

HOUSE BILL No. 2416

By Committee on Federal and State Affairs

5-23

1 AN ACT concerning courts; relating to appellate court jurisdiction;
2 abolishing the court of appeals; establishing the court of criminal
3 appeals and the court of civil appeals; amending K.S.A. 9-1907, 12-
4 811, 13-1228h, 17-6906, 19-3517, 20-101, 20-139, 20-158, 20-163, 20-
5 1a14, 20-205, 20-207, 20-208, 20-211, 20-310b, 20-2201, 20-2616, 20-
6 2622, 20-3208, 22-2202, 22-2514, 22-2804, 22-3612, 22-4507, 24-702,
7 25-3206, 48-2922, 48-2923, 48-2924, 48-2925, 48-2926, 48-2928, 60-
8 1301, 60-2101, 60-3201, 60-3208, 66-118a, 66-118g, 68-527a, 74-601,
9 75-3216, 77-609, 77-623 and 77-627 and K.S.A. 2012 Supp. 7-121b,
10 20-1a15, 20-2601, 20-3202, 21-5207, 21-6619, 21-6628, 22-3402, 22-
11 3601, as amended by section 26 of 2013 Senate Substitute for House
12 Bill No. 2034, 22-3602, 22-3604, 22-4701, as amended by section 2 of
13 2013 House Bill No. 2041, 26-504, 38-2382, 44-556, 45-217, 46-234,
14 55-1410, 60-223, 60-1501, 60-1505, 60-2102, 61-3902, 65-3008a, 65-
15 3013, 65-4211, 72-64b03, 74-2426, 74-8762, 74-8813, 74-8815, 75-
16 430, 75-3120h, 75-3120l, 75-37,135 and 82a-1505 and repealing the
17 existing sections; also repealing K.S.A. 20-3001, 20-3006, as amended
18 by section 3 of 2013 House Bill No. 2019, 20-3010, as amended by
19 section 4 of 2013 House Bill No. 2019, 20-3011, 20-3012, 20-3013, 20-
20 3014, 20-3015, 20-3016, 20-3018 and 20-3019 and K.S.A. 2012 Supp.
21 20-3002, as amended by section 2 of 2013 House Bill No. 2019, and
22 20-3017 and section 1 of 2013 House Bill No. 2019.

23

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

25 New Section 1. (a) On and after August 31, 2014, the court of appeals
26 created by K.S.A. 20-3001 is hereby abolished.

27 (b) On August 31, 2014, five judges of the court of appeals will be
28 converted to judges of the court of criminal appeals and such judges shall
29 serve on the court of criminal appeals created by section 2, and
30 amendments thereto. On August 31, 2014, nine judges will be converted to
31 judges of the court of civil appeals and such judges shall serve on the court
32 of civil appeals created by section 3, and amendments thereto. Prior to
33 August 31, 2014, the chief judge of the court of appeals shall determine
34 which judges of the court of appeals will be converted to such positions.

35 New Sec. 2. (a) On August 31, 2014, there shall be and is hereby
36 established a court of record which shall be known as the Kansas court of

1 criminal appeals. The court of criminal appeals shall be a part of the court
2 of justice in which the judicial power of the state is vested by section 1 of
3 article 3 of the constitution of the state of Kansas and shall be subject to
4 the general administrative authority of the supreme court. The court of
5 criminal appeals shall have such jurisdiction over appeals in criminal cases
6 as may be prescribed by law, and shall have such original jurisdiction as
7 may be necessary to the complete determination of any cause on review.
8 During the pendency of any appeal, the court of criminal appeals, on such
9 terms as may be just, may make an order suspending further proceedings
10 in the court below, until the decision of the court of criminal appeals.

11 (b) The court of criminal appeals shall be the final court of appellate
12 review in cases under the court's jurisdiction.

13 (c) The supreme court shall designate a judge of the court of criminal
14 appeals to serve as chief judge of such court at the pleasure of the supreme
15 court. The chief judge shall exercise such administrative powers as may be
16 prescribed by law or by rule of the supreme court.

17 (d) For the purpose of hearing and determining cases, the judges of
18 the court of criminal appeals shall sit together.

19 New Sec. 3. (a) On August 31, 2014, there shall be and is hereby
20 established a court of record which shall be known as the Kansas court of
21 civil appeals. The court of civil appeals shall be a part of the court of
22 justice in which the judicial power of the state is vested by section 1 of
23 article 3 of the constitution of the state of Kansas and shall be subject to
24 the general administrative authority of the supreme court. The court of
25 civil appeals shall have such jurisdiction over appeals in civil cases and
26 from administrative bodies and officers of the state as may be prescribed
27 by law, and shall have such original jurisdiction as may be necessary to the
28 complete determination of any cause on review. During the pendency of
29 any appeal, the court of civil appeals, on such terms as may be just, may
30 make an order suspending further proceedings in the court below, until the
31 decision of the court of civil appeals.

32 (b) The court of civil appeals shall be the final court of appellate
33 review in matters under the court's jurisdiction, except in matters for which
34 the supreme court has appellate jurisdiction.

35 (c) The supreme court shall designate a judge of the court of civil
36 appeals to serve as chief judge of such court at the pleasure of the supreme
37 court. The chief judge shall exercise such administrative powers as may be
38 prescribed by law or by rule of the supreme court.

39 (d) For the purpose of hearing and determining cases, the judges of
40 the court of civil appeals may sit together or in panels. A hearing panel
41 shall consist of three judges. For convenience in administration, each panel
42 may be numbered, and the chief judge from time to time shall make
43 assignments of judges among such panels. The chief judge may sit as a

1 member of a panel and shall preside over such panel. When the chief judge
2 is not a member of a hearing panel, the chief judge shall appoint a member
3 of the panel to preside.

4 New Sec. 4. (a) The court of criminal appeals created by section 2,
5 and amendments thereto, shall consist of five judges whose positions shall
6 be numbered one to five. The court of civil appeals created by section 3,
7 and amendments thereto, shall consist of nine judges whose positions shall
8 be numbered one to nine.

9 (b) Judges of the court of criminal appeals and judges of the court of
10 civil appeals shall be appointed in the manner provided by section 5, and
11 amendments thereto. Each such judge shall receive an annual salary in the
12 amount prescribed by law. No such judge may receive additional
13 compensation for official services performed by the judge. Each such
14 judge shall be reimbursed for expenses incurred in the performance of the
15 judge's official duties in the same manner and to the same extent justices
16 of the supreme court are reimbursed for such expenses.

17 (c) The supreme court may assign judges of the court of criminal
18 appeals and judges of the court of civil appeals to serve temporarily on the
19 supreme court.

20 New Sec. 5. (a) (1) On and after August 31, 2014, any vacancy
21 occurring in the office of any judge of the court of criminal appeals or the
22 office of any judge of the court of civil appeals and any position to be open
23 on either court as a result of enlargement of such court, or the retirement or
24 failure of an incumbent to file such judge's declaration of candidacy to be
25 retained in office as hereinafter required, or failure of a judge to be elected
26 to be retained in office, shall be filled by appointment by the governor,
27 with the consent of the senate, of a person possessing the qualifications of
28 office.

29 (2) Whenever a vacancy occurs, will occur or position opens on the
30 court of criminal appeals or the court of civil appeals, the clerk of the
31 supreme court shall promptly give notice to the governor.

32 (3) In event of the failure of the governor to make the appointment
33 within 60 days from the date such vacancy occurred or position became
34 open, the chief justice of the supreme court, with the consent of the senate,
35 shall make the appointment of a person possessing the qualifications of
36 office.

37 (4) Whenever a vacancy in the office of judge of the court of criminal
38 appeals or the office of judge of the court of civil appeals exists at the time
39 the appointment to fill such vacancy is made pursuant to this section, the
40 appointment shall be effective at the time it is made, but where an
41 appointment is made pursuant to this section to fill a vacancy which will
42 occur at a future date, such appointment shall not take effect until such
43 date.

1 (b) No person appointed pursuant to this section shall assume the
2 office of judge of the court of criminal appeals or the office of judge of the
3 court of civil appeals until the senate, by an affirmative vote of the
4 majority of all members of the senate then elected or appointed and
5 qualified, consents to such appointment. The senate shall vote to consent
6 to any such appointment not later than 60 days after such appointment is
7 received by the senate. If the senate is not in session and will not be in
8 session within the 60-day time limitation, the senate shall vote to consent
9 to any such appointment not later than 20 days after the senate begins its
10 next session. In the event a majority of the senate does not vote to consent
11 to the appointment, the governor, within 60 days after the senate vote on
12 the previous appointee, shall appoint another person possessing the
13 qualifications of office and such subsequent appointment shall be
14 considered by the senate in the same procedure as provided in this section.
15 The same appointment and consent procedure shall be followed until a
16 valid appointment has been made. No person who has been previously
17 appointed but did not receive the consent of the senate shall be appointed
18 again for the same vacancy. If the senate fails to vote on an appointment
19 within the time limitation imposed by this subsection, the senate shall be
20 deemed to have given consent to such appointment.

21 (c) Persons who were appointed as judges of the court of appeals
22 pursuant to K.S.A. 20-3005 or section 1 of 2013 House Bill No. 2019,
23 prior to their repeal, or appointed as judges of the court of criminal appeals
24 or judges of the court of civil appeals pursuant to this section, shall
25 commence the duties of office upon appointment and consent, and each
26 judge shall have all the rights, privileges, powers and duties prescribed by
27 law for the office of judge of the court of criminal appeals or the office of
28 judge of the court of civil appeals.

29 (d) Judges of the court of criminal appeals and judges of the court of
30 civil appeals shall possess the qualifications prescribed by law for justices
31 of the supreme court.

32 New Sec. 6. (a) Not less than 60 days prior to the holding of the
33 general election next preceding the expiration of the term of any judge of
34 the court of criminal appeals or judge of the court of civil appeals, the
35 judge may file in the office of the secretary of state a declaration of
36 candidacy for retention in office. If a declaration is not filed as provided in
37 this section, the position held by the judge shall be vacant upon the
38 expiration of the judge's term of office. If such declaration is filed, the
39 judge's name shall be submitted at the next general election to the electors
40 of the state on a separate judicial ballot, without party designation, reading
41 substantially as follows:

42 "Shall (Here insert name of judge.), Judge of the Court of (Here insert
43 Criminal or Civil.) Appeals, be retained in office?"

1 (b) If a majority of those voting on the question votes against
2 retaining the judge in office, the position which the judge holds shall be
3 vacant upon the expiration of the judge's term of office. Otherwise, unless
4 the judge is removed for cause, the judge shall remain in office for a term
5 of four years from the second Monday in January following the election.
6 At the expiration of each term, unless by law the judge is compelled to
7 retire, the judge shall be eligible for retention in office by election in the
8 manner prescribed in this section.

9 (c) If a majority of those voting on the question votes against the
10 judge's retention, the secretary of state, following the final canvass of votes
11 on the question, shall certify the results to the clerk of the supreme court.
12 Any such judge who has not been retained in office pursuant to this section
13 shall not be eligible for nomination or appointment to the office of judge
14 of the court of criminal appeals or judge of the court of civil appeals prior
15 to the expiration of four years after the expiration of the judge's term of
16 office.

17 (d) Election laws applicable to the general election of other state
18 officers shall apply to elections upon the question of retention of judges
19 pursuant to this section, to the extent that they are not in conflict with and
20 are consistent with the provisions of this section.

21 New Sec. 7. (a) Any person appointed to the office of judge of the
22 court of criminal appeals or judge of the court of civil appeals to fill a
23 vacancy or appointed by reason of the expiration of a term of office, shall
24 serve until the second Monday in January following the next general
25 election which occurs after one year in office and shall be eligible to be
26 retained in office for a full term of four years as provided in section 6, and
27 amendments thereto, for the retention of judges first appointed to such
28 court.

29 (b) If a majority of the votes cast and counted at such election is in
30 favor of retaining such judge in office, the judge shall remain in office for
31 a regular term of four years from the second Monday in January next
32 following such election. Thereafter, such judge shall be subject to retention
33 in office as provided in section 6, and amendments thereto. If a majority of
34 the votes cast and counted at such election is against retaining such judge
35 in office, such judge's position shall become vacant on the second Monday
36 in January next following the election, and a successor shall be appointed
37 pursuant to section 5, and amendments thereto. If such judge does not
38 declare such judge's candidacy for election to be retained in office, such
39 judge's position shall be vacant on the second Monday in January next
40 following such election.

41 New Sec. 8. (a) The court of criminal appeals and the court of civil
42 appeals shall sit and maintain principal offices in the city of Topeka, and it
43 shall be the duty of the secretary of administration to provide a courtroom

1 and other suitable quarters in Topeka for the use of each court and each
2 court's staff.

3 (b) Any hearing panel of the court of civil appeals may hold court in
4 the courthouse of any county for the purpose of hearing oral arguments in
5 cases before such court. When a panel of such court sits in any location
6 other than in Topeka, the chief judge of the judicial district in which the
7 panel is sitting shall assign a courtroom to the hearing panel for its use
8 while sitting, shall provide suitable office space for use by the members of
9 the panel and shall provide such other personnel as may be needed by the
10 panel.

11 New Sec. 9. Each judge of the court of criminal appeals and the court
12 of civil appeals may appoint a law clerk and also may appoint one
13 secretary or stenographer. The persons so appointed shall serve at the
14 pleasure of the judge appointing them. Subject to the approval of the chief
15 justice of the supreme court, the court of criminal appeals and the court of
16 civil appeals may employ such other clerical personnel as may be
17 necessary to carry out the duties and functions of the court. The
18 compensation of all persons appointed or employed under this section
19 shall be fixed in accordance with a pay plan adopted by the supreme court.
20 Such pay plan shall contain a schedule of salary and wage ranges and steps
21 designed for such purpose.

22 New Sec. 10. (a) The clerk of the supreme court shall be clerk of the
23 court of criminal appeals and the court of civil appeals, and it shall be such
24 clerk's duty to enter of record all orders, judgments, decrees and
25 proceedings of the court of criminal appeals and the court of civil appeals,
26 to issue all process required by law or ordered by such court and to
27 perform such other duties as may be required of such clerk by the court of
28 criminal appeals or the court of civil appeals or by law.

29 (b) The supreme court shall adopt rules prescribing the standards and
30 procedures governing the writing and publication of the opinions of the
31 court of criminal appeals and the court of civil appeals. The supreme court
32 reporter shall be reporter of the court of criminal appeals and the court of
33 civil appeals and shall publish such opinions of the courts as may be
34 required by rule of the supreme court.

35 (c) The state judicial administrator shall provide to the court of
36 criminal appeals and the court of civil appeals such administrative services
37 as may be directed by the supreme court.

38 New Sec. 11. (a) (1) The court of criminal appeals, prior to final
39 determination of any case before such court, may request that such case be
40 transferred to the supreme court for its review and final determination by
41 certifying to the supreme court that the case is within the jurisdiction of the
42 supreme court and one or more issues in such case are not within the
43 jurisdiction of the court of criminal appeals.

1 (2) The court of civil appeals, prior to final determination of any case
2 before such court, may request that such case be transferred to the supreme
3 court for its review and final determination by certifying to the supreme
4 court that the case is within the jurisdiction of the supreme court and one
5 or more issues in such case are not within the jurisdiction of the court of
6 civil appeals.

7 (b) Any certification of findings and request for transfer of a case
8 pursuant to subsection (a) shall be made in the manner and form
9 prescribed by rules of the supreme court. The supreme court shall consider
10 such certification and may accept the case for review and final
11 determination or may decline jurisdiction and order that the case be
12 determined by the appropriate court of appeals.

13 New Sec. 12. (a) (1) Within 30 days after the date the notice of appeal
14 has been served on the appellee in any case appealed to the court of
15 criminal appeals, any party to such case may file a motion with the clerk of
16 the court of criminal appeals, requesting that such case be transferred to
17 the supreme court for review and final determination by such court. Such
18 motion may be made only if the party alleges that one or more issues in
19 such case are not within the jurisdiction of the court of criminal appeals
20 and that such issues are within the jurisdiction of the supreme court. Such
21 motion shall be made in the manner and form prescribed by rules of the
22 supreme court.

