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Kansas Judicial Center
301 S.W. Tenth Street, Suite 140
Topeka, Kansas 66612-1507

Telephone (785) 296-2498
Facsimile (785) 296-1035

judicial.council@ks.gov
www.kansasjudicialcouncil.org

EXECUTIVE DIRECTOR
NANCY J. STROUSE

STAFF ATTORNEYS
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TO: Joint Committee on Corrections and Juvenile Justice Oversight
FROM: Kansas Judicial Council – Jason Covington
DATE: October 26, 2021
RE: Presentation on Judicial Council recommendations to reform the Kansas Offender Registration Act

During the 2021 legislative session, the Kansas Judicial Council and its Advisory Committee on Sex Offenses and Registration (Committee) recommended H.B. 2349. The bill would have reformed the Kansas Offender Registration Act by creating an exit mechanism for offenders, repealing juvenile sex offender registration, decreasing penalties for violators, and enacting numerous other changes to the current offender registration scheme. A copy of the bill is attached at the end of this report. Although the bill was not enacted in 2021, when the Judicial Council meets again in December, it will decide whether to request similar legislation in 2022.

The Committee's recommendation of H.B. 2349 arose out of a study originally requested in March 2018 by Reps. Russell Jennings and Blaine Finch asking the Judicial Council to undertake a comprehensive review of the Kansas criminal code's sex offense structure and related registration requirements for both juveniles and adults. The Committee's assignment was later expanded to include a review of registration requirements for drug offenders and violent offenders, in addition to sex offenders. The Committee's full report is available on the Judicial Council's website, www.kansasjudicialcouncil.org, under the Studies and Reports tab. Much of this testimony is taken directly from that report.

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SUMMARY OF AMENDMENTS CONTAINED IN H.B. 2349:

House Bill 2349 would have amended the Kansas Offender Registration Act as follows:

Create an exit mechanism to give offenders the ability to petition the district court to be relieved of registration after a period of time in successful compliance. Victims would receive notice, and offenders currently registering for life would have a mandatory risk assessment. The burden would be on the offender to demonstrate rehabilitation.

Repeal registration requirements for juvenile sex offenders except those waived to adult court or serving an adult sentence under extended juvenile jurisdiction, or juveniles ordered to register in an out-of-state jurisdiction.

Reduce penalties for registration violations to a Class B misdemeanor for a first offense; a Class A misdemeanor for a second offense; and a severity level 8 felony for a third or subsequent or aggravated offense. All violations would be classified as nonperson. A violation based on a failure to pay the fee would be a Class C misdemeanor. Also, the bill would lower the penalty for aiding a KORA violator.

Redefine KORA violations so that a new offense is committed every 90 days an offender is out of compliance, and an aggravated violation is committed when an offender is out of compliance for one year.

Create a fee waiver process that allows an offender to ask the district court to find that requiring the offender to pay the registration fee would impose a manifest hardship on the offender or the offender's immediate family.

Amend other miscellaneous KORA provisions:

- Require single point registration in county of residence only.
- Eliminate provisions that give courts unfettered discretion to impose registration for any offense not listed in KORA. Instead, allow parties to agree to registration for non-KORA offenses.
- Clarify that municipal court convictions are not registrable offenses under KORA.

Amend Registration Requirements for Specific Sex Offenses –

- Repeal registration for some lower level offenses listed in K.S.A. 22-4902(b)(4), such as adultery and buying sexual relations.
- Change registration for lewd and lascivious behavior under K.S.A. 21-5513(a)(2) (public exposure) to require 15-year registration only when committed in the presence of someone under 16 (felony violation).
- Require registration for internet trading in child pornography, K.S.A. 21-5514 (same terms as sexual exploitation of a child); and for breach of privacy under K.S.A. 21-6101(a)(6) and (a)(7).
- For sexually motivated offenses, amend the exception for “non-forcible sexual conduct when the victim was at least 14 years of age and the offender was not more than four years older than the victim” to make clear that the victim must be a minor.

Amend Registration Requirements for Specific Drug Offenses –

- Reduce registration for possession of drug precursors and distribution offenses to 5 years private registration.
- Repeal lifetime registration for second time drug offenders. Registration terms for multiple drug offenses would run concurrently.

Amend Registration Requirements for Specific Violent Offenses –

- Repeal registration for criminal restraint, voluntary and involuntary manslaughter, and kidnapping and aggravated kidnapping of an adult.
- Increase registration to lifetime for capital murder and first-degree murder.
- Change registration to 15 years for kidnapping of a minor.
- Change registration for person felony with deadly weapon finding to 5 years. Also, deadly weapon finding must be made on the record, “in open court and with particularity.”

COMMITTEE MEMBERSHIP AND STUDY PROCESS

The Judicial Council recruited people with diverse experience and points of view to serve on its Advisory Committee on Sex Offenses and Registration. The members of that Committee are:

Hon. Ben Sexton, Chair, Abilene; Dickinson County District Judge
Natalie Chalmers, Topeka; Assistant Solicitor General
Sheriff Jeff Cope, Emporia
Jason Covington, Olathe; Johnson County Assistant District Attorney – Sex Crimes Unit
Jeff Cowger, Topeka; Chief Legal Counsel, Kansas Department of Corrections
Dr. Mitchell Flesher, Lenexa; clinical psychologist and attorney
Sen. Randall Hardy, Salina; State Senator from the 24th District
Rep. Susan Humphries, Wichita; State Representative from the 99th District
Rep. Russell Jennings, Lakin; State Representative from the 122nd District
Donna Longworth, Wichita; Sedgwick County Assistant District Attorney – Juvenile Division
Jennifer Roth, Topeka; Appellate Defender
Dionne Scherff, Overland Park; criminal defense attorney
Phil Stein, Shawnee; criminal defense attorney
Seth Wescott, Lenexa; licensed master’s level psychologist and sex offender treatment provider
Prof. Corey Rayburn Yung, Lawrence; KU School of Law

The Committee began meeting in the fall of 2018. The Committee held 24 all-day meetings, and a separate drafting group also met on multiple occasions.

The Committee received input from many sources. Leslie Moore, Information Services Division Director for the KBI, and Brooklynn Graves, Offender Registration Manager for the KBI, were regular attendees who provided helpful information about the offender registry and answered questions from the Committee. Ed Klumpp, representing the Kansas Sheriffs Association, also attended several meetings and was asked to comment on law enforcement’s perspective.

Scott Schultz, executive director of the Sentencing Commission, attended a meeting at the Committee’s request to provide background on drug and violent offenders. Finally, the Committee heard from a registered sex offender and from several crime victims about their experiences and their opinions about the offender registry.

The Committee reviewed Kansas statutes and case law, the federal Adam Walsh Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. § 16901 *et seq.*, and examples of registration provisions from other states. The Committee also considered many secondary sources as listed in the Committee’s report, which can be viewed on the Council’s website, www.kansasjudicialcouncil.org, under the Studies and Reports tab.

BACKGROUND ON THE KANSAS OFFENDER REGISTRATION ACT (KORA)

History

The first Kansas offender registry was created in 1993. It required an offender twice convicted of a sexually violent crime to register with the sheriff in the offender's county of residence, and the information was available only to law enforcement. Over the next few years, the registry was expanded to include violent offenses and additional sex crimes, and registration information was made available to the public.

In 2002, juvenile sex offenders were required to register. In 2006, offenders convicted of any person felony in which a deadly weapon was used were added to the registry. Certain drug offenses were added to the registry in 2007.

More dramatic changes were enacted in 2011 in an effort to bring Kansas into compliance with the federal Adam Walsh Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. § 16901 *et seq.* For example, all offenders were required to register four times per year in each county where they live, work, or attend school. These requirements were extended to sex, drug, and violent offenders although SORNA only applies to sex offenders.

Current KORA requirements

The attached sentencing journal entry addendum lists the sex, drug, and violent offenses that require registration and the registration terms. For adult offenders, registration terms may be 15 years, 25 years, or life. A second conviction of a qualifying offense of any type requires lifetime registration. Any early relief from registration requirements is prohibited.

Juvenile offenders register only for sex offenses, and their registration terms depend on their age and the type of offense. In most cases, the courts have some discretion in whether to order registration and whether to make the information public or available only to law enforcement. However, juveniles who are 14 years of age or older and who are adjudicated of a sexually violent crime that is an off-grid or severity level 1 felony must register for life.

All offenders, whether adult or juvenile, must register four times per year in person in any county where they live, work, or go to school. They must be photographed, fill out a detailed registration form, and pay a \$20 fee each time. Registered offenders must report in person within three days any change in residence, work status, or school attendance.

Any failure to comply with registration duties is a strict liability offense, and penalties are high: a first offense is a severity level 6 felony; a second offense is a severity level 5 felony; and a third or subsequent offense or aggravated offense is a severity level 3 felony. A KORA violation that consists merely of a failure to pay the fee is a class A misdemeanor or severity level 9 felony, depending on how many payments have been missed. KORA violations are classified as person or nonperson offenses depending upon the underlying registrable offense.

Number of registrants

There are over 22,000 offenders currently required to register in Kansas. Of those, roughly half are sex offenders, one quarter are violent offenders, and one quarter are drug offenders. Thousands of new offenders are being added to the registry each year, and when combined, new drug and violent offenders are significantly outpacing new sex offenders.

Over 900 offenders are registered because of a juvenile adjudication for a sexually violent crime. Fewer than half of those registrations are public; the majority are visible to law enforcement only.

As of 2019, there were 442 inmates in prison for KORA registration violations and, over the preceding five years, the number of convictions for registration violations had increased by almost 65 percent. In 2018 alone, 325 offenders were convicted of registration violations, and 116 of those were sent to prison.

OVERARCHING COMMITTEE GOALS/CONCERNS

While all Committee members had concerns about some aspect of KORA, not all of those concerns were shared unanimously. The most commonly voiced concerns were:

- The rationale that an offender registry will enhance public safety and reduce recidivism is not supported by the data.
- The effectiveness of the registry is diluted by the large number of offenders who are required to register.
- Registration has an especially negative impact on juvenile offenders.
- Retroactive application of increased registration requirements is fundamentally unfair.
- A large number of offenders are being sent to prison for KORA violations that can be merely technical.
- The registry uses a “one size fits all” approach that does not assess current individual risk or the potential for change.

From its first meeting, the Committee agreed that any recommendation it made should be data-driven and evidence-based. The Committee reviewed several studies and articles indicating that the common perceptions about recidivism rates among sex offenders are misplaced. For example, the article *“Frightening and High”: The Supreme Court’s Crucial Mistake about Sex Crime Statistics*, 30 Const. Comment. 495 (Fall 2015), points out the lack of any factual basis for the assertion that the recidivism rate of sex offenders is “frightening and high,” as stated by the US. Supreme Court in *Smith v. Doe*, 538 U.S. 84 (2003), and repeated by many other courts since.

Committee members Dr. Mitchell Flesher and Seth Wescott, both of whom are experts in the area of sex offender evaluation and treatment, drew the Committee's attention to the most recent research on registration and recidivism. That research shows that a sex offender's risk of reoffending drops by half once the offender has returned to the community and lived offense-free for five years. After 10 years offense-free, a sex offender's risk of reoffending is not significantly greater than the general population. See *Reductions in Risk Based on Time Offense-Free in the Community: Once a Sexual Offender, Not Always a Sexual Offender* (Hanson, et al., 2018).

As the Committee's study progressed, it focused on several major reforms to KORA. These include:

- 1) Creating an exit mechanism to give offenders the ability to petition the district court to be relieved of registration after a period of time in substantial compliance.
- 2) Repealing registration entirely for juvenile offenders.
- 3) Lowering the penalties for violations of KORA.
- 4) Decreasing the term of registration for some offenses, especially certain drug and violent offenses.

Federal law – SORNA

The Committee reviewed the requirements of the federal Adam Walsh Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. § 16901 *et seq.* Kansas is one of 18 states that the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) has deemed in compliance with SORNA.

The Committee made its recommendations based on what it believes to be good policy, but it acknowledges that several of its recommendations do not meet SORNA's requirements. For example, the Committee's proposed exit mechanism is broader than SORNA allows; SORNA requires registration for certain juvenile sex offenders; and SORNA requires a higher penalty for registration violations than the Committee is recommending.

If Kansas were deemed to be no longer in compliance with SORNA, the state could lose 10% of its Byrne grant funds. In 2019, 10% of Byrne grant funding would have amounted to roughly \$240,000. The Committee believes any potential loss of Byrne grant funding would be more than offset by the savings in prison bed space.

EXIT MECHANISM

As originally enacted, KORA contained an exit mechanism. See L. 1993, ch. 253, § 24. But, since 2001, KORA has prohibited offenders from obtaining court-ordered relief from registration requirements. See K.S.A. 22-4908. Most other states have some mechanism for an offender to seek relief from registration, though the parameters vary widely. See Logan, *Database Infamia: Exit from the Sex Offender Registries*, 2015 Wis. L. Rev. 219, 227 (2015).

The Committee believes that offering an exit mechanism to offenders is critically important for several reasons. First, the possibility of an early exit gives offenders an incentive to comply with registration requirements. Second, the hearing process allows the courts to make an individual determination based on an offender's behavior in the community over a period of years. And, finally, allowing an offender to petition for relief after a period of 5 or 10 years is evidence-based. It is consistent with the reduction in the recidivism rate that occurs after 5 and 10 years.

The Committee recommends that K.S.A. 22-4908 be amended to create an exit mechanism with the following elements:

- Allow offenders to petition the court for relief from registration requirements after a period of substantial compliance of 5, 10, or 25 years depending on the original registration term:
 - Offenders required to register for 15 years could petition after 5 years.
 - Offenders required to register for 25 years could petition after 10 years.
 - Offenders required to register for life could petition after 25 years.
 - Offenders who were required to register retroactively or whose registration term was increased retroactively as a result of changes to the law in 2011 could petition after 10 years.
- No relief for sexually violent predators or offenders who would still be required to register in another jurisdiction.
- Judicial Council to develop petition form.
- Victim notice.
- Mandatory risk assessment for offenders who have committed an offense requiring lifetime registration. Discretionary risk assessment for all others.
- Burden on offender to show by clear and convincing evidence that:
 - 1) Offender has not been convicted of a felony, other than a felony registration violation, within the past 5 years;
 - 2) Offender's circumstances, behavior and treatment history show that the offender is sufficiently rehabilitated to warrant relief; and
 - 3) Registration is no longer necessary to promote public safety.

REPEAL OF JUVENILE OFFENDER REGISTRATION

While KORA leaves little room for discretion in adult offender registration, it does give district courts some discretion in ordering registration for most juvenile sex offenders. For example, for juvenile sex offenders under 14 who are adjudicated for a sexually violent crime under K.S.A. 22-4902(c), a court may require public registration until age 18 or five years from the date of adjudication or release from incarceration, whichever is longer; private registration only; or no registration at all if based on substantial and compelling reasons. K.S.A. 22-4906(f). The same rules apply to juveniles 14 or older who are adjudicated for sexually violent offenses that are not offgrid or severity level 1 felonies. K.S.A. 22-4906(g). However, juvenile sex offenders who are 14 or older and are adjudicated for offgrid or severity level 1 sexually violent

offenses -- *e.g.* rape, aggravated criminal sodomy, aggravated human trafficking -- must register for life. K.S.A. 22-4906(h).

If a juvenile is required to register, all other provisions of KORA apply just as they would to an adult. Juveniles must register four times per year, in person, in any county where they live, work, or go to school, and must pay \$20 each time they register.

According to data provided by the KBI, there are over 900 registered offenders who were ordered to register because of a juvenile adjudication for a sexually violent crime. Over 600 are continuing to register *solely* because of a juvenile adjudication. Roughly a third of juvenile registrations are public, and two-thirds are private and available only to law enforcement. However, a county-by-county breakdown shows that there are disparities in public versus private registration, with at least two counties ordering public registration significantly more often.

The Kansas Supreme Court recently upheld KORA's requirement of mandatory lifetime registration for juvenile sex offenders in *State v. N.R.*, 2021 WL 4217146 (2021). In that case, N.R. was adjudicated as a juvenile offender for a 2006 rape committed when he was 14 years old. At the time he was sentenced, KORA required N.R. to register as a sex offender for five years. But when the legislature amended KORA in 2011, N.R.'s registration term was increased to life. The Kansas Supreme Court upheld the lifetime registration requirement, holding that registration is not punishment, and thus does not violate the *ex post facto* or cruel and unusual punishment clauses of the constitution.

The Committee reviewed a paper co-authored by Committee member Seth Wescott and other members of the Association for the Treatment of Sexual Abusers (ATSA), which recommends the elimination of registration for juvenile offenders. ATSA concluded that registration laws are not effective to deter either first-time sexual offending or reoffending by juveniles; they do not identify those juveniles most at risk of reoffending; and they do not promote public safety. Registration does, however, have long-term detrimental effects on the juveniles who are required to register. Registration of youth often means registration of the youth's family. This can lead to disruption and, at times, family separation. The unintended negative consequences of registration exist regardless of whether the registration is public or private. The stigma attached to a youth on the registry is damaging. Youth required to register are four times more likely to attempt suicide, five times more likely to report having been approached by an adult for sex, and twice as likely to report having been sexually victimized in the past year. Essentially, registration of adolescents may actually increase sexual abuse rather than prevent it.

