conditioned on the person being prohibited from having any contact with the alleged victim of such offense for a period of at least 72 hours. The magistrate may impose such of the following additional conditions of release as will reasonably assure the appearance of the person for preliminary examination or trial:

(a) Place the person in the custody of a designated person or organization agreeing to supervise such person;

(b) place restrictions on the travel, association or place of abode of the person during the period of release;

(c) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody during specified hours;

(d) place the person under a house arrest program pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto; or

(e) place the person under the supervision of a court services officer responsible for monitoring the person's compliance with any conditions of release ordered by the magistrate. The magistrate may order the person to pay for any costs associated with the supervision provided by the court services department in an amount not to exceed $15 per week of such supervision. The magistrate may also order the person to pay for all other costs associated with the supervision and conditions for compliance in addition to the $15 per week.

(2) In addition to any conditions of release provided in subsection (1), for any person charged with a felony, the magistrate may order such person to submit to a drug and alcohol abuse examination and evaluation in a public or private treatment facility or state institution and, if determined by the head of such facility or institution that such person is a drug or alcohol abuser or is incapacitated by drugs or alcohol, to submit to treatment for such drug or alcohol abuse, as a condition of release.
(3) The appearance bond shall be executed with sufficient solvent sureties who are residents of the state of Kansas, unless the magistrate determines, in the exercise of such magistrate's discretion, that requiring sureties is not necessary to assure the appearance of the person at the time ordered.

(4) A deposit of cash in the amount of the bond may be made in lieu of the execution of the bond pursuant to subsection (3). Except as provided in subsection (5), such deposit shall be in the full amount of the bond and in no event shall a deposit of cash in less than the full amount of bond be permitted. Any person charged with a crime who is released on a cash bond shall be entitled to a refund of all moneys paid for the cash bond, after deduction of any outstanding restitution, costs, fines and fees, after the final disposition of the criminal case if the person complies with all requirements to appear in court. The court may not exclude the option of posting bond pursuant to subsection (3).

(5) Except as provided further, the amount of the appearance bond shall be the same whether executed as described in subsection (3) or posted with a deposit of cash as described in subsection (4). When the appearance bond has been set at $2,500 or less and the most serious charge against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson felony, a drug severity level 4 felony committed prior to July 1, 2012, a drug severity level 5 felony committed on or after July 1, 2012, or a violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, the magistrate may allow the person to deposit cash with the clerk in the amount of 10% of the bond, provided the person meets at least the following qualifications:

(A) Is a resident of the state of Kansas;
(B) has a criminal history score category of G, H or I;
(C) has no prior history of failure to appear for any court appearances;
(D) has no detainer or hold from any other jurisdiction;
(E) has not been extradited from, and is not awaiting extradition to, another state; and
(F) has not been detained for an alleged violation of probation.

(6) In the discretion of the court, a person charged with a crime may be released upon the person's own recognizance by guaranteeing payment of the amount of the bond for the person's failure to comply with all requirements to appear in court. The release of a person charged with a crime upon the person's own recognizance shall not require the deposit of any cash by the person.

(7) The court shall not impose any administrative fee.

(8) In determining which conditions of release will reasonably assure appearance and the public safety, the magistrate shall, on the basis of
available information, take into account the nature and circumstances of
the crime charged; the weight of the evidence against the defendant;
whether the defendant is lawfully present in the United States; the
defendant's family ties, employment, financial resources, character, mental
condition, length of residence in the community, record of convictions,
record of appearance or failure to appear at court proceedings or of flight
to avoid prosecution; the likelihood or propensity of the defendant to
commit crimes while on release, including whether the defendant will be
likely to threaten, harass or cause injury to the victim of the crime or any
witnesses thereto; and whether the defendant is on probation or parole
from a previous offense at the time of the alleged commission of the
subsequent offense.

(9) The appearance bond shall set forth all of the conditions of
release.

(10) A person for whom conditions of release are imposed and who
continues to be detained as a result of the person's inability to meet the
conditions of release shall be entitled, upon application, to have the
conditions reviewed without unnecessary delay by the magistrate who
imposed them. If the magistrate who imposed conditions of release is not
available, any other magistrate in the county may review such conditions.

(11) A magistrate ordering the release of a person on any conditions
specified in this section may at any time amend the order to impose
additional or different conditions of release. If the imposition of additional
or different conditions results in the detention of the person, the provisions
of subsection (10) shall apply.

(12) Statements or information offered in determining the conditions
of release need not conform to the rules of evidence. No statement or
admission of the defendant made at such a proceeding shall be received as
evidence in any subsequent proceeding against the defendant.