23 (2) The clerk of the court of criminal appeals promptly shall submit
24 any motion made pursuant to this section to the supreme court. The
25 supreme court shall consider such motion and may accept the case for
26 review and final determination or may decline jurisdiction and order that
27 the case be determined by the court of criminal appeals.

28 (3) A party's failure to file a motion in accordance with this section
29 shall be deemed a waiver of any objection by such party to the jurisdiction
30 of the court of criminal appeals.

31 (b) (1) Within 30 days after the date the notice of appeal has been
32 served on the appellee in any case appealed to the court of civil appeals,
33 any party to such case may file a motion with the clerk of the court of civil
34 appeals, requesting that such case be transferred to the supreme court for
35 review and final determination by such court. Such motion may be made
36 only if the party alleges that one or more issues in such case are not within
37 the jurisdiction of the court of civil appeals and that such issues are within
38 the jurisdiction of the supreme court. Such motion shall be made in the
39 manner and form prescribed by rules of the supreme court.

40 (2) The clerk of the court of civil appeals promptly shall submit any
41 motion made pursuant to this section to the supreme court. The supreme
42 court shall consider such motion and may accept the case for review and
43 final determination or may decline jurisdiction and order that the case be

1 determined by the court of civil appeals.

2 (3) A party's failure to file a motion in accordance with this section
3 shall be deemed a waiver of any objection by such party to the jurisdiction
4 of the court of civil appeals.

5 New Sec. 13. (a) Any case within the jurisdiction of the court of
6 criminal appeals or the court of civil appeals which is erroneously
7 docketed in the supreme court shall be transferred by the supreme court to
8 the appropriate court of appeals. Any case within the jurisdiction of the
9 court of criminal appeals or the court of civil appeals and in which notice
10 of appeal to the supreme court was filed prior to August 31, 2014, may be
11 transferred to the appropriate court of appeals by the supreme court. No
12 case docketed in the supreme court, the court of criminal appeals or the
13 court of civil appeals shall be dismissed solely for the reason of having
14 been filed in the wrong court, but shall be transferred by the supreme court
15 to the court which the supreme court determines to have jurisdiction. Any
16 such case shall be considered timely and properly filed in the court to
17 which it is transferred.

18 (b) Any party aggrieved by a decision of the court of criminal appeals
19 or the court of civil appeals may file a motion with such court for a
20 rehearing, in accordance with rules of the supreme court, but such motion
21 shall not be a condition precedent to a review of such decision by the
22 supreme court. Any such party may petition the supreme court for review
23 within 30 days after the date of such decision if supreme court review is
24 authorized by law. The procedures governing petitions for review shall be
25 prescribed by rules of the supreme court, and the review of any such
26 decision shall be at the discretion of the supreme court. While neither
27 controlling nor fully measuring the court's discretion, the following shall
28 be considered in determining whether review will be granted: (1) The
29 general importance of the question presented; (2) the existence of a
30 conflict between the decision sought to be reviewed and a prior decision of
31 the supreme court, or of another panel of the court of appeals; (3) the need
32 for exercising the supreme court's supervisory authority; and (4) the final
33 or interlocutory character of the judgment, order or ruling sought to be
34 reviewed.

35 (c) At any time on its own motion, the supreme court may order the
36 court of criminal appeals or the court of civil appeals to transfer any case
37 before such court to the supreme court for review and final determination
38 if such case is within the supreme court's original jurisdiction or appellate
39 jurisdiction as provided by law.

40 Sec. 14. K.S.A. 2012 Supp. 7-121b is hereby amended to read as
41 follows: 7-121b. (a) Subject to subsection (b) of K.S.A. 40-3411, and
42 amendments thereto, whenever a civil action is commenced by filing a
43 petition or whenever a pleading states a claim in a district court for

1 damages for personal injuries or death arising out of the rendering of or the
2 failure to render professional services by any health care provider,
3 compensation for reasonable attorney fees to be paid by each litigant in the
4 action shall be approved by the judge after an evidentiary hearing and
5 prior to final disposition of the case by the district court. Compensation for
6 reasonable attorney fees for services performed in an appeal of a judgment
7 in any such action to the court of *civil* appeals shall be approved after an
8 evidentiary hearing by the chief judge or by the presiding judge of the
9 panel hearing the case. ~~Compensation for reasonable attorney fees for~~
10 ~~services performed in an appeal of a judgment in any such action to the~~
11 ~~supreme court shall be approved after an evidentiary hearing by the~~
12 ~~departmental justice for the department in which the appeal originated.~~ In
13 determining the reasonableness of such compensation, the judge or justice
14 shall consider the following:

15 (1) The time and labor required, the novelty and difficulty of the
16 questions involved and the skill requisite to perform the legal service
17 properly.

18 (2) The likelihood, if apparent to the client, that the acceptance of the
19 particular employment will preclude other employment by the attorney.

20 (3) The fee customarily charged in the locality for similar legal
21 services.

22 (4) The amount involved and the results obtained.

23 (5) The time limitations imposed by the client or by the
24 circumstances.

25 (6) The nature and length of the professional relationship with the
26 client.

27 (7) The experience, reputation and ability of the attorney or attorneys
28 performing the services.

29 (8) Whether the fee is fixed or contingent.

30 (b) As used in this section:

31 (1) "Health care provider" means a person licensed to practice any
32 branch of the healing arts, a person who holds a temporary permit to
33 practice any branch of the healing arts, a person engaged in a postgraduate
34 training program approved by the state board of healing arts, a licensed
35 medical care facility, a health maintenance organization, a licensed dentist,
36 a licensed professional nurse, a licensed practical nurse, a licensed
37 optometrist, a licensed podiatrist, a licensed pharmacist, a professional
38 corporation organized pursuant to the professional corporation law of
39 Kansas by persons who are authorized by such law to form such a
40 corporation and who are health care providers as defined by this
41 subsection, a licensed physical therapist or an officer, employee or agent
42 thereof acting in the course and scope of such person's employment or
43 agency; and

1 (2) "professional services" means those services which require
2 licensure, registration or certification by agencies of the state for the
3 performance thereof.

4 Sec. 15. K.S.A. 9-1907 is hereby amended to read as follows: 9-1907.
5 The federal deposit insurance corporation or its successor, hereby is
6 authorized and empowered to be and act without bond as receiver or
7 liquidator of any insolvent or critically undercapitalized bank, the deposits
8 in which are to any extent insured by such corporation, and which bank
9 shall have been closed. In the event of any such closing of any bank the
10 commissioner may tender to the insurance corporation the appointment as
11 receiver or liquidator of such bank, and if the insurance corporation
12 accepts the appointment then such insurance corporation shall have and
13 possess all the powers and privileges and shall assume all the duties and
14 requirements provided by the laws of this state with respect to a state
15 receiver or liquidator, respectively, of a bank, its depositors and other
16 creditors, and shall be subject to the jurisdiction of the ~~district courts and~~
17 ~~supreme court~~ of Kansas.

18 Sec. 16. K.S.A. 12-811 is hereby amended to read as follows: 12-811.
19 In any city wherein the franchise of a corporation supplying water, natural
20 or artificial gas, electric light or power, heat, or operating a street railway,
21 has expired or will expire before the completion of the proceedings
22 contemplated by this section, unless an earlier date is fixed by the
23 franchise, the governing body may by resolution declare it necessary and
24 for the interest of such city to acquire control and operate any such plant.
25 Upon the passage of such resolution an application may be presented in
26 writing to the district court of the county in which such city is located,
27 which shall set forth the action of the ~~said~~ city relative thereto, and a copy
28 of the resolution so passed by the city, and praying for the appointment of
29 commissioners to ascertain and determine the value of such plant.

30 Thereupon, a time shall be fixed for the hearing thereof, of which either
31 at least ten days' notice shall be given in writing, or at least thirty days'
32 notice shall be given by publication once in the official city paper, to the
33 person, company or corporation owning ~~said~~ such plant and to all persons
34 having or claiming liens on such property: ~~Provided~~, *except* that
35 publication in the city paper shall not be made until an affidavit has been
36 filed showing that actual service of notice cannot be made and that a
37 diligent effort has been made to obtain such service, and ~~said~~ such court
38 shall make an order granting such application, and provide for the
39 appointment and selection of three commissioners, one of whom shall be
40 selected by the city, and one by the person, company, or corporation
41 owning such plant, and the third shall be designated by the judge of the
42 court, who shall be an expert engineer; and the ~~said~~ commissioners shall
43 take an oath to faithfully, honestly and to the best of their skill and ability,

1 appraise and ascertain the fair cash value of ~~said~~ *such* plant and the
2 appurtenances ~~thereunto~~ belonging or in any way appertaining to *the* same;
3 but in the determination of such value ~~said~~ *the* commissioners shall not
4 take into account the value of the franchise or contract given or granted by
5 ~~said~~ *such* city to such person, company or corporation.

6 The ~~said~~ commissioners shall carefully examine ~~said~~ *such* plant and
7 may examine experts and persons familiar with the cost, construction and
8 reproduction cost of such plant, and resort to any other means by which
9 they may arrive at the value thereof, and the city or the person, company
10 or corporation owning such plant may produce such testimony before ~~said~~
11 *the* commissioners as in their judgment seems necessary and desirable.
12 ~~Said~~ *The* commissioners shall make their report in writing under oath and
13 file the same with the clerk of the district court. Each party shall have ten
14 days from the filing of ~~said~~ *such* report to file exceptions thereto.
15 Thereupon, at a time to be fixed by the court, of which each party shall
16 have ten days' notice in writing, a hearing shall be had upon the ~~said~~ report
17 and the exceptions thereto, and the court thereupon shall confirm, reject or
18 modify ~~said~~ *the* report, and its decision therein shall be a final order from
19 which an appeal may be taken to the supreme court. If any city by a
20 majority vote of the electors voting upon the proposition at an election
21 called and held according to law shall elect to take the property at the
22 amount so ascertained, the governing body is hereby authorized to enact a
23 proper ordinance providing for the issue of bonds according to law to be
24 sold and the proceeds thereof used for the purchase of such plant.

25 If the city elects to pay the award of ~~said~~ *such* commissioners as
26 approved by the district court, it may do so at any time within six months
27 from the date of final order of the district court on the report of the
28 commissioners if no appeal ~~to the supreme court~~ *be is* taken, or from the
29 final judgment in case thereafter an appeal is determined, by paying the
30 amount of the award to the clerk of the district court, and thereupon the
31 title, right and possession of such plant and appurtenances shall vest
32 absolutely in the city and the city shall have the right to enter into and take
33 possession thereof. The court shall make all orders necessary to protect
34 such city in the possession of the property and plant. When the purchase
35 money is paid into court for such plant, it shall be paid out only upon the
36 order of the court. If there are any liens or encumbrances upon such plant,
37 the nature and extent thereof shall be ascertained by the court after fixing a
38 time for the hearing, of which all parties in interest shall have sufficient
39 notice. The ascertained liens and encumbrances shall first be paid out of
40 the ~~said~~ fund and the balance to the person, company or corporation
41 owning such plant.

42 Sec. 17. K.S.A. 13-1228h is hereby amended to read as follows: 13-
43 1228h. The ~~state~~ court of *civil* appeals shall have jurisdiction of appeals

1 from decisions of the district court made pursuant to this section. Appellate
2 proceedings shall have precedence in the court of *civil* appeals.
3 Notwithstanding the provisions of K.S.A. 60-2101, *and amendments*
4 *thereto*, the state supreme court shall not have appellate jurisdiction of
5 decisions of the district court or ~~state~~ court of *civil* appeals rendered
6 pursuant to this section. Except as provided by this section, the procedure
7 upon appeal shall be the same as in other civil actions.

8 Sec. 18. K.S.A. 17-6906 is hereby amended to read as follows: 17-
9 6906. (a) The clerk of the district court, immediately upon the expiration
10 of the time fixed for the filing of claims, in compliance with the provisions
11 of K.S.A. 17-6905, and amendments thereto, shall notify the receiver of
12 the filing of the claims, and the receiver, within 30 days after receiving the
13 notice, shall inspect the claims, and if the receiver or any creditor shall not
14 be satisfied with the validity or correctness of the same, or any of them,
15 the receiver shall forthwith notify the creditors whose claims are disputed
16 of such decision. The receiver shall require all creditors whose claims are
17 disputed to submit themselves to such examination in relation to their
18 claims as the receiver shall direct, and the creditors shall produce such
19 books and papers relating to their claims as shall be required. The receiver
20 shall have power to examine, under oath or affirmation, all witnesses
21 produced before the receiver touching the claims, and shall recommend to
22 the court the allowance or disallowance of the claims, or any part thereof,
23 and notify the claimants of such determination.

24 (b) The court shall approve, disapprove or modify the
25 recommendations of the receiver and shall cause notice thereof to be given
26 to the claimants. Within 30 days after receipt of such notice, any creditor
27 or claimant dissatisfied with the court's determination shall have the right
28 to a hearing thereon. The court, after hearing, shall determine the rights of
29 the parties. Any party aggrieved thereby may appeal to the ~~supreme~~
30 *of civil appeals* as a matter of right from the order or decree expressing
31 such determination.

32 Sec. 19. K.S.A. 19-3517 is hereby amended to read as follows: 19-
33 3517. In any water district so created and established as provided for in
34 this act, the water district board may by resolution, declare it necessary for
35 the benefit and interest of the water district to negotiate a purchase or
36 otherwise acquire, control and operate such water supply and distribution
37 system.

38 Upon the passage of such resolution, a certified copy shall be filed with
39 the county clerk of the county in which a greatest portion of such water
40 district is situated with a certificate of service stating that a copy of such
41 resolution has been served on the secretary of the corporation owning such
42 water supply and distribution system serving the water district, following
43 which the water district board and the owner of the water supply *and*

1 distribution system may negotiate a written agreement providing and
 2 setting forth terms, conditions and arrangements mutually agreeable to the
 3 water district board and the owner of ~~said~~ such water supply and
 4 distribution system pursuant to which the water district may purchase and
 5 acquire the existing water supply and distribution system: Provided, That
 6 such purchase and acquisition shall not be made until and unless the
 7 question of making such purchase and acquisition shall have been
 8 submitted to a vote of the legal electors residing in the water district at a
 9 special election and a majority of those voting on the question shall have
 10 declared by their votes to be in favor of such purchase and acquisition; and
 11 such election shall be called, noticed, held and canvassed in like manner as
 12 provided in K.S.A. 19-3507 and 19-3508, *and amendments thereto*, for
 13 elections to issue revenue bonds for such water district except as herein
 14 otherwise provided; and that at any such election the question of the
 15 issuance of revenue bonds may also be submitted but such question, if so
 16 submitted, shall be submitted and voted on as a separate proposition. A
 17 copy of such negotiated agreement shall be published as a part of the
 18 notice of the special election at which the question of the purchase and
 19 acquisition of the existing water supply and distribution system pursuant
 20 thereto is to be voted upon. The proposition shall be stated on the ballot
 21 and submitted to the qualified electors in substantially the following form:

22 Water district No. _____ of _____ county, shall be
 23 authorized to acquire by purchase, in accordance with the terms of the
 24 negotiated agreement published in connection with the notice of this
 25 election, the water supply and distribution system of
 26 _____

27 (Here insert name of owner of water supply and distribution system)
 28 at an estimated aggregate cost to the water district of _____
 29 dollars.

30 Yes

31 No

32 If the proposition to purchase and acquire ~~said~~ such water supply and
 33 distribution system in accordance with the negotiated agreement is not
 34 approved by a majority of the votes cast at the special election when such
 35 question is submitted to a vote of the electors or, if the water district board
 36 is unable to negotiate an agreement to purchase and acquire the existing
 37 water supply and distribution system which is agreeable to ~~said~~ the board,
 38 a written petition shall be presented by the water district board to the
 39 district court of the county in which the greatest portion of such water
 40 district is located, which shall set forth the action of ~~said~~ such water
 41 district board relative thereto, and the resolution so adopted by the water
 42 district board and shall contain a prayer for the appointment of appraisers
 43 if necessary to ascertain and determine the value of such water supply and

1 distribution system. Thereupon, a time and place shall be fixed by the
2 court for the hearing thereof, notice of which shall be given by the clerk of
3 the court at least ~~ten (10)~~ 10 days prior thereto, in writing to the person,
4 partnership, company or corporation owning ~~said~~ such water supply and
5 distribution system and to all persons of record having or claiming liens on
6 such property and by causing a notice thereof to be published once a week
7 for three ~~(3)~~ consecutive weeks in a newspaper of general circulation in
8 the county in which the water district is located, the last publication to be
9 not less than three ~~(3)~~ nor more than ~~ten (10)~~ 10 days prior to such hearing.