Registration laws were implemented based on a series of assumptions: that informing people where a sex offender lives will keep them safe, that people who commit sexual crimes will commit more, and that children who commit sexual crimes are just like adults who commit sexual crimes. None of these myths have been supported through research. It is clearly established that only 2.5% of youth who commit sexual crimes offend against a stranger. Additionally, research has demonstrated that sexual re-offense rates for youth who commit

sexual crimes is less than 5%. Adolescents are more responsive to treatment and community intervention than adults and typically do not require lengthy supervision terms. Thus, registration laws which are meant to protect the “public” from “repeat offenders” are, in fact, inconsequential to public safety. Yet by their mere existence, these laws present youth with a multitude of societal, physical, and emotional barriers to success. It is now time to protect youth from the effects of these harmful policy decisions.

The Committee recommends that Kansas join the 16 other states that do not require juvenile offender registration and repeal registration for juvenile offenders entirely, except for those juveniles who have been waived to adult court or who are subject to an adult sentence under an extended juvenile jurisdiction prosecution. The repeal would apply retroactively to any offender on the registry solely because of a juvenile adjudication; however, it would not apply to juvenile offenders required to register by another jurisdiction. In other words, if a juvenile has an out-of-state adjudication, and the state where that adjudication occurred would require registration, Kansas would continue to honor the other state’s registration requirement.

The Committee understands this recommendation represents a significant change for Kansas. However, the Committee believes this is a necessary step toward evidence-based practices.

PENALTIES FOR REGISTRATION VIOLATIONS

Under current law, a failure to comply with any provision of the Kansas Offender Registration Act (KORA), K.S.A. 22-4901 *et seq.*, is a strict liability offense, *i.e.*, no criminal intent is required. Any failure to comply that continues for more than 30 consecutive days becomes a new and separate offense. K.S.A. 22-4902(a). A violation of KORA is a severity level 6 felony for a first conviction, a severity level 5 felony for a second conviction, and a severity level 3 felony for a third or subsequent conviction. K.S.A. 22-4903(c)(1). An aggravated violation (failure to comply for more than 180 consecutive days) is also a severity level 3 felony. K.S.A. 22-4903(b) and (c)(2).

Violations are designated as person or nonperson felonies depending upon the underlying offense for which the offender is required to register. K.S.A. 22-4903(c)(1) and (c)(2). This means that, in general, sex offenders and violent offenders who fail to comply with registration requirements are charged with person felonies, while drug offenders are charged with nonperson felonies.

A violation of KORA that consists solely of the failure to pay the required \$20 registration fee to the sheriff’s office is a class A misdemeanor if the full payment is not made within 15 days of registration. It is a severity level 9 felony if, within 15 days of the most recent registration, two or more full payments have not been made to the sheriff’s office. Again, these violations are person or nonperson offenses depending upon the underlying registrable offense. K.S.A. 22-4903(c)(3).

Under the current scheme, an offender who is required to register for a misdemeanor offense such as sexual battery could be charged with a person felony for a registration violation. Once an offender has a person felony in his or her criminal history, it has a big impact on the sentence for any future offense.

The Committee learned that, as of 2019, there were 442 inmates in prison for KORA registration violations and that, over the last five years, the number of convictions for registration violations has increased by almost 65 percent. In 2018 alone, 325 offenders were convicted of registration violations, and 116 of those were sent to prison.

Under K.S.A. 21-6804(m), the sentence for a KORA registration violation is presumptive imprisonment. However, only about a third of violators are sentenced to prison while two-thirds are placed on probation. It's not clear whether the statute is being ignored or overlooked or whether courts are ordering downward departures in most cases, but if the statute were being routinely applied, the numbers of offenders being sent to prison would be even higher.

This trend is not sustainable. The Committee believes that the penalties for registration violations have ratcheted up too much since registration was first required in the early 90s. From 1993 to 1999, failure to register was a class A nonperson misdemeanor, and from 1999 to 2006, it was a severity level 10 nonperson felony. The Committee believes it is appropriate to return to similar severity levels, and recommends the following penalties:

- For a first offense, a class B nonperson misdemeanor
- For a second offense, a class A nonperson misdemeanor
- For a third or subsequent or aggravated offense, a severity level 8 nonperson felony

Classifying first and second registration violations as misdemeanors will give district judges more flexibility in dealing with violators. For example, a judge would have the option of ordering a violator to spend weekends in jail, which might allow the person to keep his or her job. For offenders who are out of compliance and afraid to update their registration for fear of facing arrest on a felony registration violation charge, reducing the penalties should give them an incentive to come forward and become compliant rather than going completely off the radar.

The Committee recommends classifying all registration violations as nonperson offenses, which is appropriate for an offense that consists of a failure to provide information and does not involve harm to another person. This change will impact not only future convictions and sentences for registration violations, it will also affect how past convictions are scored for criminal history purposes. See *State v. Keel*, 302 Kan. 560, 590, 357 P.3d 251 (2015) (classification of prior conviction as person or nonperson offense for criminal history purposes is determined based on classification in effect at the time the current crime of conviction was committed).

The Committee also recommends the following related changes:

- Amend the presumptive prison rule so that it applies only to aggravated violations.
- Redefine a registration violation so that a new offense is committed every 90 days, rather than every 30 days, an offender is out of compliance. (This corresponds to the requirement that an offender register every three months.)
- Redefine an aggravated violation to consist of an offender being out of compliance for one year, rather than 180 days.
- Make an aggravated violation a class A nonperson misdemeanor if the underlying registrable offense is a misdemeanor.
- Do not require a registration fee for any offender under 18 years of age.
- Classify violations for failure to pay as class C nonperson misdemeanors.
- Amend K.S.A. 21-5913(b) and K.S.A. 21-6804(m) to make the penalty for obstructing the apprehension or prosecution of a KORA violator the same as the penalty for obstructing the apprehension or prosecution of any other person.

COURT WAIVER OF THE REGISTRATION FEE

As part of its proposal to amend penalties for registration violations, the Committee also drafted a new mechanism for an offender to seek a court waiver of the registration fee based on a finding of manifest hardship. This is in response to a Court of Appeals decision, *State v. Owens*, 55 Kan. App. 2d 290, 411 P.3d 1247 (2018), which held that finding a sex offender criminally liable for failure to pay the \$20 registration fee violated the offender's procedural due process rights as applied because the statutes did not provide any procedure for the offender to obtain a court determination of indigency.

Under current law, K.S.A. 22-4905(l)(3) waives the registration fee only "if an offender has, prior to the required reporting and within the last three years, been determined to be indigent by a court of law, and the basis for that finding is recorded by the court." For an offender who has had a criminal case pending during that 3-year window, there is a recognized procedure for obtaining an indigency determination for purposes of determining whether to appoint counsel. But for an offender who no longer has a criminal case pending, there is no such procedure. See *Owens*, 55 Kan. App. 2d at 293-94.

The Committee is recommending a new statute to establish that procedure. Under the Committee's proposal, an offender could ask the district court of the county where he or she resides to find that requiring the offender to pay the \$20 registration fee would impose a manifest hardship on the offender or the offender's immediate family. The offender would be required to submit an affidavit in the form prescribed by the Judicial Council, and there would be no docket fee required. The court could rule on the basis of the affidavit alone, or it could hold a hearing and require evidence to be presented. If the court finds that requiring payment of the fee would impose a manifest hardship, the court could order that the fee be waived or deferred and specify how long the court's order will remain in effect, not to exceed three years.

The Committee recognized that there is a difference between finding that a defendant is indigent to the extent he or she is unable to pay for a defense attorney versus unable to pay a \$20 registration fee. A defendant who may have been unable to afford to pay a defense attorney might be able to pay \$20 four times a year. Thus, under the Committee's proposal, any indigency finding from the original criminal case would remain in effect for three years (as under current law), but a finding of manifest hardship would only remain in effect for the period specified by the court in its order, not to exceed three years.

OTHER MISCELLANEOUS KORA CHANGES

Single point registration

The Committee also recommends eliminating the requirement that offenders register in person with the sheriff in each county where they live, work, and attend school. Instead, offenders would be required to register only in the county where they live. In the form that offenders must complete each time they register, they are already required to report the name and address of any employer or school they attend. Under the bill, if an offender reports an employer or school in a county other than the county where they live, the KBI would be required to notify the sheriff of the county where the employer or school is located. The Committee believes that this change would ease the burden on both offenders and sheriffs while still providing the necessary information to keep the public informed.

Registration for non-KORA offenses

Under current law, courts have unfettered discretion to order an offender to register for any offense not otherwise covered by KORA. See K.S.A. 22-4902(a)(5); and, *e.g.*, *State v. Juarez*, 312 Kan. 22, 470 P.3d 1271 (2020) (defendant pled guilty to aggravated battery for punching a prison guard; at sentencing, court ordered him to register under KORA). The registration term for such non-KORA offenses is set at 15 years, unless a diversion agreement, probation order, or juvenile sentencing order sets a different term. See K.S.A. 22-4906(a)(1)(M) and K.S.A. 22-4906(i).

The Committee believes that courts should not be able to sua sponte order registration for offenses not covered by KORA. However, there are situations where it may be appropriate for the parties to agree to such registration. For example, it is not uncommon for parties to enter a plea bargain in which the defendant pleads guilty to a non-registrable offense but agrees to register for the term of probation. Also, the parties may agree to registration as part of a diversion agreement.

The Committee recommends amending KORA so that the parties can agree to registration for a non-KORA offense, but courts cannot order such registration sua sponte. The Committee's recommendation would have no effect on a court's ability to order registration for any offense that is found to be sexually motivated under K.S.A. 22-4902(c)(18).

Clarify that municipal court convictions are not registrable offenses

In August 2021, the Kansas Supreme Court held that a municipal court conviction for sexual battery is a registrable offense under KORA. See *City of Shawnee v. Adem*, 494 P.3d 134 (2021). Prior to the *Adem* opinion, most Committee members believed that KORA did not apply to municipal court convictions. For some Committee members, this belief was based on the action of the legislature, which considered and rejected a proposed amendment to explicitly bring municipal court convictions under KORA in 2012. See 2012 H.B. 2568.

The Committee recommends that municipal court convictions be explicitly excluded from KORA because municipal courts lack many of the protections that are available in district courts, *e.g.* municipal courts are not courts of record, jury trials are not available, and appointed counsel is not available unless the defendant faces possible jail time.

REGISTRATION REQUIREMENTS FOR SPECIFIC SEX OFFENSES

K.S.A. 22-4902 sets out which sex offenses require registration under KORA. Most of the offenses that trigger registration are listed as “sexually violent crimes” under K.S.A. 22-4902(c). However, subsection (b)(4) also requires registration for a list of lower level crimes such as adultery and patronizing a prostitute “when one of the parties involved is less than 18 years of age.” Importantly, this subsection does not apply to juvenile offenders, who are only required to register for acts which would constitute sexually violent crimes if committed by an adult. See K.S.A. 22-4902(b)(2).

The Committee finds the language “when one of the parties involved is less than 18 years of age” to be unnecessarily confusing because it seems, on its face, to implicate juvenile offenders. While it would be much clearer and reflective of the true legislative intent to amend the statute so that it applies “when *the victim* is less than 18 years of age,” not all of the criminal offenses listed in (b)(2) reference a “victim.” Instead, the Committee recommends the statute be clarified by changing the phrase to “when one of the parties *other than the offender* is less than 18 years of age.”

The Committee also recommends repealing registration requirements for the following offenses listed in K.S.A. 22-4902(b)(4):

- Adultery
- Criminal sodomy under K.S.A. 21-5504(a)(1) (consensual sodomy between persons 16 years of age or older).
- Patronizing a prostitute
- Lewd and lascivious behavior under K.S.A. 21-5513(a)(1) (public intercourse or sodomy)

The Committee does not believe these offenses pose a serious risk of future reoffending to justify requiring registration as a sex offender.

As to lewd and lascivious behavior under K.S.A. 21-5513(a)(2) (public exposure), the Committee would continue to require 15-year registration but only when the offense is committed in the presence of someone less than 16 years old, which is a felony violation under the statute.

The Committee identified several offenses that do not currently require registration but should. The Committee recommends that internet trading in child pornography under K.S.A. 21-5514 be added to the list of sexually violent offenses in K.S.A. 22-4902(c), and that registration be required for the same terms as for sexual exploitation of a child, *i.e.*, 25 years if the victim is 14 years old or older but less than 18, and lifetime if the victim is less than 14 years old. See K.S.A. 22-4906(b)(1)(G) and (d)(7).

The Committee also recommends that 15-year registration be required for certain breach of privacy offenses under K.S.A. 21-6101(a)(6) and (a)(7). Subsection (a)(6) prohibits installing or using a concealed camcorder or camera to secretly videotape, film, photograph or record another identifiable person under or through their clothing or who is nude or in a state of undress for the purpose of viewing the body or undergarments of that other person, with the intent to invade that other person's privacy, and under circumstances in which the other person has a reasonable expectation of privacy. Subsection (a)(7) prohibits disseminating or permitting dissemination of any videotape, photography, film or image obtained in violation of (a)(6).

The Committee agreed to make this recommendation after hearing from two women who spoke about their experiences as victims of the crime of breach of privacy. In one case, a man was using his cellphone to video young women under the doors of their dressing rooms. In another, a man was using his cellphone to video up women's skirts in a grocery store. The Committee believes these kinds of offenses should require registration because they are sexually motivated and may represent compulsive behavior, which presents an increased risk of reoffending.

Senator Julia Lynn, who also spoke to the Committee about making breach of privacy a registrable offense, introduced a bill on this topic in 2020: S.B. 420. That bill contained more extensive amendments relating to breach of privacy and registration, and the Committee takes no position on those additional amendments.

Finally, the Committee recommends a change to the provision requiring registration for an offense that has been found beyond a reasonable doubt to have been sexually motivated. K.S.A. 22-4902(c)(18) lists such sexually motivated acts as sexually violent crimes "unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim." K.S.A. 22-4906(a)(1)(L) contains similar language and sets the registration term at 15 years.

The Committee was concerned that this language might be interpreted to apply even when the victim and offender are older; for example, when a victim is 25 and the offender is 28. The Committee believes the legislature intended this exception to apply only when the victim was less than 18 years old and recommends the language be amended to read, "unless the

court, on the record, finds that the act involved non-forcible sexual conduct, the victim was *a child* at least 14 years of age and the offender was not more than four years older than the victim.”

REGISTRATION REQUIREMENTS FOR SPECIFIC DRUG OFFENSES

Since 2007, Kansas has required registration of offenders convicted of drug manufacturing, possession of precursors, and distribution or possession with intent to distribute certain drugs (not including marijuana). Kansas law also requires registration for similar drug offenses from other jurisdictions and for attempts, conspiracies and solicitations to commit these offenses. K.S.A. 22-4902(f). Drug offenders are required to register for 15 years; report in person four times per year to the registering law enforcement agency of any county where the offender lives, works, or attends school; and pay a \$20 fee each time. K.S.A. 22-4906(a)(1); K.S.A. 22-4905(b)(2) and (l). (While the registering agency may, in its discretion, allow one of the four reports to be done by certified letter, the Committee is not aware of any agency using this option.)

There are more than 5,600 registered drug offenders in Kansas, representing roughly one quarter of all registered offenders. Over the last few years, more than 500 new drug offenders were added to the registry each year.

Kansas is one of only a small handful of states that register drug offenders. Some of those states focus only on methamphetamine-related offenses, and some maintain a database or list of offenders but do not impose an ongoing duty on offenders to report to a registering agency.

Importantly, Kansas appears to be the only state that makes public the addresses of offenders convicted of possession and distribution offenses. For example, California’s drug registration is available only to law enforcement, and Oklahoma makes the information available only to law enforcement and those who sell pseudoephedrine. In Illinois, Minnesota, and Tennessee, the public can search for a list of offender names by county, but specific addresses are not available. While Montana makes the addresses of some drug offenders public, Montana only registers drug offenders convicted of operating an unlawful clandestine drug lab.

Kansas also appears to be the only state to require drug offenders to register for 15 years. Most of the states mentioned above maintain an offender’s information on their registry for ten years, and California requires registration for five years.

The Committee heard from Scott Schultz, Executive Director of the Sentencing Commission, who explained that the Sentencing Commission had voted to recommend repealing registration requirements for all drug offenders. The Commission is concerned about registered offenders being approached at their homes by persons seeking to buy drugs, although evidence of this happening is only anecdotal to date. The Commission is also

concerned that requiring drug offenders to register publicly can put them at risk from former associates and can negatively impact their reintegration by impeding their ability to find housing and employment.

The Committee shares the Sentencing Commission's concerns. Accordingly, the Committee recommends that registration requirements for drug offenders convicted of manufacturing offenses remain as under current law (15 years of public registration), but that requirements for drug offenders convicted of possession of precursors and distribution offenses be amended to five years of private registration, with the information being available only to law enforcement.

Lifetime Registration for Second Time Drug Offenders

The Committee also recommends eliminating lifetime registration for second time drug offenders. Under K.S.A. 22-4906(c), an offender convicted of a second or subsequent registrable offense of any kind (sex, drug or violent) must register for life. According to data from the KBI, 975 offenders are currently being required to register for life because they have two or more drug convictions.