(13) The appearance bond and any security required as a condition of
the defendant's release shall be deposited in the office of the magistrate or
the clerk of the court where the release is ordered. If the defendant is
bound to appear before a magistrate or court other than the one ordering
the release, the order of release, together with the bond and security shall
be transmitted to the magistrate or clerk of the court before whom the
defendant is bound to appear.

(14) Proceedings before a magistrate as provided in this section to
determine the release conditions of a person charged with a crime
including release upon execution of an appearance bond may be conducted
by two-way electronic audio-video communication between the defendant
and the judge in lieu of personal presence of the defendant or defendant's
counsel in the courtroom in the discretion of the court. The defendant may
be accompanied by the defendant's counsel. The defendant shall be
informed of the defendant's right to be personally present in the courtroom
during such proceeding if the defendant so requests. Exercising the right to
be present shall in no way prejudice the defendant.

(15) The magistrate may order the person to pay for any costs
associated with the supervision of the conditions of release of the
appearance bond in an amount not to exceed $15 per week of such
supervision. As a condition of sentencing under K.S.A. 2017 Supp. 21-
6604, and amendments thereto, the court may impose the full amount of
any such costs in addition to the $15 per week, including, but not limited
to, costs for treatment and evaluation under subsection (2).

Sec. 27. K.S.A. 2017 Supp. 22-2908 is hereby amended to read as
follows: 22-2908. (a) In determining whether diversion of a defendant is in
the interests of justice and of benefit to the defendant and the community,
the county or district attorney shall consider at least the following factors
among all factors considered:

(1) The nature of the crime charged and the circumstances
surrounding it;

(2) any special characteristics or circumstances of the defendant;

(3) whether the defendant is a first-time offender and if the defendant
has previously participated in diversion, according to the certification of
the Kansas bureau of investigation or the division of vehicles of the
department of revenue;

(4) whether there is a probability that the defendant will cooperate
with and benefit from diversion;

(5) whether the available diversion program is appropriate to the
needs of the defendant;

(6) whether there is a probability that the defendant committed such
crime as a result of an injury, including major depressive disorder,
polytrauma, post-traumatic stress disorder or traumatic brain injury,
connected to service in a combat zone, as defined in section 112 of the
federal internal revenue code of 1986, in the armed forces of the United
States of America;

(7) if subsection (a)(6) applies to the defendant, whether there is a
probability that the defendant will cooperate with and benefit from
inpatient or outpatient treatment from any treatment facility or program
operated by the United States department of defense, the United States
department of veterans affairs or the Kansas national guard with the
consent of the defendant, as a condition of diversion;

(8) the impact of the diversion of the defendant upon the community;

(9) recommendations, if any, of the involved law enforcement
agency;

(10) recommendations, if any, of the victim;

(11) provisions for restitution; and
(12) any mitigating circumstances.

(b) A county or district attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint if:

(1) The complaint alleges a violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, and the defendant: (A) Has previously participated in diversion upon a complaint alleging a violation of that statute or an ordinance of a city in this state which prohibits the acts prohibited by that statute; (B) has previously been convicted of or pleaded nolo contendere to a violation of that statute or a violation of a law of another state or of a political subdivision of this or any other state, which law prohibits the acts prohibited by that statute; or (C) during the time of the alleged violation was involved in a motor vehicle accident or collision resulting in personal injury or death;

(2) the complaint alleges that the defendant committed a class A or B felony or for crimes committed on or after July 1, 1993, an off-grid crime, a severity level 1, 2 or 3 felony for nondrug crimes, a drug severity level 1 or 2 felony for drug crimes committed on or after July 1, 1993, but prior to July 1, 2012, or a drug severity level 1, 2 or 3 felony committed on or after July 1, 2012; or

(3) the complaint alleges a domestic violence offense, as defined in K.S.A. 2017 Supp. 21-5111, and amendments thereto, and the defendant has participated in two or more diversions in the previous five year period upon complaints alleging a domestic violence offense.

c) A county or district attorney may enter into a diversion agreement in lieu of further criminal proceedings on a complaint for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, if such diversion carries the same penalties as the conviction for the corresponding violations. If the defendant has previously participated in one or more diversions for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, then each subsequent diversion shall carry the same penalties as the conviction for the corresponding violations.

(d) As used in this section, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A. 2017 Supp. 21-6630, and amendments thereto.