10 At ~~said~~ such hearing, the court or the judge thereof, in which ~~said~~ such
11 petition is filed, shall examine ~~said~~ such petition and determine whether
12 the petitioner has the power of eminent domain, and if found in the
13 affirmative, such finding shall be entered in the record and the court or
14 judge thereof shall thereupon make an order granting such petition. The
15 court or judge thereof shall thereupon appoint three ~~(3)~~ appraisers, one ~~(1)~~
16 of whom shall be a licensed hydraulic engineer. The three ~~(3)~~ appraisers
17 shall take an oath to faithfully, honestly and to the best of their skill and
18 ability, appraise and ascertain the fair cash value of ~~said~~ such water supply
19 and distribution system and all appurtenances thereunto belonging or in
20 any way appertaining. The ~~said~~ appraisers shall carefully examine ~~said~~ the
21 water supply and distribution system and may examine experts and
22 persons familiar with the cost of construction and reproduction of such
23 plant, and may resort to any other means by which they may arrive at the
24 value thereof, and at a hearing the time and place of which shall be fixed
25 by majority vote of the three ~~(3)~~ appraisers, who shall give written notice
26 of such hearing to the water district board and to the person, partnership,
27 company or corporation owning such water supply and distribution
28 system, and the water district board and the person, partnership, company
29 or corporation owning such water supply and distribution system or either
30 of them may produce such testimony before ~~said~~ the appraisers as in their
31 judgment seems material, necessary and desirable: Provided, That ~~said~~ the
32 appraisers may by majority vote terminate any such hearing of testimony.
33 ~~Said~~ The appraisers shall make their report in writing under oath and file
34 the same with the clerk of the district court. Thereupon at a time and place
35 to be fixed by the court, a hearing shall be had upon ~~said~~ the report and the
36 exceptions thereto. The clerk of the court shall give written notice of ~~said~~
37 the hearing to the water district board and to the person, partnership,
38 company or corporation owning any such water supply and distribution
39 system. All exceptions to the appraisers' report must be in writing and filed
40 with the clerk of the district court ~~ten (10)~~ 10 days prior to the time fixed
41 for the hearing of the same. Thereupon, the court shall confirm, reject or
42 modify ~~said~~ such report and its decision shall be a final order from which
43 an appeal may be taken to the supreme court. If the water district board

1 elects to pay the award of ~~said~~ *the* appraisers as approved by the district
2 court, it may do so at any time within six ~~(6)~~ months, from the date of the
3 final order of the district court on the appraisers' report, if no appeal ~~to the~~
4 ~~supreme court~~ is taken, or from the date of final judgment in case an
5 appeal is thereafter determined, by paying the amount of the award to the
6 clerk of the court and thereupon the title and right of possession of such
7 water supply and distribution system and appurtenances thereto belonging
8 or in any way appertaining shall vest absolutely in the water district, and
9 ~~said such~~ water district shall be entitled to immediate possession thereof
10 and all remedies provided by law for the security of such title and
11 possession.

12 When and if the purchase money is paid into the court for such water
13 supply and distribution system, it shall be paid out only upon the order of
14 the court. If there are any liens or encumbrances upon such plant, the
15 nature and extent thereof shall be ascertained by the court after fixing a
16 time for the hearing, of which all parties in interest shall have sufficient
17 notice. The ascertained liens and encumbrances shall first be paid out of
18 ~~the said~~ fund and the balance to the person, partnership, company or
19 corporation owning such plant. If the water district board shall not within
20 six ~~(6)~~ months comply with all of the terms of the final order of the district
21 court or appeal therefrom, judgment for the cost of such proceedings,
22 including appraisers' fees, which the court shall have power to fix, shall be
23 entered against ~~said such~~ water district. No condemnation proceedings
24 instituted under the provisions of this act for the acquisition of an existing
25 water supply and distribution system shall be maintained unless all of the
26 real and personal property of such existing water supply and distribution
27 system is included therein. If the water district board acquires the
28 properties of a privately owned water district and supply system for and in
29 the name of the water district by purchase, pursuant to a negotiated
30 agreement, or otherwise, it may assume in behalf of the district any
31 outstanding indebtedness secured by a lien against ~~said such~~ properties.

32 Sec. 20. K.S.A. 20-101 is hereby amended to read as follows: 20-101.
33 The supreme court shall be a court of record, and in addition to the original
34 jurisdiction conferred by the constitution *and otherwise conferred by law*,
35 shall have ~~such~~ appellate jurisdiction ~~as may be provided by law~~ *over all*
36 *matters for which the court has original jurisdiction and matters as*
37 *otherwise provided by law*; and during the pendency of any appeal *within*
38 *such jurisdiction*, on such terms as may be just, may make an order
39 suspending further proceedings in any court below, until the decision of
40 the supreme court. As provided by section 1 of article 3 of the Kansas
41 constitution, the supreme court shall have general administrative authority
42 over all courts in this state, and the supreme court and each justice thereof
43 shall have such specific powers and duties in exercising ~~said such~~

1 administrative authority as may be prescribed by law. The chief justice
2 shall be the spokesman for the supreme court and shall exercise the court's
3 general administrative authority over all courts of this state. The chief
4 justice shall have the responsibility for executing and implementing the
5 administrative rules and policies of the supreme court, including
6 supervision of the personnel and financial affairs of the court system, and
7 delegate such of this responsibility and authority to personnel in the state
8 judicial department as may be necessary for the effective and efficient
9 administration of the court system.

10 Sec. 21. K.S.A. 20-139 is hereby amended to read as follows: 20-139.
11 From time to time, the chief justice of the Kansas supreme court may order
12 conferences of justices of the supreme court and judges of the district
13 court, *court of criminal appeals* and court of *civil* appeals on matters
14 relating to the administration of justice. The actual and necessary expenses
15 of the justices of the supreme court and judges of the district court and
16 court of appeals incurred in connection with attending such conferences
17 shall be paid, subject to the provisions of K.S.A. 75-3216, and
18 *amendments thereto*.

19 Sec. 22. K.S.A. 20-158 is hereby amended to read as follows: 20-158.
20 The chief justice of the supreme court shall be responsible for the
21 preparation of the budget for the judicial branch of state government, with
22 such assistance as the chief justice may require from the judicial
23 administrator, the chief judge of the court of *criminal appeals*, *the chief*
24 *judge of the court of civil appeals* and the chief judge of each judicial
25 district. Each district court and ~~the~~ *each* court of appeals shall submit their
26 budget requests to the chief justice in such form and at such time as the
27 chief justice may require. The chief justice shall submit to the legislature
28 the annual budget request for the judicial branch of state government for
29 inclusion in the annual budget document for appropriations for the
30 judiciary. Such budget shall be prepared and submitted in the manner
31 provided by K.S.A. 75-3716 and 75-3717, and amendments thereto. Such
32 budget shall include the request for expenditures for retired justices and
33 judges performing judicial services or duties under K.S.A. 20-2616, and
34 amendments thereto, as a separate item therein.

35 Sec. 23. K.S.A. 20-163 is hereby amended to read as follows: 20-163.
36 (a) The official station of each justice of the supreme court, *judge of the*
37 *court of criminal appeals* and judge of the court of *civil* appeals shall be
38 the county seat of the county where the justice or judge maintains an actual
39 abode in which the justice or judge customarily lives.

40 (b) The chief judge of the judicial district in which a justice of the
41 supreme court, *judge of the court of criminal appeals* or judge of the court
42 of *civil* appeals has the justice's or judge's official station, shall provide
43 suitable office space upon request by the justice or judge for use by the

1 justice or judge and the justice's or judge's staff personnel. Such office
2 space shall be in or adjacent to the district court courtrooms and offices at
3 the official station of the justice or judge. Notwithstanding the foregoing
4 provisions, no office space shall be provided by the chief judge of the third
5 judicial district.

6 (c) Each justice of the supreme court, *judge of the court of criminal*
7 *appeals* and judge of the court of *civil* appeals, upon appointment and from
8 time to time thereafter as changes occur, shall notify the judicial
9 administrator in writing of the justice's or judge's official station, if other
10 than the city of Topeka.

11 (d) Notwithstanding the other provisions of this section, all mileage
12 and other allowances for official travel for justices of the supreme court,
13 *judge of the court of criminal appeals* and judges of the court of *civil*
14 appeals shall be determined from Topeka, Kansas.

15 Sec. 24. K.S.A. 20-1a14 is hereby amended to read as follows: 20-
16 1a14. (a) There is hereby established in the state treasury the judicial
17 branch nonjudicial salary initiative fund.

18 (b) All moneys credited to the judicial branch nonjudicial salary
19 initiative fund shall be used for compensation of nonjudicial officers and
20 employees of the district courts, court of *criminal* appeals, *court of civil*
21 *appeals* and the supreme court and shall not be expended for compensation
22 of judges or justices of the judicial branch. Moneys in the fund shall be
23 used only to pay for that portion of the cost of salaries and wages of
24 nonjudicial personnel of the judicial branch, including associated employer
25 contributions, which shall not exceed the difference between the amount of
26 expenditures that would be required under the judicial branch pay plan for
27 nonjudicial personnel in effect prior to the effective date of this act and the
28 amount of expenditures required under the judicial branch pay plan for
29 nonjudicial personnel after the cost-of-living adjustments and the
30 adjustments for upgrades in pay rates for nonjudicial personnel approved
31 by the chief justice of the Kansas supreme court for fiscal year 2001. For
32 fiscal years commencing on and after June 30, 2001, moneys in such fund
33 shall be used only for the amount attributable to maintenance of the
34 judicial branch pay plan for nonjudicial personnel for such adjustments
35 and upgrades approved by the chief justice of the supreme court for fiscal
36 year 2001.

37 (c) All expenditures from the judicial branch nonjudicial salary
38 initiative fund shall be made in accordance with appropriation acts and
39 upon warrants of the director of accounts and reports issued pursuant to
40 payrolls approved by the chief justice of the Kansas supreme court or by a
41 person or persons designated by the chief justice.

42 (d) The enactment of this legislation shall not be considered a
43 statement of legislative intent to endorse future state general fund

1 financing for ensuing fiscal years for the proposed nonjudicial pay plan
2 contained in the report to the Kansas supreme court by the nonjudicial
3 salary initiative entitled nonjudicial employee compensation submitted to
4 the 2000 legislature.

5 Sec. 25. K.S.A. 2012 Supp. 20-1a15 is hereby amended to read as
6 follows: 20-1a15. (a) There is hereby established in the state treasury the
7 judicial branch nonjudicial salary adjustment fund.

8 (b) All moneys credited to the judicial branch nonjudicial salary
9 adjustment fund shall be used for compensation of nonjudicial officers and
10 employees of the district courts, court of *criminal* appeals, *court of civil*
11 *appeals* and the supreme court and shall not be expended for compensation
12 of judges or justices of the judicial branch. Moneys in the fund shall be
13 used only to pay for that portion of the cost of salaries and wages of
14 nonjudicial personnel of the judicial branch, including associated employer
15 contributions, which shall not exceed the difference between the amount of
16 expenditures that would be required under the judicial branch pay plan for
17 nonjudicial personnel in effect prior to the effective date of this act and the
18 amount of expenditures required under the judicial branch pay plan for
19 nonjudicial personnel after the cost-of-living adjustments and the
20 adjustments for upgrades in pay rates for nonjudicial personnel approved
21 by the chief justice of the Kansas supreme court for fiscal year 2009. For
22 fiscal years commencing on and after June 30, 2010, moneys in such fund
23 shall be used only for the amount attributable to maintenance of the
24 judicial branch pay plan for nonjudicial personnel for such adjustments
25 and upgrades approved by the chief justice of the supreme court for fiscal
26 year 2009.

27 (c) All expenditures from the judicial branch nonjudicial salary
28 adjustment fund shall be made in accordance with appropriation acts and
29 upon warrants of the director of accounts and reports issued pursuant to
30 payrolls approved by the chief justice of the Kansas supreme court or by a
31 person or persons designated by the chief justice.

32 Sec. 26. K.S.A. 20-205 is hereby amended to read as follows: 20-205.
33 The cases decided by the supreme court of this state which the court deem
34 of sufficient importance to be published and those of the court of *criminal*
35 *appeals and the court of civil appeals* which are to be published pursuant
36 to rule of the supreme court shall be prepared by the reporter and delivered
37 to the director of printing, who shall as speedily as possible print and
38 publish such number of copies of each volume of the reports as shall be
39 specified by the reporter, and deliver the same to the state law librarian. No
40 volume shall contain less than ~~seven hundred and fifty (750)~~ 750 pages,
41 including the index.

42 Sec. 27. K.S.A. 20-207 is hereby amended to read as follows: 20-207.
43 The director of printing shall hereafter deliver the whole number of copies

1 of reports of the supreme court, *court of criminal appeals* and court of
2 *civil* appeals required to be published to the state law librarian as soon as
3 completed; and when the whole edition of any volume shall be so
4 delivered, the librarian shall certify that fact to the secretary of state, who
5 shall thereupon ascertain the amount due the director of printing therefor,
6 and audit and certify the same to the director of accounts and reports for
7 payment.

8 Sec. 28. K.S.A. 20-208 is hereby amended to read as follows: 20-208.

9 (a) When the reports of the decisions of the supreme court, *court of*
10 *criminal appeals* or court of *civil* appeals are delivered, the state law
11 librarian shall use as many thereof as may be necessary to maintain
12 reasonable and equitable exchanges of such reports for law books and
13 other legal publications of the other states, territories, countries, societies
14 and institutions, for use in the supreme court law library. As used herein,
15 "Kansas reports" shall mean the reports of the decisions of the supreme
16 court, *court of criminal appeals* and court of *civil* appeals. The state law
17 librarian shall distribute copies of the Kansas reports without charge, as
18 follows:

19 (1) The supreme court, *the court of criminal appeals*, the court of
20 *civil* appeals and the office of the attorney general shall receive the number
21 of copies necessary to conduct the official business of such office, as
22 certified to the state law librarian by the head or executive officer of the
23 respective agencies;

24 (2) The office of each elected state official, other than those
25 specifically provided for herein, shall receive one copy;

26 (3) The law library of the school of law of the university of Kansas
27 shall receive 30 copies to maintain its sets of Kansas reports and for
28 exchange purposes, and the law library of the school of law of Washburn
29 university of Topeka shall receive 30 copies to maintain its sets of Kansas
30 reports and for exchange purposes;

31 (4) The state library and the libraries of Emporia state university, Fort
32 Hays state university, Pittsburg state university, Kansas state university,
33 and Wichita state university shall receive two copies to maintain its set of
34 Kansas reports;

35 (5) The United States district court for the district of Kansas shall
36 receive six copies;

37 (6) The office of each judge of the district court shall each receive
38 one copy;

39 (7) The Lansing correctional facility and the Hutchinson correctional
40 facility shall each receive one copy for the use of inmates at such
41 institutions and one copy for the use of the legal advisor at such
42 institutions;

43 (8) The library of congress shall receive two copies in order to

1 complete the copyright of ~~said~~ *such* reports;

2 (9) One copy shall be deposited with the appropriate office of the
3 United States post office in order to obtain a postal permit for mailing such
4 reports;

5 (10) A personal copy of the reports shall be presented to each justice
6 of the supreme court, each judge of the *court of criminal appeals* and court
7 of *civil* appeals, the clerk of the supreme court, the supreme court reporter,
8 and the judicial administrator of the district courts. Also, a personal copy
9 shall be sent to any retired supreme court justice, judge of the court of
10 appeals, *judge of the court of criminal appeals*, *judge of the court of civil*
11 *appeals*, district judge or associate district judge, if such retired judge or
12 justice files with the clerk of the supreme court annually a certificate
13 stating that such judge or justice is not engaged in the active practice of
14 law and is willing to accept judicial assignments; and

15 (11) The legislative coordinating council shall receive the number of
16 copies necessary to conduct the official business of the legislative branch
17 of government, as certified to the state law librarian by the legislative
18 coordinating council.