The Committee recommends that offenders with multiple drug convictions be required to register for the longest term currently in effect. In other words, registration terms for drug offenses would run concurrently, not consecutively. And, a drug offense should never be used to create a lifetime registration requirement, *i.e.*, one drug offense and one sex or violent offense would no longer require lifetime registration. These changes would apply retroactively.

REGISTRATION REQUIREMENTS FOR SPECIFIC VIOLENT OFFENSES

KORA requires registration for a wide array of violent offenses, ranging from criminal restraint of a minor, a misdemeanor, to capital murder. See K.S.A. 22-4902(e). Kidnapping and aggravated kidnapping require lifetime registration, but all murder and manslaughter convictions require 15-year registration. See K.S.A. 22-4906(a) and (d). KORA also requires 15-year registration for any person felony if the court finds that a deadly weapon was used. K.S.A. 22-4902(e)(2) and K.S.A. 22-4906(a)(1)(N).

There are more than 5,600 violent offenders currently registered in Kansas, and more than 500 new violent offenders are being added each year. A significant number of those are registering because of the deadly weapon finding.

As with registration of drug offenders, Kansas is in a minority of states that register violent offenders, and some of those states limit registration in ways Kansas does not. For example, some states only require registration for career violent offenders or for violent crimes against minors or law enforcement.

The Committee recommends the following changes to violent offender registration under KORA:

- Repeal registration for criminal restraint, voluntary and involuntary manslaughter, and kidnapping and aggravated kidnapping of an adult.
- Increase registration to lifetime for capital murder and first degree murder.
- Change registration to 15 years for kidnapping of a minor.
- Change registration for person felony with deadly weapon finding to 5 years.

The Committee also recommends amending the deadly weapon finding to require that it be made on the record “in open court and stated with particularity.” This amendment is intended to counter the holding of *State v. Marinelli*, 307 Kan. 768, 788-89, 415 P.3d 405 (2018), that merely checking a box on a sentencing journal entry is sufficient to establish a court finding “on the record.”

CONCLUSION

The proposed reforms to KORA listed in this testimony would reduce some of KORA’s most severe negative impacts while preserving its role as a tool to enhance public safety. The Kansas Judicial Council and its Advisory Committee on Sex Offenses and Registration recommend that legislation be introduced to accomplish these reforms.

Case No. _____

OFFENDER REGISTRATION SUPPLEMENT – K.S.A. 22-4901 et seq.
(If applicable, complete both pages and attach to the Journal Entry.)

(PAGE 1 of 2)

SECTION A. REGISTRATION REQUIREMENT - Check appropriate boxes to indicate the REASON for registration.
See K.S.A. 22-4902(a)

Offender required by court order to register for an offense not otherwise required as provided by the Kansas Offender Registration Act

Enter age of victim (K.S.A. 22-4904(a)(2)) _____

Offender required to register due to **SEX OFFENDER** status as indicated by any of the following:

Conviction of any of the following crimes:

- Sexual Battery – K.S.A. 21-5505(a)
- Any conviction for any comparable offense
- Any attempt, conspiracy or criminal solicitation of a comparable crime

Conviction of any of the following crimes when one of the parties involved is under 18 years of age:

- | | |
|---|---|
| <input type="checkbox"/> Adultery – K.S.A. 21-5511 | <input type="checkbox"/> Criminal Sodomy - K.S.A. 21-5504(a) |
| <input type="checkbox"/> Promoting Prostitution – K.S.A. 21-6420 | <input type="checkbox"/> Buying Sexual Relations – K.S.A. 21-6421 |
| <input type="checkbox"/> Lewd and Lascivious Behavior – K.S.A. 21-5513 | <input type="checkbox"/> Conviction for any comparable offense |
| <input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of an offense defined in this section | |

Conviction of any of the following sexually violent crimes or adjudication as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime, UNLESS the court finds on the record that the act involved non-forcible sexual conduct, the victim was at least 14 and the offender not more than 4 years older than victim:

- | | |
|--|---|
| <input type="checkbox"/> Indecent Liberties With a Child – K.S.A. 21-5506(a) | <input type="checkbox"/> Criminal Sodomy – K.S.A. 21-5504(a)(3),(a)(4) |
| <input type="checkbox"/> Rape – K.S.A. 21-5503 | <input type="checkbox"/> Indecent Solicitation of a Child – K.S.A. 21-5508 |
| <input type="checkbox"/> Agg. Indecent Liberties With a Child – K.S.A. 21-5506(b) | <input type="checkbox"/> Sexual Exploitation of a Child – K.S.A. 21-5510 |
| <input type="checkbox"/> Agg. Criminal Sodomy – K.S.A. 21-5504(b) | <input type="checkbox"/> Commercial Sexual Exploitation of a Child – K.S.A. 21-6422 |
| <input type="checkbox"/> Agg. Indecent Solicitation of a Child – K.S.A. 21-5508(b) | <input type="checkbox"/> Agg. Incest – K.S.A. 21-5604(b)(1) |
| <input type="checkbox"/> Agg. Sexual Battery – K.S.A. 21-5505(b) | <input type="checkbox"/> Unlawful Sexual Relations - K.S.A. 21-5512 |
| <input type="checkbox"/> Electronic Solicitation – K.S.A. 21-5509 | <input type="checkbox"/> Promoting the Sale of Sexual Relations - K.S.A. 21-6420 |
| <input type="checkbox"/> Agg. Human Trafficking, if committed in whole or in part for the purpose of sexual gratification of the defendant or another - K.S.A. 21-5426(b) | |
| <input type="checkbox"/> Any conviction for any comparable offense | |
| <input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of a sexually violent crime | |
| <input type="checkbox"/> Any act determined beyond a reasonable doubt to have been sexually motivated AND the act did <u>not</u> involve non-forcible sexual conduct between a victim at least 14 and offender no more than 4 years older than victim – K.S.A. 22-4902 (c)(15) | |

Offender required to register due to **VIOLENT OFFENDER** status (Indicated by conviction of any of the following crimes):

- | | |
|---|---|
| <input type="checkbox"/> Capital Murder – K.S.A. 21-5401 | <input type="checkbox"/> Murder in the First Degree – K.S.A. 21-5402 |
| <input type="checkbox"/> Murder in the Second Degree - K.S.A. 21-5403 | <input type="checkbox"/> Voluntary Manslaughter - K.S.A. 21-5404 |
| <input type="checkbox"/> Involuntary Manslaughter - K.S.A. 21-5405(a)(1), (a)(2) or (a)(4) | <input type="checkbox"/> Kidnapping - K.S.A. 21-5408(a) |
| <input type="checkbox"/> Agg. Kidnapping - K.S.A. 21-5408(b) | <input type="checkbox"/> Criminal Restraint - K.S.A. 21-5411 |
| <input type="checkbox"/> Agg. Human Trafficking, if not committed in whole or in part for the purpose of sexual gratification of the defendant or another – K.S.A. 21-5426(b) | (except by parent, and only when victim is less than 18 years of age) |
| <input type="checkbox"/> Any conviction for any comparable offense | |
| <input type="checkbox"/> Any out of state conviction for an offense that under the laws of Kansas would be an offense listed in this section | |
| <input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of an offense defined in this section | |
| <input type="checkbox"/> Any person felony with court finding on the record that such felony was committed with a DEADLY WEAPON (On or after July 1, 2006) | |
| <input type="checkbox"/> Any conviction for any comparable person felony, committed with a DEADLY WEAPON | |
| <input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of a person felony committed with a DEADLY WEAPON | |

Offender required to register due to **DRUG OFFENDER** status (Indicated by conviction of any of the following crimes):

- Manufacture** or attempted manufacture of any controlled substance – K.S.A. 21-5703
- Possession** of precursors with intent to manufacture any controlled substance – K.S.A. 21-5709(a)
- Cultivation, Distribution, Possession** with intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), or (f)(1) – K.S.A. 21-5705(a)(1), **ONLY**
- Any conviction for any comparable offense
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Case No. _____

OFFENDER REGISTRATION SUPPLEMENT CONT. – K.S.A. 22-4901 et seq.

(PAGE 2 of 2)

SECTION B. REGISTRATION TERMS - check appropriate boxes indicating REQUIRED TERM of registration
See K.S.A. 22-4906

Offender must register for 15 YEARS after the date of parole, discharge or release, whichever date is most recent, or, if offender is not confined, 15 YEARS from the date of conviction due to conviction of any of the following crimes:

- Capital Murder - K.S.A. 21-5401
- Murder in the Second Degree – K.S.A. 21-5403
- Involuntary Manslaughter – K.S.A. 21-5405(a)(1), (a)(2) or (a)(4)
- Promoting the Sale of Sexual Relations - K.S.A. 21-6420
- Criminal Restraint – K.S.A. 21-5411 (except by parent, and only when victim is less than 18 years of age)
- Any act determined beyond a reasonable doubt to have been sexually motivated AND the act did not involve non-forcible sexual conduct between a victim at least 14 and offender no more than 4 years older than victim – K.S.A. 22-4902(a)(15)
- Any conviction of a person felony w/ court finding on the record that such felony was committed with a **DEADLY WEAPON**- K.S.A. 22-4902(e)(2)
- An offense not otherwise required, as provided by the Kansas Offender Registration Act, K.S.A. 22-4902(a)(5)
- Manufacture** or attempted manufacture of any controlled substance – K.S.A. 21-5703
- Possession of precursors** with intent to manufacture any controlled substance – K.S.A. 21-5709(a)
- Cultivation, Distribution, Possession** with intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), or (f)(1) K.S.A. 21-5705(a)(1) **ONLY**
- Any of the following crimes when one of the parties is less than 18 years of age:
 - Adultery - K.S.A. 21-5511
 - Lewd and Lascivious Behavior – K.S.A. 21-5513
 - Any attempt, conspiracy or criminal solicitation of an offense defined in this section
 - Buying Sexual Relations – K.S.A. 21-6421

Offender must register for 25 YEARS after the date of parole, discharge or release, whichever date is most recent, or, if offender is not confined, 25 YEARS from the date of conviction due to conviction of any of the following crimes:

- Indecent Solicitation of a Child – K.S.A. 21-5508
- Agg. Incest – K.S.A. 21-5604(b)(1)
- Unlawful Sexual Relations – K.S.A. 21-5512
- Sexual Exploitation of a Child – K.S.A. 21-5510, if the victim is at least 14 years of age but less than 18 years of age
- Promoting Prostitution – K.S.A. 21-6420, if the victim is at least 14 years of age but less than 18 years of age
- Criminal Sodomy - K.S.A. 21-5504(a) when one of the parties involved is less than 18 years of age
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section
- Electronic Solicitation – K.S.A. 21-5509
- Indecent Liberties With a Child – K.S.A. 21-5506(a)
- Agg. Sexual Battery – K.S.A. 21-5505(b)

Offender is subject to LIFETIME registration due to any of the following:

- 2nd or Subsequent conviction of an offense requiring registration
- Conviction of any of the following crimes:
 - Rape – K.S.A. 21-5503
 - Agg. Kidnapping – K.S.A. 21-5408(b)
 - Kidnapping – K.S.A. 21-5408(a)
 - Agg. Criminal Sodomy – K.S.A. 21-5504(b)
 - Criminal Sodomy – K.S.A. 21-5504(a)(3) or (a)(4)
 - Agg. Indecent Liberties With a Child – K.S.A. 21-5506(b)
 - Agg. Indecent Solicitation of a Child – K.S.A. 21-5508(b)
 - Agg. Human Trafficking – K.S.A. 21-5426(b)
 - Sexual Exploitation of a Child – K.S.A. 21-5510, if the victim is less than 14 years of age
 - Commercial Sexual Exploitation of a Child – K.S.A. 21-6422
 - Promoting Prostitution – K.S.A. 21-6420, if the victim is less than 14 years of age
 - Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Duration determined by diversionary agreement, probation order or juvenile sentencing order: _____ years _____ months (K.S.A. 22-4906(i))

HOUSE BILL No. 2349

By Committee on Corrections and Juvenile Justice

2-10

1 AN ACT concerning the Kansas offender registration act; relating to relief
2 from registration; violation of act; decreasing criminal penalties;
3 providing for waiver of fees by the court; obstructing apprehension or
4 prosecution; reducing required registration locations; information
5 required to register; eliminating registration for certain juvenile
6 offenders; amending K.S.A. 74-7335 and K.S.A. 2020 Supp. 21-5913,
7 21-6614, 21-6804, 22-4902, 22-4903, 22-4904, 22-4905, 22-4906, 22-
8 4907, 22-4908 and 22-4909 and repealing the existing sections.

9
10 *Be it enacted by the Legislature of the State of Kansas:*

11 New Section 1. (a) A person required to register as an offender
12 pursuant to the Kansas offender registration act may petition the district
13 court in the county where the offender resides to waive payment of the
14 registration fee required by K.S.A. 22-4905, and amendments thereto.
15 Such offender shall submit an affidavit to the court on a form that shall be
16 prescribed by the judicial council. There shall be no docket fee required.

17 (b) The court may:

18 (1) Question the offender under oath concerning the contents of the
19 affidavit; and

20 (2) require the offender to produce evidence on the issue of the
21 offender's financial inability to make the payment required by K.S.A. 22-
22 4905, and amendments thereto.

23 (c) If it appears to the satisfaction of the court that requiring the
24 payment will impose manifest hardship on the offender or the offender's
25 immediate family, the court may:

26 (1) Waive the current payment owed by the offender;

27 (2) extend the time in which the offender has to make the payment; or

28 (3) waive the payment for a specified period of time, not to exceed
29 three years.

30 (d) If the court issues an order modifying an offender's obligation to
31 pay the registration fee required by K.S.A. 22-4905, and amendments
32 thereto, the court shall provide the offender with a copy of the order. Such
33 order shall be effective to modify the offender's obligation to pay the
34 registration fee in any county where the offender is required to register.

35 Sec. 2. K.S.A. 2020 Supp. 21-5913 is hereby amended to read as
36 follows: 21-5913. (a) Obstructing apprehension or prosecution is

1 knowingly harboring, concealing or aiding any person who:

2 (1) Has committed or who has been charged with committing a
3 felony or misdemeanor under the laws of this state, other than a violation
4 of K.S.A. 22-4903, and amendments thereto, or another state or the United
5 States with intent that such person shall avoid or escape from arrest, trial,
6 conviction or punishment for such felony or misdemeanor; or

7 (2) is required to register under the Kansas offender registration act,
8 K.S.A. 22-4901 et seq., and amendments thereto, and who is not in
9 compliance with the requirements of such act with intent that such person
10 shall avoid or escape from registration, arrest, trial, conviction, punishment
11 or any criminal charges arising from the person's failure to comply with
12 the requirements of such act.

13 (b) Obstructing apprehension or prosecution ~~as defined in:~~

14 ~~(1) Subsection (a)(1) is a:~~

15 ~~(A)(1) Severity level 8, nonperson felony if the person who is~~
16 ~~harbored, concealed or aided has committed or has been charged with~~
17 ~~committing a felony; and~~

18 ~~(B)(2) class C misdemeanor if the person who is aided has committed~~
19 ~~or has been charged with committing a misdemeanor; and~~

20 ~~(2) subsection (a)(2) is a severity level 5, person felony.~~

21 Sec. 3. K.S.A. 2020 Supp. 21-6614 is hereby amended to read as
22 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d),
23 (e) and (f), any person convicted in this state of a traffic infraction,
24 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
25 for crimes committed on or after July 1, 1993, any nongrid felony or
26 felony ranked in severity levels 6 through 10 of the nondrug grid, or for
27 crimes committed on or after July 1, 1993, but prior to July 1, 2012, any
28 felony ranked in severity level 4 of the drug grid, or for crimes committed
29 on or after July 1, 2012, any felony ranked in severity level 5 of the drug
30 grid may petition the convicting court for the expungement of such
31 conviction or related arrest records if three or more years have elapsed
32 since the person: (A) Satisfied the sentence imposed; or (B) was
33 discharged from probation, a community correctional services program,
34 parole, postrelease supervision, conditional release or a suspended
35 sentence.