Sec. 28. K.S.A. 2017 Supp. 22-2909 is hereby amended to read as follows: 22-2909. (a) A diversion agreement shall provide that if the defendant fulfills the obligations of the program described therein, as determined by the attorney general or county or district attorney, such attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the constitution of
Kansas or of the United States to a speedy arraignment, preliminary
examinations and hearings, and a speedy trial, and in the case of diversion
under subsection (c) waiver of the rights to counsel and trial by jury. The
diversion agreement may include, but is not limited to, provisions
concerning payment of restitution, including court costs and diversion
costs, residence in a specified facility, maintenance of gainful employment,
and participation in programs offering medical, educational, vocational,
social and psychological services, corrective and preventive guidance and
other rehabilitative services. If a county creates a local fund under the
property crime restitution and compensation act, a county or district
attorney may require in all diversion agreements as a condition of
diversion the payment of a diversion fee in an amount not to exceed $100.
Such fees shall be deposited into the local fund and disbursed pursuant to
recommendations of the local board under the property crime restitution
and victims compensation act.

(b) The diversion agreement shall state: (1) The defendant's full
name; (2) the defendant's full name at the time the complaint was filed, if
different from the defendant's current name; (3) the defendant's sex, race
and date of birth; (4) the crime with which the defendant is charged; (5)
the date the complaint was filed; and (6) the district court with which the
agreement is filed.

(c) If a diversion agreement is entered into in lieu of further criminal
proceedings on a complaint alleging a violation of K.S.A. 8-1567 or
K.S.A. 2017 Supp. 8-1025, and amendments thereto, the diversion
agreement shall include a stipulation, agreed to by the defendant, the
defendant's attorney if the defendant is represented by an attorney and the
attorney general or county or district attorney, of the facts upon which the
charge is based and a provision that if the defendant fails to fulfill the
terms of the specific diversion agreement and the criminal proceedings on
the complaint are resumed, the proceedings, including any proceedings on
appeal, shall be conducted on the record of the stipulation of facts relating
to the complaint. In addition, the agreement shall include a requirement
that the defendant:

(1) Pay a fine specified by the agreement in an amount equal to an
amount authorized by K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and
amendments thereto, for a first offense or, in lieu of payment of the fine,
perform community service specified by the agreement, in accordance
with K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments
thereto; and

(2) participate in an alcohol and drug evaluation conducted by a
licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and
follow any recommendation made by the provider after such evaluation.

(d) If a diversion agreement is entered into in lieu of further criminal
proceedings on a complaint alleging a domestic violence offense, as defined in K.S.A. 2017 Supp. 21-5111, and amendments thereto, the diversion agreement shall include a requirement that the defendant undergo a domestic violence offender assessment and follow all recommendations unless otherwise agreed to with the prosecutor in the diversion agreement. The defendant shall be required to pay for such assessment and, unless otherwise agreed to with the prosecutor in the diversion agreement, for completion of all recommendations.

(e) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation other than K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, the diversion agreement may include a stipulation, agreed to by the defendant, the defendant's attorney if the defendant is represented by an attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint.

(f) If the person entering into a diversion agreement is a nonresident, the attorney general or county or district attorney shall transmit a copy of the diversion agreement to the division. The division shall forward a copy of the diversion agreement to the motor vehicle administrator of the person's state of residence.

(g) If the attorney general or county or district attorney elects to offer diversion in lieu of further criminal proceedings on the complaint and the defendant agrees to all of the terms of the proposed agreement, the diversion agreement shall be filed with the district court and the district court shall stay further proceedings on the complaint. If the defendant declines to accept diversion, the district court shall resume the criminal proceedings on the complaint.

(h) Except as provided in subsection (i), if a diversion agreement is entered into in lieu of further criminal proceedings alleging commission of a misdemeanor by the defendant, while under 21 years of age, under K.S.A. 2017 Supp. 21-5701 through 21-5717, and amendments thereto, or K.S.A. 41-719, 41-727, 41-804, 41-2719 or 41-2720, and amendments thereto, the agreement shall require the defendant to participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(i) If the defendant is 18 or more years of age but less than 21 years of age and allegedly committed a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of
subsection (h) are permissive and not mandatory.

(j) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 2017 Supp. 21-6421, and amendments thereto, the agreement:

(1) Shall include a requirement that the defendant pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 2017 Supp. 21-6421, and amendments thereto; and

(2) may include a requirement that the defendant enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.