19 (b) Except as otherwise specifically provided in paragraph (10) of
20 subsection (a), all copies of the Kansas reports distributed pursuant to
21 subsection (a) or purchased by any governmental agency or subdivision
22 shall become the property of such office, agency or subdivision, which
23 shall be accountable therefor, and the state law librarian shall not distribute
24 any reports to any others or for any other purpose, but shall be responsible
25 for the remaining volumes of ~~said~~ *such* reports, which shall be sold at the
26 per volume price fixed by the supreme court under this section for each
27 current volume, plus the amount fixed by the supreme court under this
28 section for the cost of postage and handling, and the per volume price
29 fixed by the supreme court under this section for each noncurrent volume
30 which has not been reprinted, plus the amount fixed by the supreme court
31 under this section for the cost of postage and handling. The supreme court
32 shall have authority to order printed such additional copies of the reports
33 of the supreme court as in its judgment will be necessary to supply the
34 demand upon the state law librarian for the same. The state law librarian
35 shall sell any noncurrent volume which is reprinted at the per volume price
36 fixed by the supreme court under this section, plus the amount fixed by the
37 supreme court under this section for the cost of postage and handling. All
38 purchases of reports shall be made by payment in advance. The supreme
39 court shall fix the per volume price for copies of these Kansas reports sold
40 under this section to recover the costs of printing and binding such
41 volumes and shall fix the amount to be charged in connection with the sale
42 of each of such volumes to cover the costs of postage and handling
43 applicable thereto. The supreme court shall revise all such prices from time

1 to time as necessary for the purposes of covering or recovering such costs.

2 (c) It shall be the duty of the director of printing, under the direction
3 of the supreme court, to make and preserve for future use proofs, matrices,
4 plates, computer tapes or impressions of all volumes of the reports of the
5 supreme court and such other publications as the supreme court may
6 designate. The director of printing shall not make or permit to be made any
7 proofs, matrices, plates, computer tapes or impressions of any book
8 published by the judicial branch of the state government except for the use
9 of the state, as herein provided, and all proofs, matrices, plates, computer
10 tapes or impressions so made for any book published by the judicial
11 branch of the state government shall be the exclusive property of the state,
12 except that the director of printing may grant a revocable license to any
13 nonprofit corporation whereby such corporation may utilize the services of
14 equipment and personnel under the supervision of the director of printing
15 for the purpose of converting reports of the Kansas supreme court, *the*
16 *Kansas court of criminal appeals* and the Kansas court of *civil* appeals to
17 machine readable form for use by such corporation in providing
18 computerized legal research services, subject to protection of the state's
19 copyright as to any purpose unnecessary for such computerized legal
20 research.

21 Sec. 29. K.S.A. 20-211 is hereby amended to read as follows: 20-211.
22 The state law librarian shall have authority to order advance sheets of the
23 reports of the supreme court, *court of criminal appeals* and court of *civil*
24 appeals to be printed for distribution and temporary use until the reports
25 themselves are issued. Upon such order it shall be the duty of the reporter,
26 as soon as possible after they are filed, to prepare for publication, and of
27 the director of printing immediately thereafter to print the syllabi and
28 decisions of the court in the same form the permanent report will bear, but
29 upon inexpensive paper and to be bound in paper. The number of copies of
30 each issue shall be specified in the order. When issued they shall be
31 delivered to the state law librarian, to be distributed in the manner
32 provided in K.S.A. 20-208, *and amendments thereto*, for distributing
33 copies of the Kansas reports, except that no copies of advance sheets shall
34 be delivered to a law library for exchange purposes. The remaining copies
35 shall be sold at the per copy price fixed by the supreme court under this
36 section, plus the amount fixed by the supreme court under this section for
37 the cost of postage and handling. ~~Said~~ The librarian may sell subscriptions
38 to the current advance sheets and permanent report together for the
39 subscription price fixed by the supreme court under this section, plus the
40 amount fixed by the supreme court under this section for the cost of any
41 postage and handling, the same to be paid in advance and if any one
42 person, firm, association or corporation shall subscribe for ~~two hundred~~
43 ~~(200)~~ 200 or more copies of any bound volume and the advance sheets

1 thereto, the state law librarian may sell subscriptions to such persons, firm,
2 associations and corporations to the advance sheets and permanent report
3 together for a reduced subscription price fixed by the supreme court under
4 this section, plus the amount fixed by the supreme court under this section
5 for the cost of postage and handling, the same to be paid in advance. Upon
6 order of the court, any opinion may be withheld from publication in the
7 advance sheets until such time as it may designate. The increased prices
8 provided for in this section shall apply to current reports and advance
9 sheets commencing with volume 224, and subscriptions for earlier
10 volumes and advance sheets, or purchases of advance sheets of earlier
11 volumes, shall be at the rate prescribed by this section prior to this
12 amendment. All copies of advance sheets distributed pursuant to this
13 section or purchased by any governmental agency or subdivision may be
14 removed from the inventory of such office, agency or subdivision upon
15 publication of the volume of the Kansas reports for which such advance
16 sheets were issued. The supreme court shall fix the per copy prices,
17 subscription prices, and reduced subscription prices for advance sheets and
18 permanent reports sold under this section to recover the costs of printing
19 and binding such advance sheets and permanent reports and shall fix the
20 amount to be charged in connection with the sale and distribution of such
21 advance sheets and permanent reports under this section to cover the costs
22 of postage and handling applicable thereto. The supreme court shall revise
23 all such prices from time to time as necessary for the purposes of covering
24 or recovering such costs.

25 Sec. 30. K.S.A. 20-310b is hereby amended to read as follows: 20-
26 310b. (a) Upon stipulation of the parties to an action, the court may order
27 the action to be heard and determined by a temporary judge who is a
28 retired justice of the supreme court, retired judge of the court of appeals,
29 *retired judge of the court of criminal appeals, retired judge of the court of*
30 *civil appeals* or retired judge of the district court. Such temporary judge
31 shall be sworn and empowered to act as judge in the action until its final
32 determination.

33 (b) Any action before a temporary judge pursuant to this section shall
34 be conducted in the same manner as any other action before a judge of the
35 district court and any order entered by such temporary judge may be
36 appealed and enforced in the same manner as a similar order of a judge of
37 the district court.

38 (c) If a person acting as temporary judge pursuant to this section is a
39 retired district magistrate judge, the powers and jurisdiction of such
40 temporary judge shall be limited to the powers and jurisdiction of a district
41 magistrate judge and appeals of orders of such temporary judge shall be
42 governed by the laws governing appeals from orders of district magistrate
43 judges.

1 (d) The court shall fix the compensation of a temporary judge acting
2 pursuant to this section and such compensation shall be charged against
3 any or all parties to the action, or paid out of any fund or subject matter of
4 the action which is in the custody of the court, as directed by the court.

5 Sec. 31. K.S.A. 20-2201 is hereby amended to read as follows: 20-
6 2201. (a) A judicial council is hereby established and created which shall
7 be an independent agency in the judicial branch of government, shall
8 submit its budget separately and may adopt its own pay plan and personnel
9 rules.

10 (b) The judicial council shall be composed of one justice of the
11 supreme court, *one judge of the court of criminal appeals*, one judge of the
12 court of *civil* appeals, two district judges of different judicial districts, four
13 resident lawyers, the chairperson of the judiciary committee of the house
14 of representatives or the chairperson's—~~designate~~ *designee*, and the
15 chairperson of the judiciary committee of the senate.

16 (c) All members except the members of the legislature shall be
17 appointed by the chief justice of the supreme court for a term of four years
18 and until a successor shall have been appointed and qualified.

19 (d) The terms of the members of the legislature, and all other
20 members, shall terminate upon such member ceasing to belong to the class
21 from which such member was appointed.

22 (e) All vacancies except those of the members of the legislature shall
23 be filled by appointment by the chief justice for the unexpired term. Upon
24 vacancy, the places of the members of the legislature shall be filled by
25 their successors.

26 Sec. 32. K.S.A. 2012 Supp. 20-2601 is hereby amended to read as
27 follows: 20-2601. As used in K.S.A. 20-2601 et seq., and amendments
28 thereto, unless the context otherwise requires:

29 (a) "Fund" means the Kansas public employees retirement fund
30 created by K.S.A. 74-4921, and amendments thereto;

31 (b) "retirement system for judges" means the system provided for in
32 the acts contained in article 26 of chapter 20 of the Kansas Statutes
33 Annotated, and ~~any acts amendatory thereof or supplemental~~ *amendments*
34 thereto;

35 (c) "judge" means any duly elected or appointed justice of the
36 supreme court, judge of the court of appeals, *judge of the court of criminal*
37 *appeals*, *judge of the court of civil appeals* or judge of any district court of
38 Kansas, who serves in such capacity on and after the effective date of this
39 act and commencing with the first day of the first payroll period of the
40 fiscal year ending June 30, 1994, any district magistrate judge who makes
41 an election as provided in K.S.A. 20-2620, and amendments thereto, or
42 who is elected or appointed on or after July 1, 1993;

43 (d) "member" means a judge who is making the required

1 contributions to the fund, or any former judge who has made the required
2 contributions to the fund and has not received a refund of the judge's
3 accumulated contributions;

4 (e) "prior service" means all the periods of time any judge has served
5 in such capacity prior to the effective date of this act except that district
6 magistrate judges who have service credit under the Kansas public
7 employees retirement system must make application to the board and,
8 subject to the provisions of K.S.A. 74-49,123, and amendments thereto,
9 make payment as required by the board to transfer service credit from the
10 Kansas public employees retirement system to the retirement system for
11 judges;

12 (f) "current service" means the period of service any judge serves in
13 such capacity from and after the effective date of this act;

14 (g) "military service" means service of any judge for which
15 retirement benefit credit must be given as provided in the uniformed
16 services employment and reemployment rights act of 1994, as in effect on
17 July 1, 2008;

18 (h) "total years of service" means the total number of years served as
19 a judge, including prior service, military service and current service as
20 defined by this section, computed to the nearest quarter;

21 (i) "salary" means the statutory salary of a judge;

22 (j) "final average salary" means that determined as provided in
23 subsection (b) of K.S.A. 20-2610, and amendments thereto;

24 (k) "beneficiary" means any natural person or persons or estate
25 designated by a judge in the latest designation of beneficiary received in
26 the retirement system office to receive any benefits as provided for by this
27 act. Except as provided in subsection (n), if there is no named beneficiary
28 living at the time of the judge's death, any benefits provided for by this act
29 shall be paid to: (1) The judge's surviving spouse; (2) the judge's
30 dependent child or children; (3) the judge's dependent parent or parents;
31 (4) the judge's nondependent child or children; (5) the judge's
32 nondependent parent or parents; or (6) the estate of the deceased member;
33 in the order of preference as specified in this subsection. Designations of
34 beneficiaries by a member who is a member of more than one retirement
35 system made on or after July 1, 1987, shall be the basis of any benefits
36 payable under all systems unless otherwise provided by law;

37 (l) "annuity" means a series of equal monthly payments, payable at
38 the end of each calendar month during the life of a retired judge, of which
39 payments the first payment shall be made as of the end of the calendar
40 month in which such annuity was awarded and the last payment shall be at
41 the end of the calendar month in which such judge dies. The first payment
42 shall include all amounts accrued since the effective date of the award of
43 annuities, including a pro rata portion of the monthly amount of any

1 fraction of a month elapsing between the effective date of such annuity and
2 the end of the calendar month in which such annuity began;

3 (m) "board" means the board of trustees of the Kansas public
4 employees retirement system;

5 (n) "trust" means an express trust created by any trust instrument,
6 including a will, and designated by a member to receive benefits and other
7 amounts payable under K.S.A. 20-2607, 20-2610a and 20-2612, and
8 amendments thereto, instead of a beneficiary. A designation of a trust shall
9 be filed with the board. If there is a designated trust at the time of the
10 member's death, all benefits and other amounts payable under K.S.A. 20-
11 2607, 20-2610a and 20-2612, and amendments thereto, shall be paid to the
12 trust instead of the member's beneficiary. If no will is admitted to probate
13 within six months after the death of the member or no trustee qualifies
14 within such six months or if the designated trust fails, for any reason
15 whatsoever, any benefits and other amounts payable under K.S.A. 20-
16 2607, 20-2610a and 20-2612, and amendments thereto, shall be paid to the
17 member's beneficiary and any payments so made shall be a full discharge
18 and release to the retirement system for judges from any further claims;

19 (o) "accumulated contributions" means the sum of all contributions
20 by a member to the retirement system for judges which are credited to the
21 member's account, with interest allowed thereon after June 30, 1982;

22 (p) "federal internal revenue code" means the federal internal revenue
23 code of 1954 or 1986, as in effect on July 1, 2008, and as applicable to a
24 governmental plan; and

25 (q) except as otherwise provided in K.S.A. 20-2601 et seq., and
26 amendments thereto, words and phrases used in K.S.A. 20-2601 et seq.,
27 and amendments thereto, shall have the same meanings ascribed to them
28 as are defined in K.S.A. 74-4902, and amendments thereto.

29 Sec. 33. K.S.A. 20-2616 is hereby amended to read as follows: 20-
30 2616. (a) Any retired justice of the supreme court, retired judge of the
31 court of appeals, *retired judge of the court of criminal appeals*, *retired*
32 *judge of the court of civil appeals*, retired district judge or retired associate
33 district judge may be designated and assigned to perform such judicial
34 service and duties as such retired justice or judge is willing to undertake.
35 Designation and assignment of a retired justice or judge in connection with
36 any matter pending in the supreme court shall be made by the supreme
37 court. Designation and assignment of a retired justice or judge in
38 connection with any matter pending in any other court, including any court
39 located within the judicial district in which the justice or judge resides, or
40 to perform any other judicial service or duties shall be made by the chief
41 justice of the supreme court. Any such judicial service or duties shall
42 include necessary preparation and other out-of-court judicial service for
43 hearings or for deciding matters or cases in conjunction with the judicial

1 services and duties assigned under this section. Any designation and
2 assignment may be revoked in the same manner and all such designations
3 and assignments and revocations shall be filed of record in the office of the
4 clerk of the court to which such assignment is made.

5 (b) A retired justice or judge so designated and assigned to perform
6 judicial service or duties shall have the power and authority to hear and
7 determine all matters covered by the assignment.

8 (c) Except as otherwise provided in this section, each retired justice
9 or judge who performs judicial service or duties under this section shall
10 receive: (1) Per diem compensation at the rate of per diem compensation
11 in effect under K.S.A. 46-137a, and amendments thereto;; (2) a per diem
12 subsistence allowance at the per diem subsistence allowance rate in effect
13 under K.S.A. 46-137a, and amendments thereto;; (3) a mileage allowance
14 at the rate fixed under K.S.A. 75-3203a, and amendments thereto;; and (4)
15 all actual and necessary expenses for other than subsistence or travel,
16 including necessary stenographic assistance, as may be incurred in
17 performing such service or duties.

18 (d) No retired justice or judge shall be entitled to receive per diem
19 compensation under this section for any day in a fiscal year after the date
20 that the total of: (1) The amount of per diem compensation earned under
21 this section during that fiscal year; and (2) the amount of the retirement
22 annuity payable to such retired justice or judge for that fiscal year under
23 the retirement system for judges, becomes equal to or more than the
24 amount of the current annual salary of a district judge paid by the state
25 under K.S.A. 75-3120g, and amendments thereto, but such retired justice
26 or judge shall receive the subsistence allowance, mileage allowance and
27 actual and necessary expenses as provided under this section after such
28 date.

29 (e) As used in this section, a retired justice or judge shall not include
30 those justices or judges who were not retained in office, were not reelected
31 to office, have been impeached from office or removed by the supreme
32 court from office.