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

41 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
42 3512, prior to its repeal, convicted of a violation of K.S.A. 2020 Supp. 21-
43 6419, and amendments thereto, or who entered into a diversion agreement

1 in lieu of further criminal proceedings for such violation, may petition the
2 convicting court for the expungement of such conviction or diversion
3 agreement and related arrest records if:

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

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

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

26 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
27 repeal, or K.S.A. 2020 Supp. 21-5406, and amendments thereto, or as
28 prohibited by any law of another state which is in substantial conformity
29 with that statute;

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

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

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

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

43 (6) failing to stop at the scene of an accident and perform the duties

1 required by K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602 or 8-1604,
2 and amendments thereto, or required by a law of another state ~~which~~ *that*
3 is in substantial conformity with those statutes;

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

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

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

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

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

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

27 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
28 2020 Supp. 21-5503, and amendments thereto;

29 (2) indecent liberties with a child or aggravated indecent liberties
30 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
31 or K.S.A. 2020 Supp. 21-5506, and amendments thereto;

32 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
33 prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(3) or (a)(4), and
34 amendments thereto;

35 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
36 to its repeal, or K.S.A. 2020 Supp. 21-5504, and amendments thereto;

37 (5) indecent solicitation of a child or aggravated indecent solicitation
38 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
39 or K.S.A. 2020 Supp. 21-5508, and amendments thereto;

40 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
41 to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto;

42 (7) internet trading in child pornography or aggravated internet
43 trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514,

- 1 and amendments thereto;
- 2 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
3 repeal, or K.S.A. 2020 Supp. 21-5604, and amendments thereto;
- 4 (9) endangering a child or aggravated endangering a child, as defined
5 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2020 Supp.
6 21-5601, and amendments thereto;
- 7 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
8 or K.S.A. 2020 Supp. 21-5602, and amendments thereto;
- 9 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
10 or K.S.A. 2020 Supp. 21-5401, and amendments thereto;
- 11 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to
12 its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;
- 13 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior
14 to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;
- 15 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
16 its repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;
- 17 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
18 its repeal, or K.S.A. 2020 Supp. 21-5405, and amendments thereto;
- 19 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
20 or K.S.A. 2020 Supp. 21-5505, and amendments thereto, when the victim
21 was less than 18 years of age at the time the crime was committed;
- 22 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
23 its repeal, or K.S.A. 2020 Supp. 21-5505, and amendments thereto;
- 24 (18) a violation of K.S.A. 8-2,144, and amendments thereto,
25 including any diversion for such violation; or
- 26 (19) any conviction for any offense in effect at any time prior to July
27 1, 2011, that is comparable to any offense as provided in this subsection.
- 28 (f) ~~Notwithstanding any other law to the contrary, Except as provided~~
29 *in K.S.A. 22-4908, and amendments thereto*, for any offender who is
30 required to register as provided in the Kansas offender registration act,
31 K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
32 expungement of any conviction or any part of the offender's criminal
33 record while the offender is required to register as provided in the Kansas
34 offender registration act.
- 35 (g) (1) When a petition for expungement is filed, the court shall set a
36 date for a hearing of such petition and shall cause notice of such hearing to
37 be given to the prosecutor and the arresting law enforcement agency. The
38 petition shall state the:
- 39 (A) Defendant's full name;
- 40 (B) full name of the defendant at the time of arrest, conviction or
41 diversion, if different than the defendant's current name;
- 42 (C) defendant's sex, race and date of birth;
- 43 (D) crime for which the defendant was arrested, convicted or

1 diverted;

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

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

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

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

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

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

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

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

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

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

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

- 1 occurred if asked about previous arrests, convictions or diversions:
- 2 (A) In any application for licensure as a private detective, private
3 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-
4 7b21, and amendments thereto, or employment as a detective with a
5 private detective agency, as defined by K.S.A. 75-7b01, and amendments
6 thereto; as security personnel with a private patrol operator, as defined by
7 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined
8 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
9 for aging and disability services;
- 10 (B) in any application for admission, or for an order of reinstatement,
11 to the practice of law in this state;
- 12 (C) to aid in determining the petitioner's qualifications for
13 employment with the Kansas lottery or for work in sensitive areas within
14 the Kansas lottery as deemed appropriate by the executive director of the
15 Kansas lottery;
- 16 (D) to aid in determining the petitioner's qualifications for executive
17 director of the Kansas racing and gaming commission, for employment
18 with the commission or for work in sensitive areas in parimutuel racing as
19 deemed appropriate by the executive director of the commission, or to aid
20 in determining qualifications for licensure or renewal of licensure by the
21 commission;
- 22 (E) to aid in determining the petitioner's qualifications for the
23 following under the Kansas expanded lottery act: (i) Lottery gaming
24 facility manager or prospective manager, racetrack gaming facility
25 manager or prospective manager, licensee or certificate holder; or (ii) an
26 officer, director, employee, owner, agent or contractor thereof;
- 27 (F) upon application for a commercial driver's license under K.S.A.
28 8-2,125 through 8-2,142, and amendments thereto;
- 29 (G) to aid in determining the petitioner's qualifications to be an
30 employee of the state gaming agency;
- 31 (H) to aid in determining the petitioner's qualifications to be an
32 employee of a tribal gaming commission or to hold a license issued
33 pursuant to a tribal-state gaming compact;
- 34 (I) in any application for registration as a broker-dealer, agent,
35 investment adviser or investment adviser representative all as defined in
36 K.S.A. 17-12a102, and amendments thereto;
- 37 (J) in any application for employment as a law enforcement officer as
38 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;
- 39 (K) to aid in determining the petitioner's qualifications for a license to
40 carry a concealed weapon pursuant to the personal and family protection
41 act, K.S.A. 75-7c01 et seq., and amendments thereto; or
- 42 (L) to aid in determining the petitioner's qualifications for a license to
43 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-

- 1 7e09 and K.S.A. 2020 Supp. 50-6,141, and amendments thereto;
- 2 (3) the court, in the order of expungement, may specify other
3 circumstances under which the conviction is to be disclosed;
- 4 (4) the conviction may be disclosed in a subsequent prosecution for
5 an offense which requires as an element of such offense a prior conviction
6 of the type expunged; and
- 7 (5) upon commitment to the custody of the secretary of corrections,
8 any previously expunged record in the possession of the secretary of
9 corrections may be reinstated and the expungement disregarded, and the
10 record continued for the purpose of the new commitment.
- 11 (j) Whenever a person is convicted of a crime, pleads guilty and pays
12 a fine for a crime, is placed on parole, postrelease supervision or
13 probation, is assigned to a community correctional services program, is
14 granted a suspended sentence or is released on conditional release, the
15 person shall be informed of the ability to expunge the arrest records or
16 conviction. Whenever a person enters into a diversion agreement, the
17 person shall be informed of the ability to expunge the diversion.
- 18 (k) (1) Subject to the disclosures required pursuant to subsection (i),
19 in any application for employment, license or other civil right or privilege,
20 or any appearance as a witness, a person whose arrest records, conviction
21 or diversion of a crime has been expunged under this statute may state that
22 such person has never been arrested, convicted or diverted of such crime.
- 23 (2) Notwithstanding the provisions of subsection (k)(1), and except as
24 provided in K.S.A. 2020 Supp. 21-6304(a)(3)(A), and amendments
25 thereto, the expungement of a prior felony conviction does not relieve the
26 individual of complying with any state or federal law relating to the use,
27 shipment, transportation, receipt or possession of firearms by persons
28 previously convicted of a felony.
- 29 (l) Whenever the record of any arrest, conviction or diversion has
30 been expunged under the provisions of this section or under the provisions
31 of any other existing or former statute, the custodian of the records of
32 arrest, conviction, diversion and incarceration relating to that crime shall
33 not disclose the existence of such records, except when requested by:
- 34 (1) The person whose record was expunged;
- 35 (2) a private detective agency or a private patrol operator, and the
36 request is accompanied by a statement that the request is being made in
37 conjunction with an application for employment with such agency or
38 operator by the person whose record has been expunged;
- 39 (3) a court, upon a showing of a subsequent conviction of the person
40 whose record has been expunged;
- 41 (4) the secretary for aging and disability services, or a designee of the
42 secretary, for the purpose of obtaining information relating to employment
43 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,

- 1 of the Kansas department for aging and disability services of any person
2 whose record has been expunged;
- 3 (5) a person entitled to such information pursuant to the terms of the
4 expungement order;
- 5 (6) a prosecutor, and such request is accompanied by a statement that
6 the request is being made in conjunction with a prosecution of an offense
7 that requires a prior conviction as one of the elements of such offense;
- 8 (7) the supreme court, the clerk or disciplinary administrator thereof,
9 the state board for admission of attorneys or the state board for discipline
10 of attorneys, and the request is accompanied by a statement that the
11 request is being made in conjunction with an application for admission, or
12 for an order of reinstatement, to the practice of law in this state by the
13 person whose record has been expunged;
- 14 (8) the Kansas lottery, and the request is accompanied by a statement
15 that the request is being made to aid in determining qualifications for
16 employment with the Kansas lottery or for work in sensitive areas within
17 the Kansas lottery as deemed appropriate by the executive director of the
18 Kansas lottery;
- 19 (9) the governor or the Kansas racing and gaming commission, or a
20 designee of the commission, and the request is accompanied by a
21 statement that the request is being made to aid in determining
22 qualifications for executive director of the commission, for employment
23 with the commission, for work in sensitive areas in parimutuel racing as
24 deemed appropriate by the executive director of the commission or for
25 licensure, renewal of licensure or continued licensure by the commission;
- 26 (10) the Kansas racing and gaming commission, or a designee of the
27 commission, and the request is accompanied by a statement that the
28 request is being made to aid in determining qualifications of the following
29 under the Kansas expanded lottery act:
- 30 (A) Lottery gaming facility managers and prospective managers,
31 racetrack gaming facility managers and prospective managers, licensees
32 and certificate holders; and
- 33 (B) their officers, directors, employees, owners, agents and
34 contractors;
- 35 (11) the Kansas sentencing commission;
- 36 (12) the state gaming agency, and the request is accompanied by a
37 statement that the request is being made to aid in determining
38 qualifications:
- 39 (A) To be an employee of the state gaming agency; or
40 (B) to be an employee of a tribal gaming commission or to hold a
41 license issued pursuant to a tribal-gaming compact;
- 42 (13) the Kansas securities commissioner or a designee of the
43 commissioner, and the request is accompanied by a statement that the

1 request is being made in conjunction with an application for registration as
2 a broker-dealer, agent, investment adviser or investment adviser
3 representative by such agency and the application was submitted by the
4 person whose record has been expunged;

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

9 (15) a law enforcement agency and the request is accompanied by a
10 statement that the request is being made to aid in determining eligibility
11 for employment as a law enforcement officer as defined by K.S.A. 22-
12 2202, and amendments thereto;

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

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

18 (B) act as a bail enforcement agent pursuant to K.S.A. 75-7e01
19 through 75-7e09 and K.S.A. 2020 Supp. 50-6,141, and amendments
20 thereto; or

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

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

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

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

30 Sec. 4. K.S.A. 2020 Supp. 21-6804 is hereby amended to read as
31 follows: 21-6804. (a) The provisions of this section shall be applicable to
32 the sentencing guidelines grid for nondrug crimes. The following
33 sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND
Presumptive Probation
Rebulet
Presumptive Imprisonment

1 (b) Sentences expressed in the sentencing guidelines grid for nondrug
2 crimes represent months of imprisonment.

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

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

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

19 (2) In presumptive imprisonment cases, the sentencing court shall
20 pronounce the complete sentence which shall include the:

21 (A) Prison sentence;

22 (B) maximum potential reduction to such sentence as a result of good
23 time; and

24 (C) period of postrelease supervision at the sentencing hearing.
25 Failure to pronounce the period of postrelease supervision shall not negate
26 the existence of such period of postrelease supervision.

27 (3) In presumptive nonprison cases, the sentencing court shall
28 pronounce the:

29 (A) Prison sentence; and

30 (B) duration of the nonprison sanction at the sentencing hearing.

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

39 (g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal,
40 aggravated battery against a law enforcement officer committed prior to
41 July 1, 2006, or a violation of K.S.A. 2020 Supp. 21-5412(d), and
42 amendments thereto, aggravated assault against a law enforcement officer,
43 which places the defendant's sentence in grid block 6-H or 6-I shall be
44 presumed imprisonment. The court may impose an optional nonprison
45 sentence as provided in subsection (q).

46 (h) When a firearm is used to commit any person felony, the

1 offender's sentence shall be presumed imprisonment. The court may
2 impose an optional nonprison sentence as provided in subsection (q).

3 (i) (1) The sentence for the violation of the felony provision of K.S.A.
4 8-2,144 and 8-1567, *and amendments thereto*, and K.S.A. 2020 Supp. 21-
5 5414(b)(3), 21-5823(b)(3) and (b)(4), 21-6412 and 21-6416, and
6 amendments thereto, shall be as provided by the specific mandatory
7 sentencing requirements of that section and shall not be subject to the
8 provisions of this section or K.S.A. 2020 Supp. 21-6807, and amendments
9 thereto.

10 (2) If because of the offender's criminal history classification the
11 offender is subject to presumptive imprisonment or if the judge departs
12 from a presumptive probation sentence and the offender is subject to
13 imprisonment, the provisions of this section and K.S.A. 2020 Supp. 21-
14 6807, and amendments thereto, shall apply and the offender shall not be
15 subject to the mandatory sentence as provided in K.S.A. 2020 Supp. 21-
16 5823, and amendments thereto.

17 (3) Notwithstanding the provisions of any other section, the term of
18 imprisonment imposed for the violation of the felony provision of K.S.A.
19 8-2,144, and 8-1567, *and amendments thereto*, and K.S.A. 2020 Supp. 21-
20 5414(b)(3), 21-5823(b)(3) and (b)(4), 21-6412 and 21-6416, and
21 amendments thereto, shall not be served in a state facility in the custody of
22 the secretary of corrections, except that the term of imprisonment for
23 felony violations of K.S.A. 8-2,144 or 8-1567, and amendments thereto,
24 may be served in a state correctional facility designated by the secretary of
25 corrections if the secretary determines that substance abuse treatment
26 resources and facility capacity is available. The secretary's determination
27 regarding the availability of treatment resources and facility capacity shall
28 not be subject to review. Prior to imposing any sentence pursuant to this
29 subsection, the court may consider assigning the defendant to a house
30 arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments
31 thereto.

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

38 (2) Except as otherwise provided in this subsection, as used in this
39 subsection, "persistent sex offender" means a person who:

40 (A) (i) Has been convicted in this state of a sexually violent crime, as
41 defined in K.S.A. 22-3717, and amendments thereto; and

42 (ii) at the time of the conviction under subsection (j)(2)(A)(i) has at
43 least one conviction for a sexually violent crime, as defined in K.S.A. 22-

1 3717, and amendments thereto, in this state or comparable felony under
 2 the laws of another state, the federal government or a foreign government;
 3 or

4 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,
 5 prior to its repeal, or K.S.A. 2020 Supp. 21-5503, and amendments
 6 thereto; and

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

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

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

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

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

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

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

30 (D) its members, individually or collectively, engage in or have
 31 engaged in the commission, attempted commission, conspiracy to commit
 32 or solicitation of two or more person felonies or felony violations of article
 33 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
 34 thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their
 35 transfer, any felony violation of any provision of the uniform controlled
 36 substances act prior to July 1, 2009, or any substantially similar offense
 37 from another jurisdiction.

38 (l) Except as provided in subsection (o), the sentence for a violation
 39 of K.S.A. 2020 Supp. 21-5807(a)(1), and amendments thereto, or any
 40 attempt or conspiracy, as defined in K.S.A. 2020 Supp. 21-5301 and 21-
 41 5302, and amendments thereto, to commit such offense, when such person
 42 being sentenced has a prior conviction for a violation of K.S.A. 21-3715(a)
 43 or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A. 2020 Supp.

1 21-5807(a)(1) or (a)(2) or 21-5807(b), and amendments thereto, or any
2 attempt or conspiracy to commit such offense, shall be presumptive
3 imprisonment.

4 (m) The sentence for a violation of K.S.A. 22-4903 ~~or K.S.A. 2020~~
5 ~~Supp. 21-5913(a)(2)(b)~~, and amendments thereto, shall be presumptive
6 imprisonment. ~~If an offense under such sections is classified in grid blocks~~
7 ~~5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison~~
8 ~~sentence as provided in subsection (q).~~

9 (n) The sentence for a violation of criminal deprivation of property, as
10 defined in K.S.A. 2020 Supp. 21-5803, and amendments thereto, when
11 such property is a motor vehicle, and when such person being sentenced
12 has any combination of two or more prior convictions of K.S.A. 21-
13 3705(b), prior to its repeal, or of criminal deprivation of property, as
14 defined in K.S.A. 2020 Supp. 21-5803, and amendments thereto, when
15 such property is a motor vehicle, shall be presumptive imprisonment. Such
16 sentence shall not be considered a departure and shall not be subject to
17 appeal.

18 (o) The sentence for a felony violation of theft of property as defined
19 in K.S.A. 2020 Supp. 21-5801, and amendments thereto, or burglary as
20 defined in K.S.A. 2020 Supp. 21-5807(a), and amendments thereto, when
21 such person being sentenced has no prior convictions for a violation of
22 K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as
23 defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, or
24 burglary as defined in K.S.A. 2020 Supp. 21-5807(a), and amendments
25 thereto; or the sentence for a felony violation of theft of property as
26 defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, when
27 such person being sentenced has one or two prior felony convictions for a
28 violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or
29 theft of property as defined in K.S.A. 2020 Supp. 21-5801, and
30 amendments thereto, or burglary or aggravated burglary as defined in
31 K.S.A. 2020 Supp. 21-5807, and amendments thereto; or the sentence for a
32 felony violation of burglary as defined in K.S.A. 2020 Supp. 21-5807(a),
33 and amendments thereto, when such person being sentenced has one prior
34 felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716,
35 prior to their repeal, or theft of property as defined in K.S.A. 2020 Supp.
36 21-5801, and amendments thereto, or burglary or aggravated burglary as
37 defined in K.S.A. 2020 Supp. 21-5807, and amendments thereto, shall be
38 the sentence as provided by this section, except that the court may order an
39 optional nonprison sentence for a defendant to participate in a drug
40 treatment program, including, but not limited to, an approved after-care
41 plan, if the court makes the following findings on the record:

42 (1) Substance abuse was an underlying factor in the commission of
43 the crime;

1 (2) substance abuse treatment in the community is likely to be more
2 effective than a prison term in reducing the risk of offender recidivism;
3 and

4 (3) participation in an intensive substance abuse treatment program
5 will serve community safety interests.