(k) Except diversion agreements reported under subsection (l), the attorney general or county or district attorney shall forward to the Kansas bureau of investigation a copy of the diversion agreement at the time such agreement is filed with the district court. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

(l) At the time of filing the diversion agreement with the district court, the attorney general or county or district attorney shall forward to the division of vehicles of the state department of revenue a copy of any diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

Sec. 29. K.S.A. 2017 Supp. 22-2910 is hereby amended to read as follows: 22-2910. No defendant shall be required to enter any plea to a criminal charge as a condition for diversion. No statements made by the defendant or counsel in any diversion conference or in any other discussion of a proposed diversion agreement shall be admissible as evidence in criminal proceedings on crimes charged or facts alleged in the complaint. Except for sentencing proceedings and as otherwise provided in subsection (e) of K.S.A. 22-2909(c), and amendments thereto, and as otherwise provided in K.S.A. 8-285 and 8-1567 and K.S.A. 2017 Supp. 8-4025, and amendments thereto, the following shall not be admissible as evidence in criminal proceedings which are resumed under K.S.A. 22-2911: (1) Participation in a diversion program; (2) the facts of such participation; or (3) the diversion agreement entered into.

Sec. 30. K.S.A. 2017 Supp. 22-3716 is hereby amended to read as follows: 22-3716. (a) At any time during probation, assignment to a community correctional services program, suspension of sentence or pursuant to subsection (e) for defendants who committed a crime prior to July 1, 1993, and at any time during which a defendant is serving a nonprison sanction for a crime committed on or after July 1, 1993, or pursuant to subsection (e), the court may issue a warrant for the arrest of a
defendant for violation of any of the conditions of release or assignment, a
notice to appear to answer to a charge of violation or a violation of the
defendant's nonprison sanction. The notice shall be personally served upon
the defendant. The warrant shall authorize all officers named in the
warrant to return the defendant to the custody of the court or to any
certified detention facility designated by the court. Any court services
officer or community correctional services officer may arrest the defendant
without a warrant or may deputize any other officer with power of arrest to
do so by giving the officer a written or verbal statement setting forth that
the defendant has, in the judgment of the court services officer or
community correctional services officer, violated the conditions of the
defendant's release or a nonprison sanction. A written statement delivered
to the official in charge of a county jail or other place of detention shall be
sufficient warrant for the detention of the defendant. After making an
arrest, the court services officer or community correctional services officer
shall present to the detaining authorities a similar statement of the
circumstances of violation. Provisions regarding release on bail of persons
charged with a crime shall be applicable to defendants arrested under these
provisions.

(b) (1) Upon arrest and detention pursuant to subsection (a), the court
services officer or community correctional services officer shall
immediately notify the court and shall submit in writing a report showing
in what manner the defendant has violated the conditions of release or
assignment or a nonprison sanction.

(2) Unless the defendant, after being apprised of the right to a hearing
by the supervising court services or community correctional services
officer, waives such hearing, the court shall cause the defendant to be
brought before it without unnecessary delay for a hearing on the violation
charged. The hearing shall be in open court and the state shall have the
burden of establishing the violation. The defendant shall have the right to
be represented by counsel and shall be informed by the judge that, if the
defendant is financially unable to obtain counsel, an attorney will be
appointed to represent the defendant. The defendant shall have the right to
present the testimony of witnesses and other evidence on the defendant's
behalf. Relevant written statements made under oath may be admitted and
considered by the court along with other evidence presented at the hearing.

(3) (A) Except as otherwise provided, if the original crime of
conviction was a felony, other than a felony specified in K.S.A. 2017
Supp. 21-6804(i), and amendments thereto, and a violation is established,
the court may impose the violation sanctions as provided in subsection (c)
(1).

(B) Except as otherwise provided, if the original crime of conviction
was a misdemeanor or a felony specified in K.S.A. 2017 Supp. 21-6804(i),
and amendments thereto, and a violation is established, the court may:

(i) Continue or modify the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and impose confinement in a county jail not to exceed 60 days. If an offender is serving multiple probation terms concurrently, any confinement periods imposed shall be imposed concurrently;

(ii) impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of supervision; or

(iii) revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and require the defendant to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed.

(4) Except as otherwise provided, if the defendant waives the right to a hearing and the sentencing court has not specifically withheld the authority from court services or community correctional services to impose sanctions, the following sanctions may be imposed without further order of the court:

(A) If the defendant was on probation at the time of the violation, the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not exceed 18 total days during the term of supervision; and

(B) if the defendant was assigned to a community correctional services program at the time of the violation, the defendant's community corrections officer, with the concurrence of the community corrections director, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (c)(1)(B) shall not exceed 18 total days during the term of supervision.