33 Sec. 34. K.S.A. 20-2622 is hereby amended to read as follows: 20-
34 2622. (a) On and after the effective date of this act, a retirant who retires as
35 provided in K.S.A. 20-2608, and amendments thereto, may return to
36 temporary judicial duties while receiving service retirement benefits. Upon
37 written agreement with the Kansas supreme court prior to retirement, such
38 retirant shall be available to perform assigned judicial duties for not more
39 than 104 days or 40% of each year. Notwithstanding the provisions of law
40 in effect on the retirement date of a retirant, such retirant shall receive a
41 stipend, payable monthly, equal to 25% of the current monthly salary of
42 judges or justices serving in the same position as that held by the retirant at
43 the time of retirement. Such agreement shall be for a period of not more

1 than two years. A retirant may enter into subsequent agreements, except
2 that the aggregate of these agreements shall not exceed 12 years. The
3 supreme court is hereby authorized and may pay on behalf of such retirant
4 the amount specified by the Kansas state employees health care
5 commission under K.S.A. 75-6508, and amendments thereto, as if the
6 retirant is serving as a full-time employee of the judicial branch and
7 participating in the state health care benefits program to provide for such
8 participation of the retirant. Any retirant entering into a written agreement
9 with the Kansas supreme court to be available to perform assigned judicial
10 duties for less than 104 days or 40% of each year for a proportionally
11 reduced stipend shall be considered as if the retirant is serving under a
12 part-time appointment as an employee of the judicial branch and
13 participating in the state health care benefits program to provide for such
14 participation of the employee and the supreme court may pay on behalf of
15 the retirant the amount specified by the Kansas state employees health care
16 commission and K.S.A. 75-6508, and amendments thereto.

17 (b) Within five years after retirement, a retirant who did not enter into
18 an agreement as provided for in subsection (a) prior to retirement may
19 enter into such a written agreement within 30 days prior to any anniversary
20 date of retirement. Agreements shall be signed by the chief justice with the
21 approval of a majority of the justices of the Kansas supreme court.

22 (c) If a written agreement is entered into pursuant to the provisions of
23 subsection (a), and notice is received by the chief justice of the refusal of
24 the retirant to accept a temporary assignment without just cause, the
25 written agreement shall be terminated.

26 (d) Nothing in this act shall be construed to require a retirant of the
27 retirement system for judges to enter into an agreement to perform
28 temporary judicial duties.

29 (e) Nothing in this act shall be construed to limit the supreme court's
30 ability to make judicial assignments pursuant to the provisions of K.S.A.
31 20-310b and 20-2616, and amendments thereto; and the stipend provided
32 by this act shall not be counted toward the annual limitation on
33 compensation provided in K.S.A. 20-2616, and amendments thereto.

34 (f) Any retirant who has fulfilled the requirements of an agreement
35 entered into pursuant to this act may continue to accept judicial
36 assignments and shall be compensated for such subsequent assignments in
37 accordance with the provisions of K.S.A. 20-310b and 20-2616, and
38 amendments thereto.

39 (g) If an assignment given to a retirant in accordance with this act
40 will require the retirant to exceed the 104-day limitation provided in
41 subsection (a), the retirant shall be compensated in accordance with the
42 provisions of K.S.A. 20-2616, and amendments thereto.

43 (h) For purposes of this act, "retirant" shall include any justice of the

1 Kansas supreme court, judge of the Kansas court of appeals, *judge of the*
2 *Kansas court of criminal appeals, judge of the Kansas court of civil*
3 *appeals* and district judge of any district court of Kansas who retired
4 pursuant to the provisions of the retirement system for judges. Retirant
5 shall not include any district magistrate judge.

6 Sec. 35. K.S.A. 2012 Supp. 20-3202 is hereby amended to read as
7 follows: 20-3202. (a) The commission shall consist of thirteen members
8 appointed by the judicial council. The council shall appoint commission
9 members of outstanding competence and reputation. Six members of the
10 commission shall be non-lawyers and six members of the commission
11 shall be lawyers, justices or judges. The judicial council shall appoint the
12 chair of the commission, who shall be a lawyer, justice or judge. At least
13 one non-lawyer commission member and at least one lawyer, justice or
14 judge commission member shall reside in each congressional district. The
15 rules of the commission shall provide that the terms of the commission
16 members are staggered.

17 (b) For the purposes of K.S.A. 20-3201 through 20-3207, and
18 amendments thereto, the commission shall not be subject to the Kansas
19 open meetings act as provided in K.S.A. 75-4317 et seq., and amendments
20 thereto.

21 (c) As used in K.S.A. 20-3201 through 20-3207, and amendments
22 thereto:

23 (1) "Lawyer" means an attorney registered as active pursuant to
24 supreme court rule.

25 (2) "Judge" means: a current or retired Kansas judge of the district
26 court; *a current or retired judge of the Kansas court of criminal appeals or*
27 *the Kansas court of civil appeals;* and a ~~current~~ or retired judge of the
28 Kansas court of appeals.

29 (3) "Justice" means a current or retired justice of the Kansas supreme
30 court.

31 Sec. 36. K.S.A. 20-3208 is hereby amended to read as follows: 20-
32 3208. On and after July 1, 2007, a retired justice of the supreme court,
33 retired judge of the court of appeals, *retired judge of the court of criminal*
34 *appeals, retired judge of the court of civil appeals* or retired judge of the
35 district court who retired pursuant to the retirement system for judges as
36 provided pursuant to the provisions of K.S.A. 20-2601 et seq., and
37 amendments thereto, may enter into a written agreement as provided in
38 this section to perform services for the commission on judicial
39 performance while receiving service retirement benefits pursuant to the
40 provisions of the retirement system for judges. Such retired justice or
41 judge shall enter into a written agreement with the judicial council,
42 established pursuant to the provisions of K.S.A. 20-2201, and amendments
43 thereto, to perform duties assigned by the judicial council to assist the

1 commission in the judicial performance evaluation process prescribed
2 pursuant to the provisions of K.S.A. 20-3201 et seq., and amendments
3 thereto. Such retired justice or judge shall be available to perform assigned
4 duties for not more than 104 days or 40% of each year. Notwithstanding
5 the provisions of law in effect on the retirement date of a retired justice or
6 judge, such justice or judge shall receive a stipend, payable monthly, equal
7 to 25% of the monthly salary of such retired justice or judge at the time of
8 retirement of such retired justice or judge. Such agreement shall be for a
9 period of not more than two years. A retired justice or judge may enter into
10 subsequent agreements. The judicial council is hereby authorized and may
11 pay on behalf of such retired justice or judge the amount specified by the
12 Kansas state employees health care commission under the provisions of
13 K.S.A. 75-6508, and amendments thereto, as if the retired justice or judge
14 is serving as a full-time employee of the judicial council and participating
15 in the state health care benefits program to provide for such participation
16 of the retired justice or judge. Any retired justice or judge entering into a
17 written agreement with the judicial council to be available to perform
18 assigned duties pursuant to this section for less than 104 days or 40% of
19 each year for a proportionally reduced stipend shall be considered as if the
20 retired justice or judge is serving under a part-time appointment as an
21 employee of the judicial council and participating in the state health care
22 benefits program to provide for such participation of the retired justice or
23 judge, and the judicial council may pay on behalf of the retired justice or
24 judge the amount specified by the Kansas state employees health care
25 commission under the provisions of K.S.A. 75-6508, and amendments
26 thereto. The monthly stipend provided by this act shall not be counted
27 toward the annual limitation on compensation provided in K.S.A. 20-2616,
28 and amendments thereto. A retired justice or judge who has fulfilled the
29 requirements of an agreement entered into pursuant to this section may
30 accept judicial assignments and be compensated in accordance with the
31 provisions of K.S.A. 20-310b, 20-2616 and 20-2622, and amendments
32 thereto. If an assignment given to a retired justice or judge pursuant to the
33 provisions of this section will require the retired justice or judge to exceed
34 the service limit provided in this section, the retired justice or judge shall
35 be compensated in accordance with the provisions of K.S.A. 20-2616, and
36 amendments thereto.

37 Sec. 37. K.S.A. 2012 Supp. 21-5207 is hereby amended to read as
38 follows: 21-5207. (a) A person's ignorance or mistake as to a matter of
39 either fact or law, except as provided in K.S.A. 2012 Supp. 21-5204, and
40 amendments thereto, is a defense if it negates the existence of the culpable
41 mental state which the statute prescribes with respect to an element of the
42 crime.

43 (b) A person's reasonable belief that such person's conduct does not

1 constitute a crime is a defense if:

2 (1) The crime is defined by an administrative regulation or order
3 which is not known to such person and has not been published in the
4 Kansas administrative regulations or an annual supplement thereto, as
5 provided by law; and such person could not have acquired such knowledge
6 by the exercise of due diligence pursuant to facts known to such person;

7 (2) such person acts in reliance upon a statute which later is
8 determined to be invalid;

9 (3) such person acts in reliance upon an order or opinion of the
10 *Kansas court of criminal appeals, the Kansas supreme court of Kansas* or
11 a United States appellate court later overruled or reversed; or

12 (4) such person acts in reliance upon an official interpretation of the
13 statute, regulation or order defining the crime made by a public officer or
14 agency legally authorized to interpret such statute.

15 (c) Although a person's ignorance or mistake of fact or law, or
16 reasonable belief, as described in subsection (b), is a defense to the crime
17 charged, such person may be convicted of an included crime of which such
18 person would be guilty if the fact or law were as such person believed it to
19 be.

20 Sec. 38. K.S.A. 2012 Supp. 21-6619 is hereby amended to read as
21 follows: 21-6619. (a) A judgment of conviction resulting in a sentence of
22 death shall be subject to automatic review by and appeal to the ~~supreme~~
23 ~~court of Kansas~~ *court of criminal appeals* in the manner provided by the
24 applicable statutes and rules of the supreme court governing appellate
25 procedure. The review and appeal shall be expedited in every manner
26 consistent with the proper presentation thereof and given priority pursuant
27 to the statutes and rules of the supreme court governing appellate
28 procedure.

29 (b) ~~The supreme court of Kansas~~ *court of criminal appeals* shall
30 consider the question of sentence as well as any errors asserted in the
31 review and appeal and shall be authorized to notice unassigned errors
32 appearing of record if the ends of justice would be served thereby.

33 (c) With regard to the sentence, the court shall determine:

34 (1) Whether the sentence of death was imposed under the influence of
35 passion, prejudice or any other arbitrary factor; and

36 (2) whether the evidence supports the findings that an aggravating
37 circumstance or circumstances existed and that any mitigating
38 circumstances were insufficient to outweigh the aggravating
39 circumstances.

40 (d) The court shall be authorized to enter such orders as are necessary
41 to effect a proper and complete disposition of the review and appeal.

42 Sec. 39. K.S.A. 2012 Supp. 21-6628 is hereby amended to read as
43 follows: 21-6628. (a) In the event the term of imprisonment for life

1 without the possibility of parole or any provision of K.S.A. 2012 Supp. 21-
2 6626 or 21-6627, and amendments thereto, authorizing such term is held to
3 be unconstitutional by the *Kansas court of criminal appeals, the Kansas*
4 ~~supreme court of Kansas~~ or the United States supreme court, the court
5 having jurisdiction over a person previously sentenced shall cause such
6 person to be brought before the court and shall modify the sentence to
7 require no term of imprisonment for life without the possibility of parole
8 and shall sentence the defendant to the maximum term of imprisonment
9 otherwise provided by law.

10 (b) In the event a sentence of death or any provision of chapter 252 of
11 the 1994 Session Laws of Kansas authorizing such sentence is held to be
12 unconstitutional by the *Kansas court of criminal appeals, the Kansas*
13 ~~supreme court of Kansas~~ or the United States supreme court, the court
14 having jurisdiction over a person previously sentenced shall cause such
15 person to be brought before the court and shall modify the sentence and
16 resentence the defendant as otherwise provided by law.

17 (c) In the event the mandatory term of imprisonment or any provision
18 of chapter 341 of the 1994 Session Laws of Kansas authorizing such
19 mandatory term is held to be unconstitutional by the *Kansas court of*
20 *criminal appeals, the Kansas* ~~supreme court of Kansas~~ or the United States
21 supreme court, the court having jurisdiction over a person previously
22 sentenced shall cause such person to be brought before the court and shall
23 modify the sentence to require no mandatory term of imprisonment and
24 shall sentence the defendant as otherwise provided by law.

25 Sec. 40. K.S.A. 22-2202 is hereby amended to read as follows: 22-
26 2202. (1) "Appellate court" means the ~~supreme court or court of criminal~~
27 ~~appeals, depending on the context in which the term is used and the~~
28 ~~respective jurisdiction of those courts over appeals in criminal cases, as~~
29 ~~provided in K.S.A. 22-3601, and amendments thereto.~~

30 (2) "Appearance bond" means an agreement, with or without security,
31 entered into by a person in custody by which the person is bound to
32 comply with the conditions specified in the agreement.

33 (3) "Arraignment" means the formal act of calling the defendant
34 before a court having jurisdiction to impose sentence for the offense
35 charged, informing the defendant of the offense with which the defendant
36 is charged, and asking the defendant whether the defendant is guilty or not
37 guilty.

38 (4) "Arrest" means the taking of a person into custody in order that
39 the person may be forthcoming to answer for the commission of a crime.
40 The giving of a notice to appear is not an arrest.

41 (5) "Bail" means the security given for the purpose of insuring
42 compliance with the terms of an appearance bond.

43 (6) "Bind over" means require a defendant to appear and answer

1 before a district judge having jurisdiction to try the defendant for the
2 felony with which the defendant is charged.

3 (7) "Charge" means a written statement presented to a court accusing
4 a person of the commission of a crime and includes a complaint,
5 information or indictment.

6 (8) "Complaint" means a written statement under oath of the essential
7 facts constituting a crime, except that a citation or notice to appear issued
8 by a law enforcement officer pursuant to and in compliance with K.S.A. 8-
9 2106, and amendments thereto, or a citation or notice to appear issued
10 pursuant to and in compliance with K.S.A. 32-1049, *and amendments*
11 *thereto*, shall be deemed a valid complaint if it is signed by the law
12 enforcement officer.

13 (9) "Custody" means the restraint of a person pursuant to an arrest or
14 the order of a court or magistrate.

15 (10) "Detention" means the temporary restraint of a person by a law
16 enforcement officer.

17 (11) "Indictment" means a written statement, presented by a grand
18 jury to a court, which charges the commission of a crime.

19 (12) "Information" means a verified written statement signed by a
20 county attorney or other authorized representative of the state of Kansas
21 presented to a court, which charges the commission of a crime. An
22 information verified upon information and belief by the county attorney or
23 other authorized representative of the state of Kansas shall be sufficient.

24 (13) "Law enforcement officer" means any person who by virtue of
25 office or public employment is vested by law with a duty to maintain
26 public order or to make arrests for violation of the laws of the state of
27 Kansas or ordinances of any municipality thereof or with a duty to
28 maintain or assert custody or supervision over persons accused or
29 convicted of crime, and includes court services officers, parole officers and
30 directors, security personnel and keepers of correctional institutions, jails
31 or other institutions for the detention of persons accused or convicted of
32 crime, while acting within the scope of their authority.

33 (14) "Magistrate" means an officer having power to issue a warrant
34 for the arrest of a person charged with a crime and includes justices of the
35 supreme court, judges of the court of *criminal* appeals, *judges of the court*
36 *of civil appeals* and judges of district courts.

37 (15) "Notice to appear" means a written request, issued by a law
38 enforcement officer, that a person appear before a designated court at a
39 stated time and place.

40 (16) "Preliminary examination" means a hearing before a magistrate
41 on a complaint or information to determine if a felony has been committed
42 and if there is probable cause to believe that the person charged committed
43 it.

1 (17) "Prosecuting attorney" means any attorney who is authorized by
2 law to appear for and on behalf of the state of Kansas in a criminal case,
3 and includes the attorney general, an assistant attorney general, the county
4 or district attorney, an assistant county or district attorney and any special
5 prosecutor whose appearance is approved by the court. In the case of
6 prosecution for violation of a city ordinance, also, "prosecuting attorney"
7 means the city attorney or any assistant city attorney.

8 (18) "Search warrant" means a written order made by a magistrate
9 directed to a law enforcement officer commanding the officer to search the
10 premises described in the search warrant and to seize property described or
11 identified in the search warrant.

12 (19) "Summons" means a written order issued by a magistrate
13 directing that a person appear before a designated court at a stated time
14 and place and answer to a charge pending against the person.