6 A defendant sentenced to an optional nonprison sentence under this
7 subsection shall be supervised by community correctional services. The
8 provisions of K.S.A. 2020 Supp. 21-6824(f)(1), and amendments thereto,
9 shall apply to a defendant sentenced under this subsection. The sentence
10 under this subsection shall not be considered a departure and shall not be
11 subject to appeal.

12 (p) The sentence for a felony violation of theft of property as defined
13 in K.S.A. 2020 Supp. 21-5801, and amendments thereto, when such
14 person being sentenced has any combination of three or more prior felony
15 convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to
16 their repeal, or theft of property as defined in K.S.A. 2020 Supp. 21-5801,
17 and amendments thereto, or burglary or aggravated burglary as defined in
18 K.S.A. 2020 Supp. 21-5807, and amendments thereto; or the sentence for a
19 violation of burglary as defined in K.S.A. 2020 Supp. 21-5807(a), and
20 amendments thereto, when such person being sentenced has any
21 combination of two or more prior convictions for violations of K.S.A. 21-
22 3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as
23 defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, or
24 burglary or aggravated burglary as defined in K.S.A. 2020 Supp. 21-5807,
25 and amendments thereto, shall be presumed imprisonment and the
26 defendant shall be sentenced to prison as provided by this section, except
27 that the court may recommend that an offender be placed in the custody of
28 the secretary of corrections, in a facility designated by the secretary to
29 participate in an intensive substance abuse treatment program, upon
30 making the following findings on the record:

31 (1) Substance abuse was an underlying factor in the commission of
32 the crime;

33 (2) substance abuse treatment with a possibility of an early release
34 from imprisonment is likely to be more effective than a prison term in
35 reducing the risk of offender recidivism; and

36 (3) participation in an intensive substance abuse treatment program
37 with the possibility of an early release from imprisonment will serve
38 community safety interests by promoting offender reformation.

39 The intensive substance abuse treatment program shall be determined
40 by the secretary of corrections, but shall be for a period of at least four
41 months. Upon the successful completion of such intensive treatment
42 program, the offender shall be returned to the court and the court may
43 modify the sentence by directing that a less severe penalty be imposed in

1 lieu of that originally adjudged within statutory limits. If the offender's
2 term of imprisonment expires, the offender shall be placed under the
3 applicable period of postrelease supervision. The sentence under this
4 subsection shall not be considered a departure and shall not be subject to
5 appeal.

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

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

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

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

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

19 (r) The sentence for a violation of K.S.A. 2020 Supp. 21-5413(c)(2),
20 and amendments thereto, shall be presumptive imprisonment and shall be
21 served consecutively to any other term or terms of imprisonment imposed.
22 Such sentence shall not be considered a departure and shall not be subject
23 to appeal.

24 (s) The sentence for a violation of K.S.A. 2020 Supp. 21-5512, and
25 amendments thereto, shall be presumptive imprisonment. Such sentence
26 shall not be considered a departure and shall not be subject to appeal.

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

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

36 (3) As used in this subsection, "ballistic resistant material" means:

37 (A) Any commercially produced material designed with the purpose
38 of providing ballistic and trauma protection, including, but not limited to,
39 bulletproof vests and kevlar vests; and

40 (B) any homemade or fabricated substance or item designed with the
41 purpose of providing ballistic and trauma protection.

42 (u) The sentence for a violation of K.S.A. 2020 Supp. 21-6107, and
43 amendments thereto, or any attempt or conspiracy, as defined in K.S.A.

1 2020 Supp. 21-5301 and 21-5302, and amendments thereto, to commit
2 such offense, when such person being sentenced has a prior conviction for
3 a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2020 Supp. 21-
4 6107, and amendments thereto, or any attempt or conspiracy to commit
5 such offense, shall be presumptive imprisonment. Such sentence shall not
6 be considered a departure and shall not be subject to appeal.

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

12 (w) The sentence for aggravated criminal damage to property as
13 defined in K.S.A. 2020 Supp. 21-5813(b), and amendments thereto, when
14 such person being sentenced has a prior conviction for any nonperson
15 felony shall be presumptive imprisonment. Such sentence shall not be
16 considered a departure and shall not be subject to appeal.

17 (x) The sentence for a violation of K.S.A. 2020 Supp. 21-5807(a)(1),
18 and amendments thereto, shall be presumptive imprisonment if the offense
19 under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such
20 sentence shall not be considered a departure and shall not be subject to
21 appeal.

22 (y) (1) Except as provided in subsection (y)(3), if the trier of fact
23 makes a finding beyond a reasonable doubt that an offender committed a
24 nondrug felony offense, or any attempt or conspiracy, as defined in K.S.A.
25 2020 Supp. 21-5301 and 21-5302, and amendments thereto, to commit a
26 nondrug felony offense, against a law enforcement officer, as defined in
27 K.S.A. 2020 Supp. 21-5111(p)(1) and (3), and amendments thereto, while
28 such officer was engaged in the performance of such officer's duty, or in
29 whole or in any part because of such officer's status as a law enforcement
30 officer, the sentence for such offense shall be:

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

33 (B) (i) if such offense is classified in severity level 1, except as
34 otherwise provided in subsection (y)(1)(B)(ii), imprisonment for life, and
35 such offender shall not be eligible for probation or suspension,
36 modification or reduction of sentence. In addition, such offender shall not
37 be eligible for parole prior to serving 25 years' imprisonment, and such 25
38 years' imprisonment shall not be reduced by the application of good time
39 credits. No other sentence shall be permitted.

40 (ii) The provisions of subsection (y)(1)(B)(i) requiring the court to
41 impose a mandatory minimum term of imprisonment of 25 years shall not
42 apply if the court finds the offender, because of the offender's criminal
43 history classification, is subject to presumptive imprisonment and the

1 sentencing range exceeds 300 months. In such case, the offender is
 2 required to serve a mandatory minimum term equal to the sentence
 3 established pursuant to the sentencing range.

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

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

9 Sec. 5. K.S.A. 2020 Supp. 22-4902 is hereby amended to read as
 10 follows: 22-4902. As used in the Kansas offender registration act, unless
 11 the context otherwise requires:

12 (a) "Offender" means:

- 13 (1) A sex offender;
- 14 (2) a violent offender;
- 15 (3) a drug offender;
- 16 (4) any person who has been required to register under out-of-state
 17 law or is otherwise required to be registered; and
- 18 (5) any person required by ~~court order~~ *an agreement entered into by*
 19 *the parties* to register for an offense not otherwise required as provided in
 20 the Kansas offender registration act.

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

- 22 (1) On or after April 14, 1994, is convicted of any sexually violent
 23 crime;
- 24 (2) ~~on or after July 1, 2002, is adjudicated as a juvenile offender for~~
 25 ~~an act which if committed by an adult would constitute the commission of~~
 26 ~~a sexually violent crime, unless the court, on the record, finds that the act~~
 27 ~~involved non-forcible sexual conduct, the victim was at least 14 years of~~
 28 ~~age and the offender was not more than four years older than the victim;~~
- 29 (3) has been determined to be a sexually violent predator;
- 30 (4)(3) on or after July 1, 1997, is convicted of any of the following
 31 crimes when one of the parties involved, *other than the offender*, is less
 32 than 18 years of age:

33 (A) ~~Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or~~
 34 ~~K.S.A. 2020 Supp. 21-5511, and amendments thereto;~~

35 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
 36 repeal, or K.S.A. 2020 Supp. 21-5504(a)(1) or (a)(2), and amendments
 37 thereto;

38 (C)(B) promoting prostitution, as defined in K.S.A. 21-3513, prior to
 39 its repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by
 40 section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1,
 41 2013;

42 (D) ~~patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its~~
 43 ~~repeal, or K.S.A. 2020 Supp. 21-6421, prior to its amendment by section~~

1 ~~18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or~~
2 ~~(E)(C) a felony violation of lewd and lascivious behavior, as defined~~
3 ~~in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2020 Supp. 21-5513(a)(2),~~
4 ~~and amendments thereto;~~
5 ~~(5)(4) is convicted of sexual battery, as defined in K.S.A. 21-3517,~~
6 ~~prior to its repeal, or K.S.A. 2020 Supp. 21-5505(a), and amendments~~
7 ~~thereto;~~
8 ~~(6)(5) is convicted of breach of privacy, as defined in K.S.A. 2020~~
9 ~~Supp. 21-6101(a)(6) or (a)(7), and amendments thereto;~~
10 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
11 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
12 K.S.A. 2020 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
13 of an offense defined in this subsection; or
14 (7) has been convicted of an offense that is comparable to any crime
15 defined in this subsection, or any out-of-state conviction for an offense that
16 under the laws of this state would be an offense defined in this subsection.
17 (c) "Sexually violent crime" means:
18 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
19 2020 Supp. 21-5503, and amendments thereto;
20 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
21 to its repeal, or K.S.A. 2020 Supp. 21-5506(a), and amendments thereto;
22 (3) aggravated indecent liberties with a child, as defined in K.S.A.
23 21-3504, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(b), and
24 amendments thereto;
25 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
26 prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(3) or (a)(4), and
27 amendments thereto;
28 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
29 to its repeal, or K.S.A. 2020 Supp. 21-5504(b), and amendments thereto;
30 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
31 prior to its repeal, or K.S.A. 2020 Supp. 21-5508(a), and amendments
32 thereto;
33 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
34 21-3511, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(b), and
35 amendments thereto;
36 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
37 to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto;
38 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
39 its repeal, or K.S.A. 2020 Supp. 21-5505(b), and amendments thereto;
40 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
41 repeal, or K.S.A. 2020 Supp. 21-5604(b), and amendments thereto;
42 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
43 repeal, and K.S.A. 2020 Supp. 21-5509, and amendments thereto;

- 1 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
2 its repeal, or K.S.A. 2020 Supp. 21-5512, and amendments thereto;
- 3 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
4 prior to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments
5 thereto, if committed in whole or in part for the purpose of the sexual
6 gratification of the defendant or another;
- 7 (14) commercial sexual exploitation of a child, as defined in K.S.A.
8 2020 Supp. 21-6422, and amendments thereto;
- 9 (15) promoting the sale of sexual relations, as defined in K.S.A. 2020
10 Supp. 21-6420, and amendments thereto;
- 11 (16) *internet trading in child pornography, as defined in K.S.A. 2020*
12 *Supp. 21-5514, and amendments thereto;*
- 13 (17) any conviction ~~or adjudication~~ for an offense that is comparable
14 to a sexually violent crime as defined in this subsection, or any out-of-state
15 conviction ~~or adjudication~~ for an offense that under the laws of this state
16 would be a sexually violent crime as defined in this subsection;
- 17 ~~(17)~~(18) *any out-of-state juvenile adjudication for an offense that*
18 *requires registration under the laws of that state;*
- 19 (19) an attempt, conspiracy or criminal solicitation, as defined in
20 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020
21 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
22 violent crime, as defined in this subsection; or
- 23 ~~(18)~~(20) any act which has been determined beyond a reasonable
24 doubt to have been sexually motivated, unless the court, on the record,
25 finds that the act involved non-forcible sexual conduct, the victim was *a*
26 *child* at least 14 years of age and the offender was not more than four years
27 older than the victim. As used in this paragraph, "sexually motivated"
28 means that one of the purposes for which the defendant committed the
29 crime was for the purpose of the defendant's sexual gratification.
- 30 (d) "Sexually violent predator" means any person who, on or after
31 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
32 59-29a01 et seq., and amendments thereto.
- 33 (e) "Violent offender" includes any person who:
- 34 (1) On or after July 1, 1997, is convicted of any of the following
35 crimes:
- 36 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
37 or K.S.A. 2020 Supp. 21-5401, and amendments thereto;
- 38 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
39 its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;
- 40 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
41 to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;
- 42 ~~(D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its~~
43 ~~repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;~~

1 ~~(E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to~~
2 ~~its repeal, or K.S.A. 2020 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and~~
3 ~~amendments thereto. The provisions of this paragraph shall not apply to~~
4 ~~violations of K.S.A. 2020 Supp. 21-5405(a)(3), and amendments thereto,~~
5 ~~which occurred on or after July 1, 2011, through July 1, 2013;~~

6 ~~(F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or~~
7 ~~K.S.A. 2020 Supp. 21-5408(a), and amendments thereto, when the victim~~
8 ~~is less than 18 years of age;~~

9 ~~(G)(E) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to~~
10 ~~its repeal, or K.S.A. 2020 Supp. 21-5408(b), and amendments thereto,~~
11 ~~when the victim is less than 18 years of age;~~

12 ~~(H) criminal restraint, as defined in K.S.A. 21-3424, prior to its~~
13 ~~repeal, or K.S.A. 2020 Supp. 21-5411, and amendments thereto, except by~~
14 ~~a parent, and only when the victim is less than 18 years of age; or~~

15 ~~(I)(F) aggravated human trafficking, as defined in K.S.A. 21-3447,~~
16 ~~prior to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments~~
17 ~~thereto, if not committed in whole or in part for the purpose of the sexual~~
18 ~~gratification of the defendant or another;~~

19 (2) on or after July 1, 2006, is convicted of any person felony and the
20 court makes a finding on the record, *in open court and with particularity*
21 that a deadly weapon was used in the commission of such person felony;

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

26 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
27 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
28 K.S.A. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments
29 thereto, of an offense defined in this subsection.

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

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

32 (A) Unlawful manufacture or attempting such of any controlled
33 substance or controlled substance analog, as defined in K.S.A. 65-4159,
34 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
35 K.S.A. 2020 Supp. 21-5703, and amendments thereto;

36 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
37 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
38 ammonia or phenylpropanolamine, or their salts, isomers or salts of
39 isomers with intent to use the product to manufacture a controlled
40 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
41 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2020 Supp. 21-5709(a),
42 and amendments thereto;

43 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-

1 36a05(a)(1), prior to its transfer, or K.S.A. 2020 Supp. 21-5705(a)(1), and
2 amendments thereto. The provisions of this paragraph shall not apply to
3 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)
4 which occurred on or after July 1, 2009, through April 15, 2010;

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

9 (3) is or has been convicted of an attempt, conspiracy or criminal
10 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
11 their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 and 21-5303, and
12 amendments thereto, of an offense defined in this subsection.

13 (g) ~~Convictions or adjudications which~~ *that* result from or are
14 connected with the same act, or result from crimes committed at the same
15 time, shall be counted for the purpose of this section as one conviction ~~or~~
16 ~~adjudication~~. Any conviction ~~or adjudication~~ set aside pursuant to law is
17 not a conviction ~~or adjudication~~ for purposes of this section. A conviction
18 ~~or adjudication~~ from any out-of-state court shall constitute a conviction ~~or~~
19 ~~adjudication~~ for purposes of this section.

20 (h) "School" means any public or private educational institution,
21 including, but not limited to, postsecondary school, college, university,
22 community college, secondary school, high school, junior high school,
23 middle school, elementary school, trade school, vocational school or
24 professional school providing training or education to an offender for three
25 or more consecutive days or parts of days, or for 10 or more
26 nonconsecutive days in a period of 30 consecutive days.

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

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

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

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

43 (m) "Law enforcement agency having initial jurisdiction" means the

1 registering law enforcement agency of the county or location of
2 jurisdiction where the offender expects to most often reside upon the
3 offender's discharge, parole or release.

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

6 (o) "Registering entity" means any person, agency or other
7 governmental unit, correctional facility or registering law enforcement
8 agency responsible for obtaining the required information from, and
9 explaining the required registration procedures to, any person required to
10 register pursuant to the Kansas offender registration act. "Registering
11 entity" shall include, but not be limited to, sheriff's offices, tribal police
12 departments and correctional facilities.

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

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

19 (r) "Out-of-state" means: The District of Columbia; any federal,
20 military or tribal jurisdiction, including those within this state; any foreign
21 jurisdiction; or any state or territory within the United States, other than
22 this state.

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

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

27 (A) Convicted of unlawful transmission of a visual depiction of a
28 child, as defined in K.S.A. 2020 Supp. 21-5611(a), and amendments
29 thereto, aggravated unlawful transmission of a visual depiction of a child,
30 as defined in K.S.A. 2020 Supp. 21-5611(b), and amendments thereto, or
31 unlawful possession of a visual depiction of a child, as defined in K.S.A.
32 2020 Supp. 21-5610, and amendments thereto; ~~or~~

33 (B) *convicted of a crime in municipal court; or*

34 (C) *adjudicated as a juvenile offender under the revised Kansas*
35 *juvenile justice code for an act which, if committed by an adult, would*
36 *constitute the commission of a crime defined in subsection (t)(1)(A).*

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

40 Sec. 6. K.S.A. 2020 Supp. 22-4903 is hereby amended to read as
41 follows: 22-4903. (a) Violation of the Kansas offender registration act is
42 the failure by an offender, as defined in K.S.A. 22-4902, and amendments
43 thereto, to comply with any and all provisions of such act, including any

1 and all duties set forth in K.S.A. 22-4905 through 22-4907, and
2 amendments thereto. Any violation of the Kansas offender registration act
3 ~~which that~~ continues for more than ~~30~~ 90 consecutive days shall, upon the
4 ~~31st~~ 91st consecutive day, constitute a new and separate offense; and shall
5 continue to constitute a new and separate offense every 30 days thereafter
6 for as long as the violation continues.