(c) (1) Except as otherwise provided, if the original crime of conviction was a felony, other than a felony specified in K.S.A. 2017 Supp. 21-6804(i), and amendments thereto, and a violation is established, the court may impose the following sanctions:

(A) Continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction;
(B) continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and an intermediate sanction of confinement in a county jail to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of supervision;

(C) if the violator already had at least one intermediate sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B) or (c)(1)(B) related to the crime for which the original supervision was imposed, continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and remanding the defendant to the custody of the secretary of corrections for a period of 120 days, subject to a reduction of up to 60 days in the discretion of the secretary. This sanction shall not be imposed more than once during the term of supervision. The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7);

(D) if the violator already had a sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B), (c)(1)(B) or (c)(1)(C) related to the crime for which the original supervision was imposed, continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and remanding the defendant to the custody of the secretary of corrections for a period of 180 days, subject to a reduction of up to 90 days in the discretion of the secretary. This sanction shall not be imposed more than once during the term of supervision. The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7); or

(E) if the violator already had a sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D) related to the crime for which the original supervision was imposed, revocation of the probation, assignment to a community corrections services program, suspension of sentence or nonprison sanction and requiring such violator to serve the sentence imposed, or any lesser sentence and, if imposition of sentence was suspended, imposition of any sentence which might originally have been imposed.

(2) Except as otherwise provided in subsections (c)(3), (c)(8) and (c)(9), no offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section shall be required to serve any time for the sentence imposed or
which might originally have been imposed in a state facility in the custody
of the secretary of corrections for such violation, unless such person has
already had at least one prior assignment to a community correctional
services program related to the crime for which the original sentence was
imposed.

(3) The provisions of subsection (c)(2) shall not apply to adult felony
offenders as described in K.S.A. 75-5291(a)(3), and amendments thereto.

(4) The court may require an offender for whom a violation of
conditions of release or assignment or a nonprison sanction has been
established as provided in this section to serve any time for the sentence
imposed or which might originally have been imposed in a state facility in
the custody of the secretary of corrections without a prior assignment to a
community correctional services program if the court finds and sets forth
with particularity the reasons for finding that the safety of the members of
the public will be jeopardized or that the welfare of the inmate will not be
served by such assignment to a community correctional services program.

(5) When a new felony is committed while the offender is on
probation or assignment to a community correctional services program, the
new sentence shall be imposed consecutively pursuant to the provisions of
K.S.A. 2017 Supp. 21-6606, and amendments thereto, and the court may
sentence the offender to imprisonment for the new conviction, even when
the new crime of conviction otherwise presumes a nonprison sentence. In
this event, imposition of a prison sentence for the new crime does not
constitute a departure.

(6) Except as provided in subsection (f), upon completion of a
violation sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D)
such offender shall return to community correctional services supervision.
The sheriff shall not be responsible for the return of the offender to the
county where the community correctional services supervision is assigned.

(7) A violation sanction imposed pursuant to subsection (c)(1)(B), (c)
(1)(C) or (c)(1)(D) shall not be longer than the amount of time remaining
on the offender’s underlying prison sentence.

(8) (A) If the offender commits a new felony or misdemeanor while
the offender is on probation, assignment to a community correctional
services program, suspension of sentence or nonprison sanction, the court
may revoke the probation, assignment to a community correctional
services program, suspension of sentence or nonprison sanction of an
offender pursuant to subsection (c)(1)(E) without having previously
imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D).

(B) If the offender absconds from supervision while the offender is on
probation, assignment to a community correctional services program,
suspension of sentence or nonprison sanction, the court may:

(i) Revoke the probation, assignment to a community correctional
services program, suspension of sentence or nonprison sanction of an
offender pursuant to subsection (c)(1)(E) without having previously
imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)
(D); or
(ii) sanction the offender under subsection (c)(1)(A), (c)(1)(C) or (c)
(1)(D) without imposing a sanction under (c)(1)(B).
(9) The court may revoke the probation, assignment to a community
correctional services program, suspension of sentence or nonprison
sanction of an offender pursuant to subsection (c)(1)(E) without having
previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C)
or (c)(1)(D) if:
(A) The court finds and sets forth with particularity the reasons for
finding that the safety of members of the public will be jeopardized or that
the welfare of the offender will not be served by such sanction; or
(B) the probation, assignment to a community correctional services
program, suspension of sentence or nonprison sanction was originally
granted as the result of a dispositional departure granted by the sentencing
court pursuant to K.S.A. 2017 Supp. 21-6815, and amendments thereto.
(10) If an offender is serving multiple probation terms concurrently,
any violation sanctions imposed pursuant to subsection (c)(1)(B), (c)(1)(C)
or (c)(1)(D), or any sanction imposed pursuant to subsection (c)(11), shall
be imposed concurrently.
(11) If the original crime of conviction was a felony, except for
violations of K.S.A. 8-1567; or 8-2,144 and K.S.A. 2017 Supp. 8-1025,
and amendments thereto, and the court makes a finding that the offender
has committed one or more violations of the release conditions of the
probation, assignment to a community correctional services program,
suspension of sentence or nonprison sanction, the court may impose
confinement in a county jail not to exceed 60 days upon each such finding.
Such confinement is separate and distinct from the violation sanctions
provided in subsection (c)(1)(B), (c)(1)(C), (c)(1)(D) and (c)(1)(E) and
shall not be imposed at the same time as any such violation sanction.
(12) The violation sanctions provided in this subsection shall apply to
any violation of conditions of release or assignment or a nonprison
sanction occurring on and after July 1, 2013, regardless of when the
offender was sentenced for the original crime or committed the original
crime for which sentenced.
(d) A defendant who is on probation, assigned to a community
correctional services program, under suspension of sentence or serving a
nonprison sanction and for whose return a warrant has been issued by the
court shall be considered a fugitive from justice if it is found that the
warrant cannot be served. If it appears that the defendant has violated the
provisions of the defendant's release or assignment or a nonprison
sanction, the court shall determine whether the time from the issuing of the warrant to the date of the defendant's arrest, or any part of it, shall be counted as time served on probation, assignment to a community correctional services program, suspended sentence or pursuant to a nonprison sanction.