15 (20) "Warrant" means a written order made by a magistrate directed
16 to any law enforcement officer commanding the officer to arrest the person
17 named or described in the warrant.

18 Sec. 41. K.S.A. 22-2514 is hereby amended to read as follows: 22-
19 2514. This act shall be a part of and supplemental to the code of criminal
20 procedure. As used in this act:

21 (1) "Wire communication" means any aural transfer made in whole or
22 in part through the use of facilities for the transmission of communications
23 by the aid of wire, cable or other like connection between the point of
24 origin and the point of reception, including the use of such connection in a
25 switching station, furnished or operated by any person engaged in
26 providing or operating such facilities for the transmission of intrastate,
27 interstate or foreign communications. Wire communication shall include
28 any electronic storage of such communication;

29 (2) "oral communication" means any oral communication uttered by a
30 person exhibiting an expectation that such communication is not subject to
31 interception under circumstances justifying such expectation, but such
32 term does not include any electronic communication;

33 (3) "intercept" means the aural or other acquisition of the contents of
34 any wire, oral or electronic communication through the use of any
35 electronic, mechanical or other device;

36 (4) "persons" means any individual, partnership, association, joint
37 stock company, trust or corporation, including any official, employee or
38 agent of the United States or any state or any political subdivision thereof;

39 (5) "investigative or law enforcement officer" means any law
40 enforcement officer who is empowered by the law of this state to conduct
41 investigations of or to make arrests for offenses enumerated in this act,
42 including any attorney authorized by law to prosecute or participate in the
43 prosecution of such offenses and agents of the United States federal bureau

1 of investigation, drug enforcement administration, marshals service, secret
2 service, treasury department, customs service, justice department and
3 internal revenue service;

4 (6) "contents" when used with respect to any wire, oral or electronic
5 communication, includes any information concerning the substance,
6 purport or meaning of such communication;

7 (7) "aggrieved person" means a person who was a party to any
8 intercepted wire, oral or electronic communication or a person against
9 whom the interception was directed;

10 (8) "judge of competent jurisdiction" means ~~a justice of the supreme~~
11 ~~court~~, a judge of the court of *criminal* appeals, *a judge of the court of civil*
12 *appeals* or any district judge, but does not include a district magistrate
13 judge;

14 (9) "electronic, mechanical or other device" means any device or
15 apparatus which can be used to intercept a wire, oral or electronic
16 communication other than:

17 (a) Any telephone or telegraph instrument, equipment or facility, or
18 any component thereof; (i) Furnished to the subscriber or user by a
19 provider of wire or electronic communication service in the ordinary
20 course of its business and being used by the subscriber or user in the
21 ordinary course of its business or furnished by such subscriber or user for
22 connection to the facilities of such service and used in the ordinary course
23 of its business; or (ii) being used by a provider of wire or electronic
24 communication service in the ordinary course of its business, or by an
25 investigative or law enforcement officer in the ordinary course of the
26 officer's duties; or

27 (b) a hearing aid or similar device being used to correct subnormal
28 hearing to not better than normal;

29 (10) "communication common carrier" means common carrier, as
30 defined by section 153(h) of title 47 of the United States Code;

31 (11) "electronic communication" means any transfer of signs, signals,
32 writing, images, sounds, data or intelligence of any nature transmitted in
33 whole or in part by a wire, radio, electromagnetic, photoelectronic or
34 photo-optical system but does not include:

35 (a) Any wire or oral communication;

36 (b) any communication made through a tone-only paging device; or

37 (c) any communication from a tracking device, as defined in section
38 3117, chapter 205 of title 18, United States Code;

39 (12) "user" means any person or entity who:

40 (a) Uses an electronic communication service; and

41 (b) is duly authorized by the provider of such service to engage in
42 such use;

43 (13) "electronic communications system" means any wire, radio,

1 electromagnetic, photo-optical or photoelectronic facilities for the
2 transmission of electronic communications, and any computer facilities or
3 related electronic equipment for the electronic storage of such
4 communications;

5 (14) "electronic communication service" means any service which
6 provides to users thereof the ability to send or receive wire or electronic
7 communications;

8 (15) "readily accessible to the general public" means, with respect to
9 a radio communication, that such communication is not:

10 (a) Scrambled or encrypted;

11 (b) transmitted using modulation techniques whose essential
12 parameters have been withheld from the public with the intention of
13 preserving the privacy of such communication;

14 (c) carried on a subcarrier or other signal subsidiary to a radio
15 transmission;

16 (d) transmitted over a communication system provided by a common
17 carrier, unless the communication is a tone-only paging system
18 communication; or

19 (e) transmitted on frequencies allocated under part 25, subpart D, E or
20 F of part 74, or part 94 of the rules of the federal communications
21 commission, unless, in the case of a communication transmitted on a
22 frequency allocated under part 74 that is not exclusively allocated to
23 broadcast auxiliary services, the communication is a two-way voice
24 communication by radio;

25 (16) "electronic storage" means:

26 (a) Any temporary, intermediate storage of a wire or electronic
27 communication incidental to the electronic transmission thereof; and

28 (b) any storage of such communication by an electronic
29 communication service for purposes of backup protection of such
30 communication; and

31 (17) "aural transfer" means a transfer containing the human voice at
32 any point between and including the point of origin and the point of
33 reception.

34 Sec. 42. K.S.A. 22-2804 is hereby amended to read as follows: 22-
35 2804. (1) A person who has been convicted of a crime and is either
36 awaiting sentence or has filed a notice of appeal may be released by the
37 district court under the conditions provided in K.S.A. 22-2802, and
38 amendments thereto, if the court or judge finds that the conditions of
39 release will reasonably assure that the person will not flee or pose a danger
40 to any other person or to the community.

41 (2) A person who has been convicted of a crime and has filed a notice
42 of appeal to the ~~supreme court~~ or court of *criminal* appeals shall make
43 application to be released to the court whose judgment is appealed from or

1 to a judge thereof. If an application to such court or judge has been made
2 and denied or action on the application did not afford the relief sought by
3 the applicant, the applicant may make an application for release to the
4 appellate court. An application to the appellate court or a justice or judge
5 thereof shall state the disposition of the application made by the district
6 court or judge. Any application made under this subsection shall be heard
7 after reasonable notice to the prosecuting attorney. Such notice shall be
8 given not less than one day prior to the hearing. Any appearance bond
9 which may be required under this subsection shall be filed in the court
10 from which the appeal was taken.

11 (3) A person who has been convicted of a crime before a district
12 magistrate judge may, upon taking an appeal to a district judge, apply to be
13 released as provided herein. If the application is made before the case has
14 been referred to the chief judge for assignment, the conditions of release
15 shall be determined by the district magistrate judge from whom the appeal
16 is taken. If the application is made thereafter, the chief judge or the district
17 judge to whom the case has been assigned shall determine the conditions
18 of release. Any appearance bond which may be required under this
19 subsection shall be deposited in the court where it is fixed.

20 Sec. 43. K.S.A. 2012 Supp. 22-3402 is hereby amended to read as
21 follows: 22-3402. (a) If any person charged with a crime and held in jail
22 solely by reason thereof shall not be brought to trial within 90 days after
23 such person's arraignment on the charge, such person shall be entitled to be
24 discharged from further liability to be tried for the crime charged, unless
25 the delay shall happen as a result of the application or fault of the
26 defendant or a continuance shall be ordered by the court under subsection
27 (e).

28 (b) If any person charged with a crime and held to answer on an
29 appearance bond shall not be brought to trial within 180 days after
30 arraignment on the charge, such person shall be entitled to be discharged
31 from further liability to be tried for the crime charged, unless the delay
32 shall happen as a result of the application or fault of the defendant, or a
33 continuance shall be ordered by the court under subsection (e).

34 (c) If any trial scheduled within the time limitation prescribed by
35 subsection (a) or (b) is delayed by the application of or at the request of the
36 defendant, the trial shall be rescheduled within 90 days of the original trial
37 deadline.

38 (d) After any trial date has been set within the time limitation
39 prescribed by subsection (a), (b) or (c), if the defendant fails to appear for
40 the trial or any pretrial hearing, and a bench warrant is ordered, the trial
41 shall be rescheduled within 90 days after the defendant has appeared in
42 court after apprehension or surrender on such warrant. However, if the
43 defendant was subject to the 180-day deadline prescribed by subsection (b)

1 and more than 90 days of the original time limitation remain, then the
2 original time limitation remains in effect.

3 (e) For those situations not otherwise covered by subsection (a), (b)
4 or (c), the time for trial may be extended for any of the following reasons:

5 (1) The defendant is incompetent to stand trial. If the defendant is
6 subsequently found to be competent to stand trial, the trial shall be
7 scheduled as soon as practicable and in any event within 90 days of such
8 finding;

9 (2) A proceeding to determine the defendant's competency to stand
10 trial is pending. If the defendant is subsequently found to be competent to
11 stand trial, the trial shall be scheduled as soon as practicable and in any
12 event within 90 days of such finding. However, if the defendant was
13 subject to the 180-day deadline prescribed by subsection (b) and more than
14 90 days of the original time limitation remain, then the original time
15 limitation remains in effect. The time that a decision is pending on
16 competency shall never be counted against the state;

17 (3) There is material evidence which is unavailable; that reasonable
18 efforts have been made to procure such evidence; and that there are
19 reasonable grounds to believe that such evidence can be obtained and trial
20 commenced within the next succeeding 90 days. Not more than one
21 continuance may be granted the state on this ground, unless for good cause
22 shown, where the original continuance was for less than 90 days, and the
23 trial is commenced within 120 days from the original trial date;

24 (4) Because of other cases pending for trial, the court does not have
25 sufficient time to commence the trial of the case within the time fixed for
26 trial by this section. Not more than one continuance of not more than 30
27 days may be ordered upon this ground.

28 (f) In the event a mistrial is declared, a motion for new trial is granted
29 or a conviction is reversed on appeal to the ~~supreme court~~ or court of
30 *criminal* appeals, the time limitations provided for herein shall commence
31 to run from the date the mistrial is declared, the date a new trial is ordered
32 or the date the mandate of the ~~supreme court~~ or court of *criminal* appeals
33 is filed in the district court.

34 (g) If a defendant, or defendant's attorney in consultation with the
35 defendant, requests a delay and such delay is granted, the delay shall be
36 charged to the defendant regardless of the reasons for making the request,
37 unless there is prosecutorial misconduct related to such delay. If a delay is
38 initially attributed to the defendant, but is subsequently charged to the state
39 for any reason, such delay shall not be considered against the state under
40 subsections (a), (b) or (c) and shall not be used as a ground for dismissing
41 a case or for reversing a conviction unless not considering such delay
42 would result in a violation of the constitutional right to a speedy trial or
43 there is prosecutorial misconduct related to such delay.

1 (h) When a scheduled trial is scheduled within the period allowed by
2 subsections (a), (b) or (c) and is delayed because a party has made or filed
3 a motion, or because the court raises a concern on its own, the time
4 elapsing from the date of the making or filing of the motion, or the court's
5 raising a concern, until the matter is resolved by court order shall not be
6 considered when determining if a violation under subsections (a), (b) or (c)
7 has occurred. If the resolution of such motion or concern by court order
8 occurs at a time when less than 30 days remains under the provisions of
9 subsections (a), (b) or (c), the time in which the defendant shall be brought
10 to trial is extended 30 days from the date of the court order.

11 (i) If the state requests and is granted a delay for any reason provided
12 in this statute, the time elapsing because of the order granting the delay
13 shall not be subsequently counted against the state if an appellate court
14 later determines that the district court erred by granting the state's request
15 unless not considering such delay would result in a violation of the
16 constitutional right to a speedy trial or there is prosecutorial misconduct
17 related to such delay.

18 Sec. 44. K.S.A. 2012 Supp. 22-3601, as amended by section 26 of
19 2013 Senate Substitute for House Bill No. 2034, is hereby amended to
20 read as follows: 22-3601. ~~(a)~~ Any appeal permitted to be taken from a
21 district court's final judgment in a criminal case shall be taken to the court
22 of *criminal* appeals, except in those cases reviewable by law in the district
23 court ~~or in which a direct appeal to the supreme court is required.~~
24 Whenever an interlocutory appeal is permitted in a criminal case in the
25 district court, such appeal shall be taken to the court of *criminal* appeals.

26 ~~(b) Any appeal permitted to be taken from a district court's final~~
27 ~~judgment in a criminal case shall be taken directly to the supreme court in~~
28 ~~the following cases:~~

29 ~~(1) Any case in which a statute of this state or of the United States~~
30 ~~has been held unconstitutional;~~

31 ~~(2) any case in which the defendant has been convicted of a class A~~
32 ~~felony;~~

33 ~~(3) any case in which a maximum sentence of life imprisonment has~~
34 ~~been imposed, unless the maximum sentence has been imposed pursuant to~~
35 ~~K.S.A. 21-4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and~~
36 ~~amendments thereto; and~~

37 ~~(4) except as provided further, any case in which the crime was~~
38 ~~committed on or after July 1, 1993, and the defendant has been convicted~~
39 ~~of an off-grid crime. The provisions of this paragraph shall not apply to~~
40 ~~any case in which the off-grid crime was:~~

41 ~~(A) Aggravated human trafficking, subsection (e)(2)(B) of K.S.A.~~
42 ~~2012 Supp. 21-5426, and amendments thereto;~~

43 ~~(B) rape, subsection (b)(2)(B) of K.S.A. 2012 Supp. 21-5503, and~~

1 amendments thereto;

2 (C) ~~aggravated criminal sodomy, subsection (c)(2)(B)(ii) of K.S.A.~~
3 ~~2012 Supp. 21-5504, and amendments thereto;~~

4 (D) ~~aggravated indecent liberties with a child, subsection (c)(2)(C)(ii)~~
5 ~~of K.S.A. 2012 Supp. 21-5506, and amendments thereto;~~

6 (E) ~~sexual exploitation of a child, subsection (b)(2)(B) of K.S.A.~~
7 ~~2012 Supp. 21-5510, and amendments thereto;~~

8 (F) ~~commercial sexual exploitation of a child, subsection (b)(2) of~~
9 ~~section 4, and amendments thereto; or~~

10 (G) ~~an attempt, conspiracy or criminal solicitation, as defined in~~
11 ~~K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-3503, and amendments~~
12 ~~thereto, of any such felony.~~

13 Sec. 45. K.S.A. 2012 Supp. 22-3602 is hereby amended to read as
14 follows: 22-3602. (a) Except as otherwise provided, an appeal to the
15 ~~appellate court having jurisdiction of the appeal~~ *court of criminal appeals*
16 may be taken by the defendant as a matter of right from any judgment
17 against the defendant in the district court and upon appeal any decision of
18 the district court or intermediate order made in the progress of the case
19 may be reviewed. No appeal shall be taken by the defendant from a
20 judgment of conviction before a district judge upon a plea of guilty or nolo
21 contendere, except that jurisdictional or other grounds going to the legality
22 of the proceedings may be raised by the defendant as provided in K.S.A.
23 60-1507, and amendments thereto.

24 (b) Appeals to the court of *criminal* appeals may be taken by the
25 prosecution from cases before a district judge as a matter of right in the
26 following cases, and no others:

27 (1) From an order dismissing a complaint, information or indictment;

28 (2) from an order arresting judgment;

29 (3) upon a question reserved by the prosecution; or

30 (4) upon an order granting a new trial in any case involving a class A
31 or B felony or for crimes committed on or after July 1, 1993, in any case
32 involving an off-grid crime.

33 (c) Procedures for appeals by the prosecution enumerated in
34 subsection (b) shall be as provided in supreme court rules.

35 (d) Appeals to a district judge may be taken by the prosecution from
36 cases before a district magistrate judge as a matter of right in the cases
37 enumerated in subsection (b) and from orders enumerated in K.S.A. 22-
38 3603, and amendments thereto.