7 (b) Aggravated violation of the Kansas offender registration act is
8 violation of the Kansas offender registration act ~~which continues for more~~
9 ~~than 180 consecutive days. Any aggravated violation of the Kansas~~
10 ~~offender registration act which continues for more than 180 consecutive~~
11 ~~days shall, upon the 181st consecutive day, constitute a new and separate~~
12 ~~offense, and shall continue to constitute a new and separate violation of the~~
13 ~~Kansas offender registration act every 30 days thereafter, or a new and~~
14 ~~separate aggravated violation of the Kansas offender registration act every~~
15 ~~180 days thereafter, for as long as the violation continues that:~~

16 (1) *Continues for one year or more; or*
17 (2) *is committed by a person with two or more prior convictions of*
18 *violations of this section.*

19 (c) (1) Except as provided in ~~subsection~~ *subsections (c)(3) and (c)(4)*,
20 violation of the Kansas offender registration act is:

21 (A) Upon a first conviction, a ~~severity level 6 felony class B~~
22 *nonperson misdemeanor; and*

23 (B) upon a second conviction, a ~~severity level 5 felony; and class A~~
24 *nonperson misdemeanor*

25 (C) ~~upon a third or subsequent conviction, a severity level 3 felony.~~

26 ~~Such violation shall be designated as a person or nonperson crime in~~
27 ~~accordance with the designation assigned to the underlying crime for~~
28 ~~which the offender is required to be registered under the Kansas offender~~
29 ~~registration act. If the offender is required to be registered under both a~~
30 ~~person and nonperson underlying crime, the violation shall be designated~~
31 ~~as a person crime.~~

32 (2) Except as provided in ~~subsection~~ *subsections (c)(3) and (c)(4)*,
33 aggravated violation of the Kansas offender registration act is a severity
34 level ~~3~~ 8, *nonperson* felony.

35 ~~Such violation shall be designated as a person or nonperson crime in~~
36 ~~accordance with the designation assigned to the underlying crime for~~
37 ~~which the offender is required to be registered under the Kansas offender~~
38 ~~registration act. If the offender is required to be registered under both a~~
39 ~~person and nonperson underlying crime, the violation shall be designated~~
40 ~~as a person crime.~~

41 (3) Violation of the Kansas offender registration act or aggravated
42 violation of the Kansas offender registration act consisting only of failing
43 to remit payment to the sheriff's office as required in K.S.A. 22-4905(4),

1 and amendments thereto, is:

2 ~~(A) Except as provided in subsection (e)(3)(B), a class A C~~
3 ~~nonperson misdemeanor if, within 15 days of registration, full payment is~~
4 ~~not remitted to the sheriff's office;~~

5 ~~(B) a severity level 9 felony if, within 15 days of the most recent~~
6 ~~registration, two or more full payments have not been remitted to the~~
7 ~~sheriff's office.~~

8 ~~Such violation shall be designated as a person or nonperson crime in~~
9 ~~accordance with the designation assigned to the underlying crime for~~
10 ~~which the offender is required to be registered under the Kansas offender~~
11 ~~registration act. If the offender is required to be registered under both a~~
12 ~~person and nonperson underlying crime, the violation shall be designated~~
13 ~~as a person crime.~~

14 *(4) Aggravated violation of the Kansas offender registration act is a*
15 *class A nonperson misdemeanor when the underlying crime for which the*
16 *offender is required to be registered under the Kansas offender*
17 *registration act is a misdemeanor.*

18 (d) Prosecution of violations of this section may be held:

19 (1) In any county in which the offender resides;

20 (2) in any county in which the offender is required to be registered
21 under the Kansas offender registration act;

22 (3) in any county in which the offender is located during which time
23 the offender is not in compliance with the Kansas offender registration act;
24 or

25 (4) in the county in which any conviction ~~or adjudication~~ occurred for
26 which the offender is required to be registered under the Kansas offender
27 registration act.

28 Sec. 7. K.S.A. 2020 Supp. 22-4904 is hereby amended to read as
29 follows: 22-4904. (a) (1) At the time of conviction ~~or adjudication~~ for an
30 offense requiring registration as provided in K.S.A. 22-4902, and
31 amendments thereto, the court shall:

32 (A) Inform any offender, on the record, of the procedure to register
33 and the requirements of K.S.A. 22-4905, and amendments thereto; and

34 (B) if the offender is released:

35 (i) Complete a notice of duty to register, ~~which~~ *and such notice* shall
36 include title and statute number of conviction ~~or adjudication~~, date of
37 conviction ~~or adjudication~~, case number, county of conviction ~~or~~
38 ~~adjudication~~, and the following offender information: Name, address, date
39 of birth, social security number, race, ethnicity and gender;

40 (ii) require the offender to read and sign the notice of duty to register,
41 which shall include a statement that the requirements provided in this
42 subsection have been explained to the offender;

43 (iii) order the offender to report within three business days to the

1 registering law enforcement agency in the county or tribal land of
2 conviction ~~or adjudication~~ and to the registering law enforcement agency
3 in any place where the offender resides, ~~maintains employment or attends~~
4 ~~school~~, to complete the registration form with all information and any
5 updated information required for registration as provided in K.S.A. 22-
6 4907, and amendments thereto; and

7 (iv) provide one copy of the notice of duty to register to the offender
8 and, within three business days, send a copy of the form to the law
9 enforcement agency having initial jurisdiction and to the Kansas bureau of
10 investigation.

11 (2) At the time of sentencing or disposition for an offense requiring
12 registration as provided in K.S.A. 22-4902, and amendments thereto, the
13 court shall ensure the age of the victim is documented in the journal entry
14 of conviction ~~or adjudication~~.

15 (3) Upon commitment for control, care and treatment by the Kansas
16 department for aging and disability services pursuant to K.S.A. 59-29a07,
17 and amendments thereto, the court shall notify the registering law
18 enforcement agency of the county where the offender resides during
19 commitment of such offender's commitment. Such notice shall be prepared
20 by the office of the attorney general for transmittal by the court by
21 electronic means, including by fax or e-mail.

22 (b) The staff of any correctional facility or the registering law
23 enforcement agency's designee shall:

24 (1) At the time of initial custody, register any offender within three
25 business days:

26 (A) Inform the offender of the procedure for registration and of the
27 offender's registration requirements as provided in K.S.A. 22-4905, and
28 amendments thereto;

29 (B) complete the registration form with all information and updated
30 information required for registration as provided in K.S.A. 22-4907, and
31 amendments thereto;

32 (C) require the offender to read and sign the registration form, which
33 shall include a statement that the requirements provided in this subsection
34 have been explained to the offender;

35 (D) provide one copy of the form to the offender and, within three
36 business days, send a copy of the form to the Kansas bureau of
37 investigation; and

38 (E) enter all offender information required by the national crime
39 information center into the national sex offender registry system within
40 three business days of completing the registration or electronically submit
41 all information and updated information required for registration as
42 provided in K.S.A. 22-4907, and amendments thereto, within three
43 business days to the Kansas bureau of investigation;

- 1 (2) notify the Kansas bureau of investigation of the incarceration of
2 any offender and of the location or any change in location of the offender
3 while in custody;
- 4 (3) prior to any offender being discharged, paroled, furloughed or
5 released on work or school release that does not require the daily return to
6 a correctional facility:
- 7 (A) Inform the offender of the procedure for registration and of the
8 offender's registration requirements as provided in K.S.A. 22-4905, and
9 amendments thereto;
- 10 (B) complete the registration form with all information and updated
11 information required for registration as provided in K.S.A. 22-4907, and
12 amendments thereto;
- 13 (C) require the offender to read and sign the registration form, which
14 shall include a statement that the requirements provided in this subsection
15 have been explained to the offender;
- 16 (D) photograph the offender's face and any identifying marks;
- 17 (E) obtain fingerprint and palm prints of the offender; and
- 18 (F) provide one copy of the form to the offender and, within three
19 business days, send a copy of the form and of the photograph or
20 photographs to the law enforcement agency having initial jurisdiction and
21 to the Kansas bureau of investigation; and
- 22 (4) notify the law enforcement agency having initial jurisdiction and
23 the Kansas bureau of investigation seven business days prior to any
24 offender being discharged, paroled, furloughed or released on work or
25 school release.
- 26 (c) The staff of any treatment facility shall:
- 27 (1) Within three business days of an offender's arrival for inpatient
28 treatment, inform the registering law enforcement agency of the county or
29 location of jurisdiction in which the treatment facility is located of the
30 offender's presence at the treatment facility and the expected duration of
31 the treatment, and immediately notify the registering law enforcement
32 agency of an unauthorized or unexpected absence of the offender during
33 the offender's treatment;
- 34 (2) inform the registering law enforcement agency of the county or
35 location of jurisdiction in which the treatment facility is located within
36 three business days of an offender's discharge or release; and
- 37 (3) provide information upon request to any registering law
38 enforcement agency having jurisdiction relevant to determining the
39 presence of an offender within the treatment facility.
- 40 (d) The registering law enforcement agency, upon the reporting of
41 any offender, shall:
- 42 (1) Inform the offender of the duty to register as provided by the
43 Kansas offender registration act;

- 1 (2) (A) explain the procedure for registration and the offender's
2 registration requirements as provided in K.S.A. 22-4905, and amendments
3 thereto;
- 4 (B) obtain the information required for registration as provided in
5 K.S.A. 22-4907, and amendments thereto; and
- 6 (C) require the offender to read and sign the registration form, which
7 shall include a statement that the requirements provided in this subsection
8 have been explained to the offender;
- 9 (3) complete the registration form with all information and updated
10 information required for registration, as provided in K.S.A. 22-4907, and
11 amendments thereto, each time the offender reports to the registering law
12 enforcement agency. All information and updated information reported by
13 an offender shall be forwarded to the Kansas bureau of investigation
14 within three business days;
- 15 (4) maintain the original signed registration form, provide one copy
16 of the completed registration form to the offender and, within three
17 business days, send one copy of the completed form to the Kansas bureau
18 of investigation;
- 19 (5) forward a copy of any certified letter used for reporting pursuant
20 to K.S.A. 22-4905, and amendments thereto, when utilized, within three
21 business days to the Kansas bureau of investigation;
- 22 (6) obtain registration information from every offender required to
23 register regardless of whether or not the offender remits payment;
- 24 (7) upon every required reporting, update the photograph or
25 photographs of the offender's face and any new identifying marks and
26 immediately forward copies or electronic files of the photographs to the
27 Kansas bureau of investigation;
- 28 (8) enter all offender information required by the national crime
29 information center into the national sex offender registry system within
30 three business days of completing the registration or electronically submit
31 all information and updated information required for registration as
32 provided in K.S.A. 22-4907, and amendments thereto, within three
33 business days to the Kansas bureau of investigation;
- 34 (9) maintain a special fund for the deposit and maintenance of fees
35 paid by offenders. All funds retained by the registering law enforcement
36 agency pursuant to the provisions of this section shall be credited to a
37 special fund of the registering law enforcement agency ~~which~~ *that* shall be
38 used solely for law enforcement and criminal prosecution purposes and
39 ~~which~~ *that* shall not be used as a source of revenue to reduce the amount of
40 funding otherwise made available to the registering law enforcement
41 agency; and
- 42 (10) forward any initial registration and updated registration
43 information within three business days to any out-of-state jurisdiction

1 where the offender is expected to reside, maintain employment or attend
2 school.

3 (e) (1) The Kansas bureau of investigation shall:

4 (A) Forward all additions or changes in information to any registering
5 law enforcement agency, other than the agency that submitted the form,
6 where the offender expects to reside, maintain employment or attend
7 school;

8 (B) ensure that offender information is immediately entered in the
9 state registered offender database and the Kansas registered offender
10 website, as provided in K.S.A. 22-4909, and amendments thereto;

11 (C) transmit offender conviction or adjudication data, fingerprints and
12 palm prints to the federal bureau of investigation; and

13 (D) ensure all offender information required by the national crime
14 information center is transmitted into the national sex offender registry
15 system within three business days of such information being electronically
16 submitted to the Kansas bureau of investigation.

17 (2) The director of the Kansas bureau of investigation may adopt
18 rules and regulations necessary to implement the provisions of the Kansas
19 offender registration act.

20 (f) The attorney general shall, within 10 business days of an offender
21 being declared a sexually violent predator, forward to the Kansas bureau of
22 investigation all relevant court documentation declaring an offender a
23 sexually violent predator.

24 (g) The state department of education shall annually notify any school
25 of the Kansas bureau of investigation internet website, and any internet
26 website containing information on the Kansas offender registration act
27 sponsored or created by the registering law enforcement agency of the
28 county or location of jurisdiction in which the school is located, for the
29 purpose of locating offenders who reside near such school. Such
30 notification shall include information that the registering law enforcement
31 agency of the county or location of jurisdiction where such school is
32 located is available to the school to assist in using the registry and
33 providing additional information on registered offenders.

34 (h) The secretary of health and environment shall annually notify any
35 licensed child care facility of the Kansas bureau of investigation internet
36 website, and any internet website containing information on the Kansas
37 offender registration sponsored or created by the registering law
38 enforcement agency of the county in which the facility is located, for the
39 purpose of locating offenders who reside near such facility. Such
40 notification shall include information that the registering law enforcement
41 agency of the county or location of jurisdiction where such child care
42 facility is located is available to the child care facilities to assist in using
43 the registry and providing additional information on registered offenders.

1 (i) Upon request, the clerk of any court of record shall provide the
2 Kansas bureau of investigation copies of complaints, indictments,
3 information, journal entries, commitment orders or any other documents
4 necessary to the performance of the duties of the Kansas bureau of
5 investigation under the Kansas offender registration act. No fees or
6 charges for providing such documents may be assessed.

7 Sec. 8. K.S.A. 2020 Supp. 22-4905 is hereby amended to read as
8 follows: 22-4905. Any offender required to register as provided in the
9 Kansas offender registration act shall:

10 (a) Except as otherwise provided in this subsection, register in person
11 with the registering law enforcement agency within three business days of
12 coming into any county or location of jurisdiction in which the offender
13 resides or intends to reside, ~~maintains employment or intends to maintain~~
14 ~~employment, or attends school or intends to attend school.~~ Any such
15 offender who cannot physically register in person with the registering law
16 enforcement agency for such reasons including, but not limited to,
17 incapacitation or hospitalization, as determined by a person licensed to
18 practice medicine or surgery, or involuntarily committed pursuant to the
19 Kansas sexually violent predator act, shall be subject to verification
20 requirements other than in-person registration, as determined by the
21 registering law enforcement agency having jurisdiction;

22 (b) except as provided further, for any: (1) Sex offender, including a
23 violent offender or drug offender who is also a sex offender, report in
24 person four times each year to the registering law enforcement agency in
25 the county or location of jurisdiction in which the offender resides, ~~maintains employment or is attending a school;~~ and (2) violent offender or
26 drug offender, report in person four times each year to the registering law
27 enforcement agency in the county or location of jurisdiction in which the
28 offender resides, ~~maintains employment or is attending a school,~~ except
29 that, at the discretion of the registering law enforcement agency, one of the
30 four required reports may be conducted by certified letter. When utilized,
31 the certified letter for reporting shall be sent by the registering law
32 enforcement agency to the reported residence of the offender. The offender
33 shall indicate any changes in information as required for reporting in
34 person. The offender shall respond by returning the certified letter to the
35 registering law enforcement agency within 10 business days by certified
36 mail. The offender shall be required to report to the registering law
37 enforcement agency once during the month of the offender's birthday and
38 every third, sixth and ninth month occurring before and after the month of
39 the offender's birthday. The registering law enforcement agency may
40 determine the appropriate times and days for reporting by the offender,
41 consistent with this subsection. Nothing contained in this subsection shall
42 be construed to alleviate any offender from meeting the requirements
43

- 1 prescribed in the Kansas offender registration act;
- 2 (c) provide the information required for registration as provided in
3 K.S.A. 22-4907, and amendments thereto, and verify all information
4 previously provided is accurate;
- 5 (d) if in the custody of a correctional facility, register with the
6 correctional facility within three business days of initial custody and shall
7 not be required to update such registration until discharged, paroled,
8 furloughed or released on work or school release from a correctional
9 facility. A copy of the registration form and any updated registrations for
10 an offender released on work or school release shall be sent, within three
11 business days, to the registering law enforcement agency where the
12 offender is incarcerated, maintains employment or attends school, and to
13 the Kansas bureau of investigation;
- 14 (e) if involuntarily committed pursuant to the Kansas sexually violent
15 predator act, register within three business days of arrival in the county
16 where the offender resides during commitment. The offender shall not be
17 required to update such registration until placed in a reintegration facility,
18 on transitional release or on conditional release. Upon placement in a
19 reintegration facility, on transitional release or on conditional release, the
20 offender shall be personally responsible for complying with the provisions
21 of the Kansas offender registration act;
- 22 (f) notwithstanding subsections (a) and (b), if the offender is
23 transient, report in person to the registering law enforcement agency of
24 such county or location of jurisdiction in which the offender is physically
25 present within three business days of arrival in the county or location of
26 jurisdiction. Such offender shall be required to register in person with the
27 registering law enforcement agency every 30 days, or more often at the
28 discretion of the registering law enforcement agency. Such offender shall
29 comply with the provisions of the Kansas offender registration act and, in
30 addition, shall:
- 31 (1) Provide a list of places where the offender has slept and otherwise
32 frequented during the period of time since the last date of registration; and
- 33 (2) provide a list of places where the offender may be contacted and
34 where the offender intends to sleep and otherwise frequent during the
35 period of time prior to the next required date of registration;
- 36 (g) if required by out-of-state law, register in any out-of-state
37 jurisdiction, where the offender resides, maintains employment or attends
38 school;
- 39 (h) register in person upon any commencement, change or
40 termination of residence location, employment status, school attendance or
41 other information as provided in K.S.A. 22-4907, and amendments thereto,
42 within three business days of such commencement, change or termination,
43 to the registering law enforcement agency or agencies where last