(e) The court shall have 30 days following the date probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction was to end to issue a warrant for the arrest or notice to appear for the defendant to answer a charge of a violation of the conditions of probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction.

(f) For crimes committed on and after July 1, 2013, a felony offender whose nonprison sanction is revoked pursuant to subsection (c) or whose underlying prison term expires while serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) shall serve a period of postrelease supervision upon the completion of the prison portion of the underlying sentence.

(g) Offenders who have been sentenced pursuant to K.S.A. 2017 Supp. 21-6824, and amendments thereto, and who subsequently violate a condition of the drug and alcohol abuse treatment program shall be subject to an additional nonprison sanction for any such subsequent violation. Such nonprison sanctions shall include, but not be limited to, up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.

Sec. 31. K.S.A. 2017 Supp. 22-4704 is hereby amended to read as follows: 22-4704. (a) In accordance with the provisions of K.S.A. 77-415 et seq., and amendments thereto, the director shall adopt appropriate rules and regulations for agencies in the executive branch of government and for criminal justice agencies other than those that are part of the judicial branch of government to implement the provisions of this act.

(b) The director shall develop procedures to permit and encourage the transfer of criminal history record information among and between courts and affected agencies in the executive branch, and especially between courts and the central repository.

(c) The rules and regulations adopted by the director shall include those: (1) Governing the collection, reporting, and dissemination of criminal history record information by criminal justice agencies;

(2) necessary to insure the security of all criminal history record information reported, collected and disseminated by and through the criminal justice information system;

(3) necessary for the coordination of all criminal justice data and information processing activities as they relate to criminal history record.
information;
(4) governing the dissemination of criminal history record information;
(5) governing the procedures for inspection and challenging of criminal history record information;
(6) governing the auditing of criminal justice agencies to ensure that criminal history record information is accurate and complete and that it is collected, reported, and disseminated in accordance with this act;
(7) governing the development and content of agreements between the central repository and criminal justice and noncriminal justice agencies; and
(8) governing the exercise of the rights of inspection and challenge provided in this act.
(d) The rules and regulations adopted by the director shall not include any provision that allows the charging of a fee for information requests for the purpose of participating in a block parent program, including, but not limited to, the McGruff house program.
(e) Rules and regulations adopted by the director may not be inconsistent with the provisions of this act.
(f) On or before July 1, 2014, the director shall adopt rules and regulations requiring district courts to electronically report all case filings and dispositions for violations of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-4025, 21-5426, 21-6419, 21-6420, 21-6421 or 21-6422, and amendments thereto, to the central repository.

Sec. 32. K.S.A. 2017 Supp. 60-427 is hereby amended to read as follows: 60-427. (a) As used in this section:
(1) "Patient" means a person who, for the sole purpose of securing preventive, palliative, or curative treatment, or a diagnosis preliminary to such treatment, of such person's physical or mental condition, consults a physician, or submits to an examination by a physician.
(2) "Physician" means a person licensed or reasonably believed by the patient to be licensed to practice medicine or one of the healing arts as defined in K.S.A. 65-2802, and amendments thereto, in the state or jurisdiction in which the consultation or examination takes place.
(3) "Holder of the privilege" means the patient while alive and not under guardianship or conservatorship or the guardian or conservator of the patient, or the personal representative of a deceased patient.
(4) "Confidential communication between physician and patient" means such information transmitted between physician and patient, including information obtained by an examination of the patient, as is transmitted in confidence and by a means which, so far as the patient is aware, discloses the information to no third persons other than those...
reasonably necessary for the transmission of the information or the accomplishment of the purpose for which it is transmitted.