39 (e) Any criminal case on appeal to the court of *criminal* appeals may
40 be transferred to the supreme court as provided in ~~K.S.A. 20-3016 and 20-~~
41 ~~3017 sections 11 and 12,~~ and amendments thereto, and any party to such
42 case may petition the supreme court for review of any decision of the court
43 of *criminal* appeals as provided in subsection (b) of ~~K.S.A. 20-3018~~

1 ~~section 13, and amendments thereto, except that any such party may~~
2 ~~appeal to the supreme court as a matter of right in any case in which a~~
3 ~~question under the constitution of either the United States or the state of~~
4 ~~Kansas arises for the first time as a result of the decision of the court of~~
5 ~~appeals.~~

6 (f) For crimes committed on or after July 1, 1993, an appeal by the
7 prosecution or the defendant relating to sentences imposed pursuant to a
8 presumptive sentencing guidelines system as provided in K.S.A. 21-4701
9 et seq., prior to their repeal, or the revised Kansas sentencing guidelines
10 act, article 68 of chapter 21 of the Kansas Statutes Annotated, and
11 amendments thereto, shall be as provided in K.S.A. 21-4721, prior to its
12 repeal, or K.S.A. 2012 Supp. 21-6820, and amendments thereto.

13 Sec. 46. K.S.A. 2012 Supp. 22-3604 is hereby amended to read as
14 follows: 22-3604. (1) Except as provided in subsection (3), a defendant
15 shall not be held in jail nor subject to an appearance bond during the
16 pendency of an appeal by the prosecution.

17 (2) The time during which an appeal by the prosecution is pending
18 shall not be counted for the purpose of determining whether a defendant is
19 entitled to discharge under K.S.A. 22-3402, and amendments thereto. For
20 purposes of this section, "an appeal by the prosecution" includes, but is not
21 limited to, appeals authorized by subsection (b) of K.S.A. 22-3602, and
22 amendments thereto, appeals authorized by K.S.A. 22-3603, and
23 amendments thereto, and any appeal by the prosecution which seeks
24 discretionary review in the *Kansas court of criminal appeals, the Kansas*
25 ~~supreme court of Kansas~~ or the United States supreme court. Such an
26 appeal remains "pending" until final resolution by the court of last resort.

27 (3) A defendant charged with a class A, B or C felony or, if the felony
28 was committed on or after July 1, 1993, an off-grid felony, a nondrug
29 severity level 1 through 5 felony or a drug severity level 1 through 4
30 felony crime shall not be released from jail or the conditions of such
31 person's appearance bond during the pendency of an appeal by the
32 prosecution. The time during which an appeal by the prosecution is
33 pending in a class A, B or C felony or, if the felony was committed on or
34 after July 1, 1993, an off-grid felony, a nondrug severity level 1 through 5
35 felony or a drug severity level 1 through 4 felony case shall not be counted
36 for the purpose of determining whether the defendant is entitled to
37 discharge under K.S.A. 22-3402, and amendments thereto.

38 Sec. 47. K.S.A. 22-3612 is hereby amended to read as follows: 22-
39 3612. In representing the interests of the state in appeals from criminal
40 actions in the district courts of this state ~~to the supreme court or court of~~
41 ~~appeals~~ or in other post-conviction actions arising from criminal
42 prosecutions, the attorney general shall invoke the assistance of the county
43 or district attorney of the county in which the action originally

1 commenced. The reasonable costs of such assistance shall be allowed and
2 paid by the board of county commissioners from the county general fund
3 for any services rendered by such county's county or district attorney
4 pursuant to this section.

5 Sec. 48. K.S.A. 22-4507 is hereby amended to read as follows: 22-
6 4507. (a) An attorney, other than a public defender or assistant public
7 defender or contract counsel, who is appointed by the court to perform
8 services for an indigent person, as provided by article 45 of chapter 22 of
9 the Kansas Statutes Annotated, and amendments thereto, shall at the
10 conclusion of such service or any part thereof be entitled to compensation
11 for such services and to be reimbursed for expenses reasonably incurred by
12 such person in performing such services. Compensation for services shall
13 be paid in accordance with standards and guidelines contained in rules and
14 regulations adopted by the state board of indigents' defense services under
15 this section.

16 (b) Claims for compensation and reimbursement shall be certified by
17 the claimant and shall be presented to the court at sentencing. A
18 supplemental claim may be filed at such later time as the court may in the
19 interest of justice determine if good cause is shown why the claim was not
20 presented at sentencing. In accordance with standards and guidelines
21 adopted by the state board of indigents' defense services under this section,
22 all such claims shall be reviewed and approved by one or more judges of
23 the district court before whom the service was performed, or, in the case of
24 proceedings in the court of *criminal* appeals, by the chief judge of the
25 court of *criminal* appeals ~~and in the case of proceedings in the supreme~~
26 ~~court, by the departmental justice for the department in which the appeal~~
27 ~~originated.~~ Each claim shall be supported by a written statement,
28 specifying in detail the time expended, the services rendered, the expenses
29 incurred in connection with the case and any other compensation or
30 reimbursement received. When properly certified and reviewed and
31 approved, each claim for compensation and reimbursement shall be filed
32 in the office of the state board of indigents' defense services. If the claims
33 meet the standards established by the board, the board shall authorize
34 payment of the claim.

35 (c) Such attorney shall be compensated at the rate of \$80 per hour,
36 except that:

37 (1) The chief judge of any judicial district may negotiate an hourly
38 rate less than \$80 per hour for attorneys who voluntarily accept
39 appointments in that district; or

40 (2) contract counsel shall be compensated at the rate or rates specified
41 in the contract between the board and the assigned counsel.

42 If the state board of indigents' defense services determines that the
43 appropriations for indigents' defense services or the moneys allocated by

1 the board for a county or judicial district will be insufficient in any fiscal
2 year to pay in full claims filed and reasonably anticipated to be filed in
3 such year under this section, the board may adopt a formula for prorating
4 the payment of pending and anticipated claims under this section.

5 (d) The state board of indigents' defense services may make
6 expenditures for payment of claims filed under this section from
7 appropriations for the current fiscal year regardless of when the services
8 were rendered.

9 (e) The state board of indigents' defense services shall adopt rules and
10 regulations prescribing standards and guidelines governing the filing,
11 processing and payment of claims under this section.

12 (f) An attorney, other than a public defender, assistant public defender
13 or contract counsel, who is appointed by the court to perform services for
14 an indigent person and who accesses electronic court records for an
15 indigent person, as provided by this act, shall be exempt from paying fees
16 to access electronic court records.

17 Sec. 49. K.S.A. 2012 Supp. 22-4701, as amended by section 2 of
18 2013 House Bill No. 2041, is hereby amended to read as follows: 22-4701.
19 As used in this act, unless the context clearly requires otherwise:

20 (a) "Central repository" means the criminal justice information
21 system central repository created by this act and the juvenile offender
22 information system created pursuant to K.S.A. 2012 Supp. 38-2326, and
23 amendments thereto.

24 (b) "Criminal history record information" means all data initiated or
25 collected by a criminal justice agency on a person pertaining to a
26 reportable event, and any supporting documentation. Criminal history
27 record information does not include:

28 (1) Data contained in intelligence or investigatory files or police
29 work-product records used solely for police investigation purposes;

30 (2) wanted posters, police blotter entries, court records of public
31 judicial proceedings or published court opinions;

32 (3) data pertaining to violations of the traffic laws of the state or any
33 other traffic law or ordinance, other than vehicular homicide;

34 (4) presentence investigation and other reports prepared for use by a
35 court in the exercise of criminal jurisdiction or by the governor in the
36 exercise of the power of pardon, reprieve or commutation; or

37 (5) information regarding the release of defendants from confinement
38 by the department of corrections or a jail.

39 (c) "Criminal justice agency" means any government agency or
40 subdivision of any such agency which is authorized by law to exercise the
41 power of arrest, detention, prosecution, adjudication, correctional
42 supervision, rehabilitation or release of persons suspected, charged or
43 convicted of a crime and which allocates a substantial portion of its annual

1 budget to any of these functions. The term includes, but is not limited to,
2 the following agencies, when exercising jurisdiction over criminal matters
3 or criminal history record information:

4 (1) State, county, municipal and railroad police departments, sheriffs'
5 offices and countywide law enforcement agencies, correctional facilities,
6 jails and detention centers;

7 (2) the offices of the attorney general, county or district attorneys and
8 any other office in which are located persons authorized by law to
9 prosecute persons accused of criminal offenses;

10 (3) the district courts, the court of *criminal* appeals, ~~the supreme~~
11 ~~court~~, the municipal courts and the offices of the clerks of these courts;

12 (4) the Kansas sentencing commission;

13 (5) the prisoner review board; and

14 (6) the juvenile justice authority.

15 (d) "Criminal justice information system" means the equipment
16 (including computer hardware and software), facilities, procedures,
17 agreements and personnel used in the collection, processing, preservation
18 and dissemination of criminal history record information.

19 (e) "Director" means the director of the Kansas bureau of
20 investigation.

21 (f) "Disseminate" means to transmit criminal history record
22 information in any oral or written form. The term does not include:

23 (1) The transmittal of such information within a criminal justice
24 agency;

25 (2) the reporting of such information as required by this act; or

26 (3) the transmittal of such information between criminal justice
27 agencies in order to permit the initiation of subsequent criminal justice
28 proceedings against a person relating to the same offense.

29 (g) "Reportable event" means an event specified or provided for in
30 K.S.A. 22-4705, and amendments thereto.

31 Sec. 50. K.S.A. 24-702 is hereby amended to read as follows: 24-702.

32 (a) Upon the filing of the petition for drainage, as provided in K.S.A. 24-
33 701, and amendments thereto, in the office of the clerk of the district court,
34 the clerk shall enter a minute of the filing of such petition in the civil
35 appearance docket of the court and shall fix a time for the hearing of such
36 petition by the court, which shall not be less than 45 days nor more than 60
37 days after the filing of such petition. The clerk shall issue a notice directed
38 to all persons, corporations and municipalities named in the petition as
39 occupants or owners of lands, easements or other property to be affected
40 by such drainage, other than the petitioners themselves, which notice shall
41 be written or printed, and shall set forth the route of the proposed drain, as
42 described in the petition, the fact of the filing and pendency of the petition,
43 and the time when such petition will be heard.

1 (b) The notice, when issued by the clerk, shall be delivered to the
2 sheriff of the county, and it shall be the duty of the sheriff to cause to be
3 published in some newspaper printed and published in the county in which
4 such drain is proposed to be established a copy of the notice, which notice
5 shall be published and proof of publication made in the same manner as is
6 provided by law for the publication of summons for nonresident
7 defendants in civil action, the first publication of such notice to be at least
8 41 days prior to the day fixed for the hearing of such petition. All persons
9 appearing at the hearing of such petition, and all persons, corporations or
10 municipalities named in the notice published shall thereafter be deemed to
11 have notice of all steps taken in such proceedings. If it appears to the
12 court, at the time fixed for the hearing of such petition, that the publication
13 has been given, the court shall consider such petition and hear any
14 demurrer or written objection to the sufficiency of the petition offered by
15 any person named in such petition, or by any other person who shall
16 satisfy the court, by such showing as the court may require, that such
17 person has an interest that will be affected by such drainage. All questions
18 arising at the hearing of such petition shall be heard and determined by the
19 court.

20 (c) If the court finds the petition defective, the same may be amended,
21 by leave or order of the court, and if not so amended may be dismissed at
22 the cost of the petitioner or petitioners. If, upon the hearing of such
23 petition, the court finds and determines such petition to be sufficient, the
24 court shall appoint two discreet citizens of the county, who, together with a
25 civil engineer, who need not be a resident of the county, also to be
26 appointed by the court, shall be commissioners to manage, control and
27 conduct such proposed drainage, and shall fix a bond to be given by such
28 commissioners, in such sum as the court may deem requisite, and such
29 petition shall be referred to such commissioners for their action thereon.
30 Before entering upon their duties as such commissioners, they shall give a
31 joint and several bond to the state of Kansas in the sum fixed by the court,
32 with one or more good and sufficient sureties thereon, to be approved by
33 the judge of the court, conditioned for the faithful performance of their
34 duties as such commissioners, and that they will faithfully account for and
35 pay over all moneys that may come into their hands as such
36 commissioners, and shall take and subscribe an oath before the clerk of the
37 court that they will support the constitution of the United States and the
38 constitution of the state of Kansas, and faithfully perform the duties of
39 commissioners of drainage in such proceeding, and obey and perform all
40 of the orders and directions of the court made therein. All objections to the
41 petition or to any drainage commissioner not made before the reference of
42 the petition to the drainage commissioners shall be deemed waived.

43 (d) The court shall have the power in the interest of justice to adjourn

1 the hearing of such petition from time to time, in order that all persons
2 interested may have an opportunity to be heard before the reference of
3 such petition to the drainage commissioners. In the order of the court
4 appointing such drainage commissioners, the court shall fix a time and
5 place for the meeting of the drainage commissioners, and a time when they
6 shall file their preliminary report. The clerk shall deliver to the
7 commissioners a certified copy of the petition and of the order of their
8 appointment, and they shall meet accordingly. The drainage
9 commissioners shall make a personal inspection of the land described in
10 the petition, and of all other lands likely to be affected by the proposed
11 work. The commissioner who is an engineer shall make the necessary
12 surveys for the purpose of ascertaining the facts from which to make their
13 report, and such commissioners shall, within a reasonable time allowed
14 and fixed by the court, make to the court a preliminary report in which
15 such commissioners shall show:

16 (1) The source or head and general direction and outlet of the drain
17 and of each arm or branch thereof, and average width and the depth, what
18 part is to be opened and what part is to be tiled, if any, and whether it is to
19 be dug by shovel, dredge or otherwise.

20 (2) A description of all lands which will be affected by the proposed
21 drainage, with the names and residence of the owners, if known, and if not,
22 so stating; also the name of any city, school district or other public
23 corporation or highway or street not named in the petition which will be
24 affected by such drainage.

25 (3) Whether such drainage is practicable and will be sufficient
26 properly to drain the lands to be affected.

27 (4) Whether, when accomplished, the proposed drainage will improve
28 the public health, benefit any public highway or grounds in the county, or
29 any street or public grounds of any city therein, or be of public utility.

30 (e) Such report of the drainage commissioners, in all subsequent
31 proceedings, shall be prima facie evidence of the facts therein stated. In
32 case any lands not named in the petition and not owned by any person who
33 has appeared in the petition are named in the second item of such
34 preliminary report of the commissioners, notice of such report, setting out
35 the substance thereof, shall be issued by the clerk, and shall be served and
36 published by the sheriff in the same manner as provided for notice of the
37 hearing of the petition. Any petitioner, landowner, corporation or
38 municipality named in the petition, or who has appeared thereto, shall have
39 20 days from the filing of such preliminary report within which to file any
40 exceptions thereto. Any landowner not named in the petition and whose
41 lands are not described therein, but who is named in such report and lands
42 therein described, and any city, school district or other municipality so
43 brought in, shall have the same time for filing exceptions to such

1 preliminary report as is required to be given of the time and place of the
2 hearing of the petition.

3 (f) If the court, on examination of the preliminary report of the
4 commissioners, finds that such drainage is not practicable, and will not be
5 sufficient to properly drain the lands to be affected by it, or that it will not
6 improve the public health, nor benefit any public highway or grounds in
7 the county, or streets or public ground in any city, or be of public utility, or
8 if $\frac{2}{3}$ of the landowners affected, as shown by such preliminary report,
9 within 20 days after the filing of such report, remonstrates against the
10 construction of such proposed drain, the petition shall be dismissed. The
11 court shall enter judgment against the petitioner or petitioners for all costs
12 and expenses, including all compensation of the drainage commissioners.
13 But if the court finds affirmatively as to each of such items, and if no
14 remonstrance signed by $\frac{2}{3}$ of the persons to be affected by such drainage is
15 filed, the court shall refer the petition back to the drainage commissioners,
16 with directions to proceed with the work and make their final report, as
17 provided in K.S.A. 24-705, and amendments thereto. Such order and
18 judgment of the court in dismissing the petition or in referring it back to
19 the drainage commissioners for a final report, and of prior rulings and
20 orders of the court in relation to such drainage, shall be conclusive, unless
21 proceedings in error be prosecuted therefrom ~~to the supreme court~~, as
22 hereinafter provided. Any person, corporation or municipality who is
23 aggrieved by such judgment or dismissal or order of reference, or by any
24 prior ruling or order of the court, may at the time of the ruling of the court
25 on the preliminary report of the commissioners prosecute proceedings in
26 error to the supreme court for the purpose of reversing any judgment, order
27 or ruling of the court by which the party may feel aggrieved, by filing a
28 written notice of such appeal within three days after the final order of the
29 court made on the hearing of the preliminary report, and by filing with the
30 clerk of the court, within 30 days thereafter, a bond, the amount to be fixed
31 by the order of the court, or of the judge in vacation, conditioned that such
32 person prosecuting error will pay all costs, expenses, damages and loss
33 occasioned by such party proceeding in error, and by perfecting such party
34 proceedings in error by filing in the supreme court such party's petition in
35 error, with a case-made or transcript of the record thereof attached, within
36 90 days after the rendition of the judgment and the order of the court upon
37 the hearing of the preliminary report of the commissioners.