1 registered and provide written notice to the Kansas bureau of
2 investigation;

3 (i) report in person to the registering law enforcement agency or
4 agencies within three business days of any change in name;

5 (j) if receiving inpatient treatment at any treatment facility, inform the
6 treatment facility of the offender's status as an offender and inform the
7 registering law enforcement agency of the county or location of
8 jurisdiction in which the treatment facility is located of the offender's
9 presence at the treatment facility and the expected duration of the
10 treatment;

11 (k) submit to the taking of an updated photograph by the registering
12 law enforcement agency on each occasion when the offender registers with
13 or reports to the registering law enforcement agency in the county or
14 location of jurisdiction in which the offender resides, ~~maintains~~
15 ~~employment or attends school~~. In addition, such offender shall submit to
16 the taking of a photograph to document any changes in identifying
17 characteristics, including, but not limited to, scars, marks and tattoos;

18 (l) remit payment to the sheriff's office in the amount of \$20 as part of
19 the reporting process required pursuant to subsection (b) in each county in
20 which the offender resides, ~~maintains employment or is attending school~~.
21 Registration will be completed regardless of whether or not the offender
22 remits payment. Failure of the offender to remit full payment within 15
23 days of registration is a violation of the Kansas offender registration act
24 and is subject to prosecution pursuant to K.S.A. 22-4903, and amendments
25 thereto. Notwithstanding other provisions ~~herein~~ of this section, payment
26 of this fee is not required:

27 (1) *When the offender is under 18 years of age;*

28 (2) when an offender provides updates or changes in information or
29 during an initial registration unless such updates, changes or initial
30 registration is during the month of such offender's birthday and every
31 third, sixth and ninth month occurring before and after the month of the
32 offender's birthday;

33 ~~(2)~~(3) when an offender is transient and is required to register every
34 30 days, or more frequently as ordered by the registering law enforcement
35 agency, except during the month of the offender's birthday and every third,
36 sixth and ninth month occurring before and after the month of the
37 offender's birthday; ~~or~~

38 ~~(3)~~(4) if an offender has, prior to the required reporting and within the
39 last three years, been determined to be indigent by a court of law *in the*
40 *criminal case for which the offender is required to register*, and the basis
41 for that finding is recorded by the court; *or*

42 (5) *if the court has determined that requiring payment of the fee*
43 *would impose manifest hardship on the offender or the offender's*

1 *immediate family pursuant to section 1, and amendments thereto.*

2 (m) annually renew any driver's license pursuant to K.S.A. 8-247, and
3 amendments thereto, and annually renew any identification card pursuant
4 to K.S.A. 2020 Supp. 8-1325a, and amendments thereto;

5 (n) if maintaining primary residence in this state, surrender all driver's
6 licenses and identification cards from other states, territories and the
7 District of Columbia, except if the offender is presently serving and
8 maintaining active duty in any branch of the United States military or the
9 offender is an immediate family member of a person presently serving and
10 maintaining active duty in any branch of the United States military;

11 (o) read and sign the registration form noting whether the
12 requirements provided in this section have been explained to the offender;
13 and

14 (p) report in person to the registering law enforcement agency in the
15 jurisdiction of the offender's residence and provide written notice to the
16 Kansas bureau of investigation 21 days prior to any travel outside of the
17 United States, and provide an itinerary including, but not limited to,
18 destination, means of transport and duration of travel, or if under
19 emergency circumstances, within three business days of making travel
20 arrangements.

21 Sec. 9. K.S.A. 2020 Supp. 22-4906 is hereby amended to read as
22 follows: 22-4906. (a) (1) Except as provided in subsection ~~(e)~~ (d), if
23 convicted of any of the following offenses, an offender's duration of
24 registration shall be, if confined, 15 years after the date of parole,
25 discharge or release, whichever date is most recent, or, if not confined, 15
26 years from the date of conviction:

27 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
28 or K.S.A. 2020 Supp. 21-5505(a), and amendments thereto;

29 ~~(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or~~
30 ~~K.S.A. 2020 Supp. 21-5511, and amendments thereto, when one of the~~
31 ~~parties involved is less than 18 years of age;~~

32 ~~(C)~~ promoting the sale of sexual relations, as defined in K.S.A. 2020
33 Supp. 21-6420, and amendments thereto;

34 ~~(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its~~
35 ~~repeal, or K.S.A. 2020 Supp. 21-6421, prior to its amendment by section~~
36 ~~18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013,~~
37 ~~when one of the parties involved is less than 18 years of age;~~

38 ~~(E)~~(C) a felony violation of lewd and lascivious behavior, as defined
39 in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2020 Supp. 21-5513(a)(2),
40 and amendments thereto, ~~when one of the parties involved is less than 18~~
41 ~~years of age;~~

42 ~~(F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,~~
43 ~~or K.S.A. 2020 Supp. 21-5401, and amendments thereto;~~

- 1 ~~(G) murder in the first degree, as defined in K.S.A. 21-3401, prior to~~
2 ~~its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;~~
- 3 ~~(H)(D) murder in the second degree, as defined in K.S.A. 21-3402,~~
4 ~~prior to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments~~
5 ~~thereto;~~
- 6 ~~(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its~~
7 ~~repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;~~
- 8 ~~(J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to~~
9 ~~its repeal, or K.S.A. 2020 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and~~
10 ~~amendments thereto;~~
- 11 ~~(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its~~
12 ~~repeal, or K.S.A. 2020 Supp. 21-5411, and amendments thereto, except by~~
13 ~~a parent, and only when the victim is less than 18 years of age;~~
- 14 ~~(E) breach of privacy, as defined in K.S.A. 2020 Supp. 21-6101(a)(6)~~
15 ~~or (a)(7), and amendments thereto;~~
- 16 ~~(F) kidnapping, as defined in K.S.A. 2020 Supp. 21-5408(a), and~~
17 ~~amendments thereto, when the victim is less than 18 years of age;~~
- 18 ~~(L)(G) any act which that has been determined beyond a reasonable~~
19 ~~doubt to have been sexually motivated, unless the court, on the record,~~
20 ~~finds that the act involved non-forcible sexual conduct, the victim was a~~
21 ~~child at least 14 years of age and the offender was not more than four years~~
22 ~~older than the victim;~~
- 23 ~~(M) conviction of any person required by court order to register for~~
24 ~~an offense not otherwise required as provided in the Kansas offender~~
25 ~~registration act;~~
- 26 ~~(N) conviction of any person felony and the court makes a finding on~~
27 ~~the record that a deadly weapon was used in the commission of such~~
28 ~~person felony;~~
- 29 ~~(O)(H) unlawful manufacture or attempting such of any controlled~~
30 ~~substance or controlled substance analog, as defined in K.S.A. 65-4159,~~
31 ~~prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or~~
32 ~~K.S.A. 2020 Supp. 21-5703, and amendments thereto; or~~
- 33 ~~(P) possession of ephedrine, pseudoephedrine, red phosphorus,~~
34 ~~lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized~~
35 ~~ammonia or phenylpropanolamine, or their salts, isomers or salts of~~
36 ~~isomers with intent to use the product to manufacture a controlled~~
37 ~~substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.~~
38 ~~2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2020 Supp. 21-~~
39 ~~5709(a), and amendments thereto;~~
- 40 ~~(Q) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-~~
41 ~~36a05(a)(1), prior to its transfer, or K.S.A. 2020 Supp. 21-5705(a)(1), and~~
42 ~~amendments thereto; or~~
- 43 ~~(R)(I) any attempt, conspiracy or criminal solicitation, as defined in~~

1 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020
2 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
3 offense defined in this subsection.

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

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

16 (A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
17 repeal, or K.S.A. 2020 Supp. 21-5504~~(a)(1)~~ or (a)(2), and amendments
18 thereto, when one of the parties involved *other than the offender* is less
19 than 18 years of age;

20 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
21 prior to its repeal, or K.S.A. 2020 Supp. 21-5508(a), and amendments
22 thereto;

23 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
24 repeal, or K.S.A. 2020 Supp. 21-5509, and amendments thereto;

25 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
26 repeal, or K.S.A. 2020 Supp. 21-5604(b), and amendments thereto;

27 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
28 to its repeal, or K.S.A. 2020 Supp. 21-5506(a), and amendments thereto;

29 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
30 its repeal, or K.S.A. 2020 Supp. 21-5512, and amendments thereto;

31 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
32 to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto, if
33 the victim is 14 or more years of age but less than 18 years of age;

34 (H) *internet trading in child pornography, as defined in K.S.A. 2020*
35 *Supp. 21-5514, and amendments thereto, if the victim is 14 or more years*
36 *of age but less than 18 years of age;*

37 (I) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
38 its repeal, or K.S.A. 2020 Supp. 21-5505(b), and amendments thereto;

39 ~~(H)~~(J) promoting prostitution, as defined in K.S.A. 21-3513, prior to
40 its repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by
41 section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1,
42 2013, if the person selling sexual relations is 14 or more years of age but
43 less than 18 years of age; or

1 ~~(J)~~(K) any attempt, conspiracy or criminal solicitation, as defined in
2 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020
3 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
4 offense defined in this subsection.

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

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

17 (A) *Possession of ephedrine, pseudoephedrine, red phosphorus,*
18 *lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized*
19 *ammonia or phenylpropanolamine, or their salts, isomers or salts of*
20 *isomers with intent to use the product to manufacture a controlled*
21 *substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.*
22 *2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2020 Supp. 21-*
23 *5709(a), and amendments thereto;*

24 (B) *K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-*
25 *36a05(a)(1), prior to its transfer, or K.S.A. 2020 Supp. 21-5705(a)(1), and*
26 *amendments thereto;*

27 (C) *any person felony when the court makes a finding on the record,*
28 *in open court and with particularity that a deadly weapon was used in the*
29 *commission of such person felony;*

30 (D) *any attempt, conspiracy or criminal solicitation, as defined in*
31 *K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020*
32 *Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an*
33 *offense defined in this subsection.*

34 (2) Except as otherwise provided by the Kansas offender registration
35 act, the duration of registration terminates, if not confined, at the
36 expiration of five years from the date of conviction. Any period of time
37 during which any offender is incarcerated in any jail or correctional
38 facility or during which the offender does not comply with any and all
39 requirements of the Kansas offender registration act shall not count
40 toward the duration of registration.

41 (d) (1) Upon a second or subsequent conviction of an offense
42 requiring registration as a sex offender or a violent offender, an offender's
43 duration of registration shall be for such offender's lifetime.

1 (2) *Upon a second or subsequent conviction of an offense requiring*
2 *registration that does not result in lifetime registration pursuant to*
3 *paragraph (1), registration terms shall not aggregate.*

4 ~~(f)~~(f) The duration of registration for any offender who has been
5 convicted of any of the following offenses shall be for such offender's
6 lifetime:

7 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
8 2020 Supp. 21-5503, and amendments thereto;

9 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
10 21-3511, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(b), and
11 amendments thereto;

12 (3) aggravated indecent liberties with a child, as defined in K.S.A.
13 21-3504, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(b), and
14 amendments thereto;

15 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
16 prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(3) or (a)(4), and
17 amendments thereto;

18 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
19 to its repeal, or K.S.A. 2020 Supp. 21-5504(b), and amendments thereto;

20 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
21 to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments thereto;

22 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
23 to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto, if
24 the victim is less than 14 years of age;

25 (8) *internet trading in child pornography, as defined in K.S.A. 2020*
26 *Supp. 21-5514, and amendments thereto, if the victim is less than 14 years*
27 *of age;*

28 (9) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
29 repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by section
30 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
31 the person selling sexual relations is less than 14 years of age;

32 ~~(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or~~
33 ~~K.S.A. 2020 Supp. 21-5408(a), and amendments thereto;~~

34 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
35 repeal, or K.S.A. 2020 Supp. 21-5408(b), and amendments thereto, *when*
36 *the victim is less than 18 years of age;*

37 (11) commercial sexual exploitation of a child, as defined in K.S.A.
38 2020 Supp. 21-6422, and amendments thereto;

39 (12) *capital murder, as defined in K.S.A. 2020 Supp. 21-3439, prior*
40 *to its repeal, or K.S.A. 2020 Supp. 21-5401, and amendments thereto;*

41 (13) *murder in the first degree, as defined in K.S.A. 21-3401, prior to*
42 *its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto; or*

43 ~~(12)~~(14) any attempt, conspiracy or criminal solicitation, as defined

1 in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A.
2 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
3 offense defined in this subsection.

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

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

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

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

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

29 If such offender violates a condition of release during the term of the
30 conditional release, the court may require such offender to register
31 pursuant to paragraph (1).

32 ~~(g)~~ Notwithstanding any other provisions of this section, for an
33 offender 14 years of age or more who is adjudicated as a juvenile offender
34 for an act which if committed by an adult would constitute a sexually
35 violent crime set forth in K.S.A. 22-4902(e), and amendments thereto, and
36 such crime is not an off-grid felony or a felony ranked in severity level 1
37 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or
38 K.S.A. 2020 Supp. 21-6804, and amendments thereto, the court shall:

39 ~~(1)~~ Require registration until such offender reaches 18 years of age, at
40 the expiration of five years from the date of adjudication or, if confined,
41 from release from confinement, whichever date occurs later. Any period of
42 time during which the offender is incarcerated in any jail, juvenile facility
43 or correctional facility or during which the offender does not comply with

1 ~~any and all requirements of the Kansas offender registration act shall not~~
2 ~~count toward the duration of registration;~~

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

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

13 ~~If such offender violates a condition of release during the term of the~~
14 ~~conditional release, the court may require such offender to register~~
15 ~~pursuant to paragraph (1).~~

16 ~~(h) Notwithstanding any other provisions of this section, an offender~~
17 ~~14 years of age or more who is adjudicated as a juvenile offender for an~~
18 ~~act which if committed by an adult would constitute a sexually violent~~
19 ~~crime set forth in K.S.A. 22-4902(e), and amendments thereto, and such~~
20 ~~crime is an off-grid felony or a felony ranked in severity level 1 of the~~
21 ~~nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A.~~
22 ~~2020 Supp. 21-6804, and amendments thereto, shall be required to register~~
23 ~~for such offender's lifetime.~~

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

33 ~~(j)(i) The duration of registration does not terminate if the convicted~~
34 ~~or adjudicated offender again becomes liable to register as provided by the~~
35 ~~Kansas offender registration act during the required period of registration.~~

36 ~~(k)(j) For any person moving to Kansas who has been convicted or~~
37 ~~adjudicated in an out-of-state court, or who was required to register under~~
38 ~~an out-of-state law, the duration of registration shall be the length of time~~
39 ~~required by the out-of-state jurisdiction or by the Kansas offender~~
40 ~~registration act, whichever length of time is longer. The provisions of this~~
41 ~~subsection shall apply to convictions or adjudications prior to June 1,~~
42 ~~2006, and to persons who moved to Kansas prior to June 1, 2006, and to~~
43 ~~convictions or adjudications on or after June 1, 2006, and to persons who~~

1 moved to Kansas on or after June 1, 2006.