(b) Except as provided by subsections (c), (d), (e) and (f), a person, whether or not a party, has a privilege in a civil action or in a prosecution for a misdemeanor, other than a prosecution 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 a city ordinance or county resolution which prohibits the acts prohibited by those statutes, to refuse to disclose, and to prevent a witness from disclosing, a communication, if the person claims the privilege and the judge finds that: (1) The communication was a confidential communication between patient and physician; (2) the patient or the physician reasonably believed the communication necessary or helpful to enable the physician to make a diagnosis of the condition of the patient or to prescribe or render treatment therefor; (3) the witness (i) is the holder of the privilege, (ii) at the time of the communication was the physician or a person to whom disclosure was made because reasonably necessary for the transmission of the communication or for the accomplishment of the purpose for which it was transmitted or (iii) is any other person who obtained knowledge or possession of the communication as the result of an intentional breach of the physician's duty of nondisclosure by the physician or the physician's agent or servant; and (4) the claimant is the holder of the privilege or a person authorized to claim the privilege for the holder of the privilege.

(c) There is no privilege under this section as to any relevant communication between the patient and the patient's physician: (1) Upon an issue of the patient's condition in an action to commit the patient or otherwise place the patient under the control of another or others because of alleged incapacity or mental illness, in an action in which the patient seeks to establish the patient's competence or in an action to recover damages on account of conduct of the patient which constitutes a criminal offense other than a misdemeanor; (2) upon an issue as to the validity of a document as a will of the patient; or (3) upon an issue between parties claiming by testate or intestate succession from a deceased patient.

(d) There is no privilege under this section in an action in which the condition of the patient is an element or factor of the claim or defense of the patient or of any party claiming through or under the patient or claiming as a beneficiary of the patient through a contract to which the patient is or was a party.

(e) There is no privilege under this section: (1) As to blood drawn at the request of a law enforcement officer pursuant to K.S.A. 8-1001, and amendments thereto; and (2) as to information which the physician or the patient is required to report to a public official or as to information required to be recorded in a public office, unless the statute requiring the
(f) No person has a privilege under this section if the judge finds that sufficient evidence, aside from the communication has been introduced to warrant a finding that the services of the physician were sought or obtained to enable or aid anyone to commit or to plan to commit a crime or a tort, or to escape detection or apprehension after the commission of a crime or a tort.

(g) A privilege under this section as to a communication is terminated if the judge finds that any person while a holder of the privilege has caused the physician or any agent or servant of the physician to testify in any action to any matter of which the physician or the physician's agent or servant gained knowledge through the communication.

(h) Providing false information to a physician for the purpose of obtaining a prescription-only drug shall not be a confidential communication between physician and patient and no person shall have a privilege in any prosecution for unlawfully obtaining or distributing a prescription-only drug under K.S.A. 2017 Supp. 21-5708, and amendments thereto.

Sec. 33. K.S.A. 2017 Supp. 74-2012 is hereby amended to read as follows: 74-2012. (a) (1) All motor vehicle records shall be subject to the provisions of the open records act, except as otherwise provided under the provisions of this section and by K.S.A. 65-2422d and 74-2022, and amendments thereto.

(2) Nothing in this section shall prevent the transmittal of motor vehicle records for the purpose of processing voter registration applications.

(3) For the purpose of this section, "motor vehicle records" means any record that pertains to a motor vehicle drivers' license, motor vehicle certificate of title, motor vehicle registration or identification card issued by the division of vehicles.

(b) All motor vehicle records which relate to the physical or mental condition of any person, have been expunged or are photographs or digital images maintained in connection with the issuance of drivers' licenses shall be confidential and shall not be disclosed except in accordance with a proper judicial order or as otherwise more specifically provided in this section or by other law. Photographs or digital images maintained by the division of vehicles in connection with the issuance of drivers' licenses may be disclosed to any federal, state or local agency, including any court or law enforcement agency, to assist such agency in carrying out the functions required of such governmental agency. In January of each year the division shall report to the house committee on veterans, military and homeland security regarding the utilization of the provisions of this
subsection. Motor vehicle records relating to diversion agreements for the purposes of K.S.A. 8-1567, 12-4415 and 22-2908 and K.S.A. 2017 Supp. 8-1025, and amendments thereto, shall be confidential and shall not be disclosed except in accordance with a proper judicial order or by direct computer access to:

(1) A city, county or district attorney, for the purpose of determining a person's eligibility for diversion or to determine the proper charge 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 a city or resolution of a county in this state which prohibits any acts prohibited by those statutes;

(2) a municipal or district court, for the purpose of using the record in connection with any matter before the court;

(3) a law enforcement agency, for the purpose of supplying the record to a person authorized to obtain it under paragraph (1) or (2) of this subsection; or

(4) an employer when a person is required to retain a commercial driver's license due to the nature of such person's employment.