2 (k) *For any person moving to Kansas who has been adjudicated as a*
3 *juvenile offender in an out-of-state court and who was required to register*
4 *under an out-of-state law, the duration of registration shall be the length*
5 *of time required by the out-of-state jurisdiction.*

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

13 (m) *Registration information for a person required to register for an*
14 *offense described in subsection (c)(1)(A) or (c)(1)(B) shall be made*
15 *available only to law enforcement and shall not be open to inspection by*
16 *the public or posted on any website, as provided in K.S.A. 22-4909, and*
17 *amendments thereto.*

18 Sec. 10. K.S.A. 2020 Supp. 22-4907 is hereby amended to read as
19 follows: 22-4907. (a) Registration as required by the Kansas offender
20 registration act shall consist of a form approved by the Kansas bureau of
21 investigation, which shall include a statement that the requirements
22 provided in this section have been reviewed and explained to the offender,
23 and shall be signed by the offender and, except when such reporting is
24 conducted by certified letter as provided in ~~subsection (b)~~ of K.S.A. 22-
25 4905(b), and amendments thereto, witnessed by the person registering the
26 offender. Such registration form shall include the following offender
27 information:

- 28 (1) Name and all alias names;
- 29 (2) date and city, state and country of birth, and any alias dates or
30 places of birth;
- 31 (3) title and statute number of each offense or offenses committed,
32 date of each conviction ~~or adjudication~~ and court case numbers for each
33 conviction ~~or adjudication~~;
- 34 (4) city, county, state or country of conviction ~~or adjudication~~;
- 35 (5) sex and date of birth or purported age of each victim of all
36 offenses requiring registration;
- 37 (6) current residential address, any anticipated future residence and
38 any temporary lodging information including, but not limited to, address,
39 telephone number and dates of travel for any place in which the offender is
40 staying for seven or more days; and, if transient, the locations where the
41 offender has stayed and frequented since last reporting for registration;
- 42 (7) all telephone numbers at which the offender may be contacted,
43 including, but not limited to, all mobile telephone numbers;

- 1 (8) social security number, and all alias social security numbers;
- 2 (9) identifying characteristics such as race, ethnicity, skin tone, sex,
- 3 age, height, weight, hair and eye color, scars, tattoos and blood type;
- 4 (10) occupation and name, address or addresses and telephone
- 5 number of employer or employers, and name of any anticipated employer
- 6 and place of employment;
- 7 (11) all current driver's licenses or identification cards, including a
- 8 photocopy of all such driver's licenses or identification cards and their
- 9 numbers, states of issuance and expiration dates;
- 10 (12) all vehicle information, including the license plate number,
- 11 registration number and any other identifier and description of any vehicle
- 12 owned or operated by the offender, or any vehicle the offender regularly
- 13 drives, either for personal use or in the course of employment, and
- 14 information concerning the location or locations such vehicle or vehicles
- 15 are habitually parked or otherwise kept;
- 16 (13) license plate number, registration number or other identifier and
- 17 description of any aircraft or watercraft owned or operated by the offender,
- 18 and information concerning the location or locations such aircraft or
- 19 watercraft are habitually parked, docked or otherwise kept;
- 20 (14) all professional licenses, designations and certifications;
- 21 (15) documentation of any treatment received for a mental
- 22 abnormality or personality disorder of the offender; for purposes of
- 23 documenting the treatment received, registering law enforcement agencies,
- 24 correctional facility officials, treatment facility officials and courts may
- 25 rely on information that is readily available to them from existing records
- 26 and the offender;
- 27 (16) a photograph or photographs;
- 28 (17) fingerprints and palm prints;
- 29 (18) any and all schools and satellite schools attended or expected to
- 30 be attended and the locations of attendance and telephone number;
- 31 (19) any and all: E-mail addresses; online identities used by the
- 32 offender on the internet; information relating to membership in any and all
- 33 personal web pages or online social networks; and internet screen names;
- 34 (20) all travel and immigration documents; and
- 35 (21) name and telephone number of the offender's probation, parole
- 36 or community corrections officer.
- 37 (b) The offender shall provide biological samples for DNA analysis to
- 38 the registering law enforcement agency as required by K.S.A. 21-2511,
- 39 and amendments thereto. The biological samples shall be in the form using
- 40 a DNA databank kit authorized by the Kansas bureau of investigation. The
- 41 registering law enforcement agency shall forward such biological samples
- 42 to the Kansas bureau of investigation. Prior to taking such sample, the
- 43 registering law enforcement agency shall search the Kansas criminal

1 justice information system to determine if such person's DNA profile is
2 currently on file. If such person's DNA profile is on file with the Kansas
3 bureau of investigation, the registering law enforcement agency is not
4 required to take biological samples.

5 *(c) If an offender reports an employer pursuant to subsection (a)(10)*
6 *or a school pursuant to subsection (a)(18) that is in a county other than*
7 *the county in which the offender resides or intends to reside, the Kansas*
8 *bureau of investigation shall notify the sheriff of the county in which the*
9 *employer or school is located of the registration information for such*
10 *offender.*

11 Sec. 11. K.S.A. 2020 Supp. 22-4908 is hereby amended to read as
12 follows: 22-4908. ~~No person required to register as an offender pursuant to~~
13 ~~the Kansas offender registration act shall be granted an order relieving the~~
14 ~~offender of further registration under this act. This section shall include~~
15 ~~any person with any out-of-state conviction or adjudication for an offense~~
16 ~~that would require registration under the laws of this state (a) Except as~~
17 ~~provided in subsections (b), (c) and (d), any offender who is required to~~
18 ~~register under the Kansas offender registration act may file a verified~~
19 ~~petition for relief from registration requirements if:~~

20 *(1) For an offender who is required to register for 15 years, the*
21 *offender has registered for a period of at least five years after the date of*
22 *parole, discharge or release, whichever date is most recent, or, if not*
23 *confined, five years from the date of conviction;*

24 *(2) for an offender who is required to register for 25 years, the*
25 *offender has registered for a period of at least 10 years after the date of*
26 *parole, discharge or release, whichever date is most recent, or, if not*
27 *confined, 10 years from the date of conviction; or*

28 *(3) for an offender who is required to register for life, the offender*
29 *has registered for a period of at least 25 years after the date of parole,*
30 *discharge or release, whichever date is most recent, or, if not confined, 25*
31 *years from the date of conviction.*

32 *(b) Any of the following offenders required to register under the*
33 *Kansas offender registration act may file a verified petition for relief from*
34 *registration requirements if the offender has registered for a period of at*
35 *least 10 years after the date of parole, discharge or release, whichever*
36 *date is most recent, or, if not confined, 10 years from the date of*
37 *conviction:*

38 *(1) An offender who was convicted of an offense prior to July 1, 2011,*
39 *that, at the time of conviction, did not require such offender to register*
40 *under the Kansas offender registration act, but is required to register*
41 *because of the retroactive application of section 6 of chapter 95 of the*
42 *2011 Session Laws of Kansas; and*

43 *(2) an offender who was originally required to register under the*

1 *Kansas offender registration act for 10 years for an offense committed*
2 *prior to July 1, 2011, but is required to register for a longer period*
3 *because of the retroactive application of section 6 of chapter 95 of the*
4 *2011 Session Laws of Kansas.*

5 *(c) An offender who is required to register pursuant to K.S.A. 22-*
6 *4906(j), and amendments thereto, because of an out-of-state conviction*
7 *may not petition for relief from registration requirements in this state if the*
8 *offender would be required to register under the law of the state or*
9 *jurisdiction where the conviction occurred. If the offender would no longer*
10 *be required to register under the law of the state or jurisdiction where the*
11 *conviction occurred, the offender may file a verified petition pursuant to*
12 *subsection (a) or (b).*

13 *(d) An offender who has been declared a sexually violent predator*
14 *pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall not*
15 *petition for relief from registration requirements under the Kansas*
16 *offender registration act pursuant to this section.*

17 *(e) Any period of time during which an offender is incarcerated in*
18 *any jail or correctional facility or during which the offender does not*
19 *substantially comply with the requirements of the Kansas offender*
20 *registration act shall not count toward the duration of registration*
21 *required in subsection (a) or (b).*

22 *(f) (1) A verified petition for relief from registration requirements*
23 *shall be filed in the district court in the county where the offender was*
24 *convicted of the offense requiring registration. If the offender was not*
25 *convicted in this state of the offense requiring registration, such petition*
26 *shall be filed in the district court of any county where the offender is*
27 *currently required to register. The docket fee shall be as provided in K.S.A.*
28 *60-2001, and amendments thereto.*

29 *(2) The petition shall include:*

30 *(A) The offender's full name;*

31 *(B) the offender's full name at the time of conviction for the offense*
32 *or offenses requiring registration, if different than the offender's current*
33 *name;*

34 *(C) the offender's sex, race and date of birth;*

35 *(D) the offense or offenses requiring registration;*

36 *(E) the date of conviction for the offense or offenses requiring*
37 *registration;*

38 *(F) the court in which the offender was convicted of the offense or*
39 *offenses requiring registration;*

40 *(G) whether the offender has been arrested, convicted or entered into*
41 *a diversion agreement for any crime during the period the offender is*
42 *required to register; and*

43 *(H) the names of all treatment providers and agencies that have*

1 *treated the offender for mental health, substance abuse and offense-related*
2 *behavior since the date of the offense or offenses requiring registration.*

3 (3) *The judicial council shall develop a petition form for use under*
4 *this section.*

5 (4) *When a petition is filed, the court shall set a date for a hearing on*
6 *such petition and cause notice of the hearing to be given to the county or*
7 *district attorney in the county where the petition is filed. Any person who*
8 *may have relevant information about the offender may testify at the*
9 *hearing.*

10 (5) *The county or district attorney shall notify any victim of the*
11 *offense requiring registration who is alive and whose address is known or,*
12 *if the victim is deceased, the victim's family if the family's address is*
13 *known. The victim or victim's family shall not be compelled to testify or*
14 *provide any discovery to the offender.*

15 (6) *The county or district attorney shall have access to all applicable*
16 *records, including records that are otherwise confidential or privileged.*

17 (g) (1) *The court shall order any petitioning offender who is required*
18 *to register for life, except for an offender required to register for life solely*
19 *because of a second offense requiring registration pursuant to K.S.A. 22-*
20 *4906(d), and amendments thereto, to undergo a risk assessment. The court*
21 *may require any other offender who is petitioning for relief under this*
22 *section to undergo a risk assessment.*

23 (2) *Any risk assessment ordered under this subsection shall be*
24 *performed by a professional agreed upon by the parties or a professional*
25 *approved by the court. Such risk assessment shall be performed at the*
26 *offender's expense.*

27 (h) *The court shall order relief from registration requirements if the*
28 *offender shows by clear and convincing evidence that:*

29 (1) *The offender has not been convicted of a felony, other than a*
30 *felony violation or aggravated felony violation of K.S.A. 22-4903, and*
31 *amendments thereto, within the five years immediately preceding the filing*
32 *of the petition, and no proceedings involving any such felony are presently*
33 *pending or being instituted against the offender;*

34 (2) *the offender's circumstances, behavior and treatment history*
35 *demonstrate that the offender is sufficiently rehabilitated to warrant relief;*
36 *and*

37 (3) *registration of the offender is no longer necessary to promote*
38 *public safety.*

39 (i) *If the court denies an offender's petition for relief, the offender*
40 *shall not file another petition for relief until three years have elapsed*
41 *unless a shorter time period is ordered by the court.*

42 (j) *If the court grants relief from registration requirements, it shall*
43 *order that the offender be removed from the offender registry and that the*

1 offender is no longer required to comply with registration requirements.
2 Within 14 days of any order, the court shall notify the Kansas bureau of
3 investigation and any local law enforcement agency that registers the
4 offender that the offender has been granted relief from registration
5 requirements. The Kansas bureau of investigation shall remove such
6 offender from any internet website maintained pursuant to K.S.A. 22-4909,
7 and amendments thereto.

8 (k) An offender may combine a petition for relief under this section
9 with a petition for expungement under K.S.A. 2020 Supp. 21-6614, and
10 amendments thereto, if the offense requiring registration is otherwise
11 eligible for expungement.

12 Sec. 12. K.S.A. 2020 Supp. 22-4909 is hereby amended to read as
13 follows: 22-4909. (a) Except as prohibited by subsections (c), (d), (e) ~~and~~,
14 (f) ~~of this section and~~ (g) and ~~subsections (f) and (g) of K.S.A. 22-~~
15 ~~4906(m)~~, and amendments thereto, the statements or any other information
16 required by the Kansas offender registration act shall be open to inspection
17 by the public at the registering law enforcement agency, at the
18 headquarters of the Kansas bureau of investigation and on any internet
19 website sponsored or created by a registering law enforcement agency or
20 the Kansas bureau of investigation that contains such statements or
21 information, and specifically are subject to the provisions of the Kansas
22 open records act, K.S.A. 45-215 et seq., and amendments thereto.

23 (b) Any information posted on an internet website sponsored or
24 created by a registering law enforcement agency or the Kansas bureau of
25 investigation shall identify, in a prominent manner, whether an offender is
26 a sex offender, a violent offender or a drug offender. Such internet
27 websites shall include the following information for each offender:

- 28 (1) Name of the offender, including any aliases;
- 29 (2) address of each residence at which the offender resides or will
30 reside and, if the offender does not have any present or expected residence
31 address, other information about where the offender has their home or
32 habitually lives. If current information of this type is not available because
33 the offender is in violation of the requirement to register or cannot be
34 located, the website must so note;
- 35 (3) temporary lodging information;
- 36 (4) address of any place where the offender is a student or will be a
37 student;
- 38 (5) license plate number and a description of any vehicle owned or
39 operated by the offender, including any aircraft or watercraft;
- 40 (6) physical description of the offender;
- 41 (7) the offense or offenses for which the offender is registered and
42 any other offense for which the offender has been convicted ~~or~~
43 ~~adjudicated~~;

- 1 (8) a current photograph of the offender; and
2 (9) all professional licenses, designations and certifications.
- 3 (c) Notwithstanding subsection (a), information posted on an internet
4 website sponsored or created by a registering law enforcement agency or
5 the Kansas bureau of investigation shall not contain the address of any
6 place where the offender is an employee or any other information about
7 where the offender works. Such internet website shall contain a statement
8 that employment information is publicly available and may be obtained by
9 contacting the appropriate registering law enforcement agency or by
10 signing up for community notification through the official website of the
11 Kansas bureau of investigation.
- 12 (d) Notwithstanding subsection (a), pursuant to a court finding
13 petitioned by the prosecutor, any offender who is required to register
14 pursuant to the Kansas offender registration act, but has been provided a
15 new identity and relocated under the federal witness security program or
16 who has worked as a confidential informant, or is otherwise a protected
17 witness, shall be required to register pursuant to the Kansas offender
18 registration act, but shall not be subject to public registration.
- 19 (e) Notwithstanding subsection (a), when a court orders expungement
20 of a conviction ~~or adjudication~~ that requires an offender to register
21 pursuant to the Kansas offender registration act, the registration
22 requirement for such conviction ~~or adjudication~~ does not terminate. Such
23 offender shall be required to continue registering pursuant to the Kansas
24 offender registration act, but shall not be subject to public registration. If a
25 court orders expungement of a conviction ~~or adjudication~~ that requires an
26 offender to register pursuant to the Kansas offender registration act, and
27 the offender has any other conviction ~~or adjudication~~ that requires
28 registration, such offender shall be required to register pursuant to the
29 Kansas offender registration act, and the registration for such other
30 conviction ~~or adjudication~~ shall be open to inspection by the public and
31 shall be subject to the provisions of subsection (a), ~~unless such registration~~
32 ~~has been ordered restricted pursuant to subsection (f) or (g) of K.S.A. 22-~~
33 ~~4906, and amendments thereto.~~
- 34 (f) Notwithstanding subsection (a), the following information shall
35 not be disclosed other than to law enforcement agencies:
- 36 (1) The name, address, telephone number or any other information
37 which specifically and individually identifies the identity of any victim of
38 a registerable offense;
- 39 (2) the social security number of the offender;
- 40 (3) the offender's criminal history arrests that did not result in
41 convictions or adjudications;
- 42 (4) travel and immigration document numbers of the offender; and
43 (5) internet identifiers of the offender.

1 (g) *Notwithstanding subsection (a), registration information for a*
2 *person whose registration has been ordered to be restricted pursuant to*
3 *K.S.A. 22-4906(m), and amendments thereto, shall be made available only*
4 *to law enforcement and shall not be open to inspection by the public or*
5 *posted on any website pursuant to this section.*

6 Sec. 13. K.S.A. 74-7335 is hereby amended to read as follows: 74-
7 7335. (a) The victim of a crime or the victim's family shall be notified of
8 the right to be present at any public hearing or any juvenile offender
9 proceeding concerning the accused or the convicted person or the
10 respondent or the juvenile offender.

11 (b) The victim of a crime or the victim's family shall be notified of
12 the right to be present at any proceeding or hearing where probation or
13 parole is considered or granted by a judge whether or not a public hearing
14 is conducted or required.

15 (c) As used in this section:

16 (1) "Public hearing" means any court proceeding or administrative
17 hearing ~~which that~~ is open to the public and ~~shall include but~~ *includes, but*
18 *is not be* limited to the:

19 (A) Preliminary hearing;

20 (B) trial;

21 (C) sentencing;

22 (D) sentencing modification;

23 (E) public comment sessions, pursuant to K.S.A. 22-3717, and
24 amendments thereto;

25 (F) expungement hearing; ~~and~~

26 (G) granting of probation or parole by a judge; *and*

27 (H) *determination regarding registration under the Kansas offender*
28 *registration act, K.S.A. 22-4901 et seq., and amendments thereto.*

29 (2) "Victim's family" means a spouse, surviving spouse, children,
30 parents, legal guardian, siblings, stepparent or grandparents.

31 (3) "Juvenile offender proceedings" means any hearing concerning a
32 juvenile pursuant to the revised Kansas juvenile justice code.

33 (d) The city, county or district attorney or municipal court clerk shall
34 notify any victim of the crime who is alive and whose address is known to
35 the city, county or district attorney or municipal court clerk or, if the victim
36 is deceased, to the victim's family if the family's address is known to such
37 attorney or clerk.

38 (e) Costs of transportation for the victim to appear shall be borne by
39 the victim unless the appearance is required pursuant to a subpoena or
40 other order of the court.

41 Sec. 14. K.S.A. 74-7335 and K.S.A. 2020 Supp. 21-5913, 21-6614,
42 21-6804, 22-4902, 22-4903, 22-4904, 22-4905, 22-4906, 22-4907, 22-
43 4908 and 22-4909 are hereby repealed.

1 Sec. 15. This act shall take effect and be in force from and after its
2 publication in the statute book.