(c) Lists of persons' names and addresses contained in or derived from motor vehicle records shall not be sold, given or received for the purposes prohibited by K.S.A. 2017 Supp. 45-230, and amendments thereto, except that:

(1) The director of vehicles may provide to a requesting party, and a requesting party may receive, such a list and accompanying information from motor vehicle records upon written certification that the requesting party shall use the list solely for the purpose of:

(A) Assisting manufacturers of motor vehicles in compiling statistical reports or in notifying owners of vehicles believed to:

(i) Have safety-related defects;

(ii) fail to comply with emission standards; or

(iii) have any defect to be remedied at the expense of the manufacturer;

(B) assisting an insurer authorized to do business in this state, or the insurer's authorized agent:

(i) In processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy; or

(ii) in conducting antifraud activities by identifying potential undisclosed drivers of a motor vehicle currently insured by an insurer licensed to do business in this state by providing only the following information: Drivers' license number, license type, date of birth, name, address, issue date and expiration date;

(C) assisting the selective service system in the maintenance of a list of persons 18 to 26 years of age in this state as required under the provisions of section 3 of the federal military selective service act;
(D) assisting any federal, state or local agency, including any court or law enforcement agency, or any private person acting on behalf of such agencies in carrying out the functions required of such governmental agency, except that such records shall not be redisclosed;

(E) assisting businesses with the verification or reporting of information derived from the title and registration records of the division to prepare and assemble vehicle history reports, except that such vehicle history reports shall not include the names or addresses of any current or previous owners;

(F) assisting businesses in producing motor vehicle title or motor vehicle registration, or both, statistical reports, so long as personal information is not published, redisclosed or used to contact individuals;

(G) assisting an employer or an employer's authorized agent in monitoring the driving record of the employees required to drive in the course of employment to ensure driver behavior, performance or safety; or

(H) assisting the Kansas commission on veterans affairs office in notifying veterans of the facilities, benefits and services available to veterans.

(2) Any law enforcement agency of this state which has access to motor vehicle records may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(d) If a law enforcement agency of this state furnishes information to a requesting party pursuant to paragraph (2) of subsection (c)(2), the law enforcement agency shall charge the fee prescribed by the secretary of revenue pursuant to K.S.A. 74-2022, and amendments thereto, for any copies furnished and may charge an additional fee to be retained by the law enforcement agency to cover its cost of providing such copies. The fee prescribed pursuant to K.S.A. 74-2022, and amendments thereto, shall be paid monthly to the secretary of revenue and upon receipt thereof shall be deposited in the state treasury to the credit of the electronic databases fee fund, except for the $1 of the fee for each record required to be credited to the highway patrol training center fund under subsection (f).

(e) The secretary of revenue, the secretary's agents or employees, the director of vehicles or the director's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission of a law enforcement agency in furnishing any information obtained from motor vehicle records.

(f) A fee in an amount fixed by the secretary of revenue pursuant to
K.S.A. 74-2022, and amendments thereto, of not less than $2 for each full or partial motor vehicle record shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized to furnish information under paragraph (1) of subsection (c)(1), and such fee shall not be less than the cost of production or reproduction of any full or partial motor vehicle record requested. Except for the fees charged pursuant to a contract for motor vehicle records authorized by this subsection pertaining to motor vehicle titles or motor vehicle registrations or pursuant to subsection (c)(1)(B)(ii) or (c)(1)(D), $1 shall be credited to the highway patrol training center fund for each motor vehicle record provided by the division of vehicles.

(g) The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

Sec. 34. K.S.A. 2017 Supp. 8-235, 8-241, 8-262, 8-285, 8-2,142, 8-2,144, 8-1001, 8-1008, 8-1013, 8-1014, 8-1025, 8-1501, 8-1567, 12-4106, 12-4120, 12-4413, 12-4414, 12-4415, 12-4416, 12-4516, 12-4516f, 12-4517, 21-5203, 21-6604, 21-6614, 21-6804, 21-6811, 22-2802, 22-2908, 22-2909, 22-2910, 22-3716, 22-4704, 60-427 and 74-2012 are hereby repealed.

Sec. 35. This act shall take effect and be in force from and after its publication in the statute book.