38 (g) All parties affected by such proceedings shall take notice of such
39 proceeding in error and be bound thereby, and all proceedings in the matter
40 of such drainage shall be stayed until the determination of such proceeding
41 in error. The rule of procedure for extending time for making a case, for
42 suggesting amendments thereto and for settling and signing the same shall
43 be the same as in ordinary civil actions. No appeal from the judgment or

1 orders of the court made upon the hearing of the preliminary report of the
2 commissioners shall be taken unless the same shall be perfected within 90
3 days after such judgment or order, but upon perfecting such proceeding in
4 error, all previous orders and rulings of the court, made at any time in the
5 proceedings, may be reviewed.

6 Sec. 51. K.S.A. 25-3206 is hereby amended to read as follows: 25-
7 3206. (a) The state board of canvassers shall make the final canvass of
8 national and state primary and general elections. Such board shall also
9 make the final canvass of elections upon constitutional amendments and
10 all questions submitted to election on a statewide basis, including
11 questions on retention in office of justices of the supreme court, judges of
12 the court of *criminal* appeals, *judges of the court of civil appeals* and
13 judges of the district court.

14 (b) For the purpose of canvassing elections specified in subsection
15 (a), the state board of canvassers shall meet on the call of the secretary of
16 state, in the secretary's office, as soon as convenient after the tabulation of
17 the returns is made. In the case of general elections, the meeting shall be
18 called not later than December 1 next following such election, except
19 when such date falls on Sunday, then not later than the following day, and
20 may recess from time to time until the canvass is completed.

21 (c) The state board of canvassers shall, upon the abstracts on file in
22 the office of secretary of state, proceed to make final canvass of any
23 election for officers specified in subsection (a). The state board of
24 canvassers shall certify a statement which shall show the names of the
25 persons receiving votes for any of such offices, and the whole number
26 received by each, distinguishing the districts and counties in which they
27 were voted.

28 (d) The state board of canvassers shall, upon the abstracts on file in
29 the office of the secretary of state, proceed to make final canvass and
30 determination of the result of statewide question submitted elections. The
31 state board of canvassers shall certify a statement of the number of votes
32 on each question and the result thereof.

33 (e) The state board of canvassers shall certify such statements to be
34 correct, and the members shall subscribe their names thereto, and the
35 board shall determine what persons have been elected to such offices and
36 the members shall endorse and subscribe on the statement a certificate of
37 such determination and deliver them to the secretary of state.

38 Sec. 52. K.S.A. 2012 Supp. 26-504 is hereby amended to read as
39 follows: 26-504. (a) If the judge to whom the proceeding has been
40 assigned finds from the petition: (1) The plaintiff has the power of eminent
41 domain; and (2) the taking is necessary to the lawful corporate purposes of
42 the plaintiff, the judge shall entertain suggestions from any party in interest
43 relating to the appointment of appraisers and the judge shall enter an order

1 appointing three disinterested residents of the county in which the petition
2 is filed, at least two of the three of whom shall have experience in the
3 valuation of real estate, to view and appraise the value of the lots and
4 parcels of land found to be necessary, and to determine the damages and
5 compensation to the interested parties resulting from the taking. Such
6 order shall also fix the time for the filing of the appraisers' report at a time
7 not later than 45 days after the entry of such order except for good cause
8 shown, the court may extend the time for filing by a subsequent order. The
9 granting of an order determining that the plaintiff has the power of eminent
10 domain and that the taking is necessary to the lawful corporate purposes of
11 the plaintiff shall not be considered a final order for the purpose of appeal
12 ~~to the supreme court~~, but an order denying the petition shall be considered
13 such a final order.

14 (b) Appeals to the ~~supreme~~ court of *civil appeals* may be taken from
15 any final order under the provisions of this act. Such appeals shall be
16 prosecuted in like manner as other appeals and shall take precedence over
17 other cases, except cases of a like character and other cases in which
18 preference is granted by statute.

19 Sec. 53. K.S.A. 2012 Supp. 38-2382 is hereby amended to read as
20 follows: 38-2382. (a) An appeal from a district magistrate judge shall be to
21 a district judge. The appeal shall be by trial de novo unless the parties
22 agree to a de novo review on the record of the proceedings. The appeal
23 shall be heard within 30 days from the date the notice of appeal was filed.

24 (b) Appeals from a district judge shall be to the court of *criminal*
25 appeals.

26 (c) Procedure on appeal shall be governed by article 21 of chapter 60
27 of the Kansas Statutes Annotated, and amendments thereto.

28 Sec. 54. K.S.A. 2012 Supp. 44-556 is hereby amended to read as
29 follows: 44-556. (a) Any action of the board pursuant to the workers
30 compensation act, other than the disposition of appeals of preliminary
31 orders or awards under K.S.A. 44-534a, and amendments thereto, shall be
32 subject to review in accordance with the Kansas judicial review act by
33 appeal directly to the court of *civil* appeals. Any party may appeal from a
34 final order of the board by filing an appeal with the court of *civil* appeals
35 within 30 days of the date of the final order. When an appeal has been filed
36 pursuant to this section, an appellee may file a cross appeal within 20 days
37 after the date upon which the appellee was served with notice of the
38 appeal. Such review shall be upon questions of law.

39 (b) Commencement of an action for review by the court of *civil*
40 appeals shall not stay the payment of compensation due for the ten-week
41 period next preceding the board's decision and for the period of time after
42 the board's decision and prior to the decision of the court of *civil* appeals
43 on review.

1 (c) If review is sought on any order entered under the workers
2 compensation act prior to October 1, 1993, such review shall be in
3 accordance with the provisions of K.S.A. 44-551, *and amendments*
4 *thereto*, and this section, and any other applicable procedural provisions of
5 the workers compensation act, as all such provisions existed prior to
6 amendment by this act on July 1, 1993.

7 (d) (1) If compensation, including medical benefits, temporary total
8 disability benefits or vocational rehabilitation benefits, has been paid to the
9 worker by the employer or the employer's insurance carrier during the
10 pendency of review under this section and the amount of compensation
11 awarded by the board is reduced or totally disallowed by the decision on
12 the appeal or review, the employer and the employer's insurance carrier,
13 except as otherwise provided in this section, shall be reimbursed from the
14 workers compensation fund established in K.S.A. 44-566a, and
15 amendments thereto, for all amounts of compensation so paid which are in
16 excess of the amount of compensation that the worker is entitled to as
17 determined by the final decision on review. The director shall determine
18 the amount of compensation paid by the employer or insurance carrier
19 which is to be reimbursed under this subsection (d)(1), and the director
20 shall certify to the commissioner of insurance the amount so determined.
21 Upon receipt of such certification, the commissioner of insurance shall
22 cause payment to be made to the employer or the employer's insurance
23 carrier in accordance therewith.

24 (2) If any temporary or permanent partial disability or temporary or
25 permanent total disability benefits have been paid to the worker by the
26 employer or the employer's insurance carrier during the pendency of
27 review under this section and the amount of compensation awarded for
28 such benefits by the board is reduced by the decision on the appeal or
29 review and the balance of compensation due the worker exceeds the
30 amount of such reduction, the employer and the employer's insurance
31 carrier shall receive a credit which shall be applied as provided in this
32 subsection (d)(2) for all amounts of such benefits which are in excess of
33 the amount of such benefits that the worker is entitled to as determined by
34 the final decision on review or appeal. If a lump-sum amount of
35 compensation is due and owing as a result of the decision of the court of
36 *civil* appeals, the credit under this subsection (d)(2) shall be applied first
37 against such lump-sum amount. If there is no such lump-sum amount or if
38 there is any remaining credit after a credit has been applied to a lump-sum
39 amount due and owing, such credit shall be applied against the last
40 compensation payments which are payable for a period of time after the
41 final decision on review or appeal so that the worker continues to receive
42 compensation payments after such final decision until no further
43 compensation is payable after the credit has been satisfied. The credit

1 allowed under this subsection (d)(2) shall not be applied so as to stop or
2 reduce benefit payments after such final decision, but shall be used to
3 reduce the period of time over which benefit payments are payable after
4 such final decision. The provisions of this subsection (d)(2) shall be
5 applicable in all cases under the workers compensation act in which a final
6 award is issued by an administrative law judge on or after July 1, 1990.

7 (e) If compensation, including medical benefits, temporary total
8 disability benefits or vocational rehabilitation benefits, has been paid to the
9 worker by the employer, the employer's insurance carrier or the workers
10 compensation fund during the pendency of review under this section, and
11 pursuant to K.S.A. 44-534a or K.S.A. 44-551, and amendments thereto,
12 and the employer, the employer's insurance carrier or the workers
13 compensation fund, which was held liable for and ordered to pay all or
14 part of the amount of compensation awarded by the administrative law
15 judge or board, is held not liable by the final decision on review by either
16 the board or an appellate court for the compensation paid or is held liable
17 on such appeal or review to pay an amount of compensation which is less
18 than the amount paid pursuant to the award, then the employer, employer's
19 insurance carrier or workers compensation fund shall be reimbursed by the
20 party or parties which were held liable on such review to pay the amount
21 of compensation to the worker that was erroneously ordered paid. The
22 director shall determine the amount of compensation which is to be
23 reimbursed to each party under this subsection, if any, in accordance with
24 the final decision on the appeal or review and shall certify each such
25 amount to be reimbursed to the party required to pay the amount or
26 amounts of such reimbursement. Upon receipt of such certification, the
27 party required to make the reimbursement shall pay the amount or amounts
28 required to be paid in accordance with such certification. No worker shall
29 be required to make reimbursement under this subsection or subsection
30 (d).

31 (f) As used in subsections (d) and (e), "employers' insurance carrier"
32 includes any qualified group-funded workers compensation pool under
33 K.S.A. 44-581 through 44-591, and amendments thereto, or a group-
34 funded pool under the Kansas municipal group-funded pool act which
35 includes workers compensation and employers' liability under the workers
36 compensation act.

37 (g) In any case in which any review is sought under this section and
38 in which the compensability is not an issue to be decided on review,
39 medical compensation shall be payable and shall not be stayed pending
40 such review. The worker may proceed under K.S.A. 44-510k, and
41 amendments thereto, and may have a hearing in accordance with that
42 statute to enforce the provisions of this subsection.

43 Sec. 55. K.S.A. 2012 Supp. 45-217 is hereby amended to read as

1 follows: 45-217. As used in the open records act, unless the context
2 otherwise requires:

3 (a) "Business day" means any day other than a Saturday, Sunday or
4 day designated as a holiday by the congress of the United States, by the
5 legislature or governor of this state or by the respective political
6 subdivision of this state.

7 (b) "Clearly unwarranted invasion of personal privacy" means
8 revealing information that would be highly offensive to a reasonable
9 person, including information that may pose a risk to a person or property
10 and is not of legitimate concern to the public.

11 (c) "Criminal investigation records" means records of an
12 investigatory agency or criminal justice agency as defined by K.S.A. 22-
13 4701, and amendments thereto, compiled in the process of preventing,
14 detecting or investigating violations of criminal law, but does not include
15 police blotter entries, court records, rosters of inmates of jails or other
16 correctional or detention facilities or records pertaining to violations of
17 any traffic law other than vehicular homicide as defined by K.S.A. 21-
18 3405, prior to its repeal, or K.S.A. 2012 Supp. 21-5406, and amendments
19 thereto.

20 (d) "Custodian" means the official custodian or any person designated
21 by the official custodian to carry out the duties of custodian of this act.

22 (e) "Official custodian" means any officer or employee of a public
23 agency who is responsible for the maintenance of public records,
24 regardless of whether such records are in the officer's or employee's actual
25 personal custody and control.

26 (f) (1) "Public agency" means the state or any political or taxing
27 subdivision of the state or any office, officer, agency or instrumentality
28 thereof, or any other entity receiving or expending and supported in whole
29 or in part by the public funds appropriated by the state or by public funds
30 of any political or taxing subdivision of the state.

31 (2) "Public agency" shall not include:

32 (A) Any entity solely by reason of payment from public funds for
33 property, goods or services of such entity; (B) any municipal judge, judge
34 of the district court, judge of the court of *criminal* appeals, *judge of the*
35 *court of civil appeals* or justice of the supreme court; or (C) any officer or
36 employee of the state or political or taxing subdivision of the state if the
37 state or political or taxing subdivision does not provide the officer or
38 employee with an office which is open to the public at least 35 hours a
39 week.

40 (g) (1) "Public record" means any recorded information, regardless of
41 form or characteristics, which is made, maintained or kept by or is in the
42 possession of any public agency including, but not limited to, an
43 agreement in settlement of litigation involving the Kansas public

1 employees retirement system and the investment of moneys of the fund.

2 (2) "Public record" shall not include records which are owned by a
3 private person or entity and are not related to functions, activities,
4 programs or operations funded by public funds or records which are made,
5 maintained or kept by an individual who is a member of the legislature or
6 of the governing body of any political or taxing subdivision of the state.

7 (3) "Public record" shall not include records of employers related to
8 the employer's individually identifiable contributions made on behalf of
9 employees for workers compensation, social security, unemployment
10 insurance or retirement. The provisions of this subsection shall not apply
11 to records of employers of lump-sum payments for contributions as
12 described in this subsection paid for any group, division or section of an
13 agency.

14 (h) "Undercover agent" means an employee of a public agency
15 responsible for criminal law enforcement who is engaged in the detection
16 or investigation of violations of criminal law in a capacity where such
17 employee's identity or employment by the public agency is secret.

18 Sec. 56. K.S.A. 2012 Supp. 46-234 is hereby amended to read as
19 follows: 46-234. No elected state officer shall within one year after the
20 expiration of such officer's last term receive any civil appointment to a
21 state office which was created by law during the last term for which such
22 person had been elected, and all such appointments shall be void. Upon
23 resignation by an elected state officer, such person may be appointed to
24 any elective state office to fill a vacancy. As used in this section, the term
25 "civil appointment to a state office" shall not include an additional district
26 judge position created by K.S.A. 20-355, and amendments thereto, ~~or an~~
27 ~~additional court of appeals judge position created by K.S.A. 20-3002, and~~
28 ~~amendments thereto.~~

29 Sec. 57. K.S.A. 48-2922 is hereby amended to read as follows: 48-
30 2922. (a) The judge advocate general shall establish a court of military
31 review which shall be composed of one or more panels, and each such
32 panel shall be composed of not less than three appellate military judges.
33 For the purpose of reviewing court-martial cases, the court may sit in
34 panels or as a whole in accordance with rules prescribed under subsection
35 (f). Any decision of a panel may be reconsidered by the court sitting as a
36 whole in accordance with such rules. Appellate military judges who are
37 assigned to a court of military review may be commissioned officers or
38 civilians, each of whom must be a member of a bar of a federal court or
39 the highest court of a state. The judge advocate general shall designate as
40 chief judge one of the appellate military judges of the court of military
41 review established by the judge advocate general. The chief judge shall
42 determine on which panels of the court the appellate judges assigned to the
43 court will serve and which military judge assigned to the court will act as

1 the senior judge on each panel.

2 (b) The judge advocate general shall refer to a court of military
3 review the record in each case of trial by court-martial in which:

4 (1) The sentence, as approved, extends to dismissal of a
5 commissioned officer, dishonorable or bad-conduct discharge or
6 confinement for three or more months; and

7 (2) the right to appellate review has not been waived or an appeal has
8 not been withdrawn under K.S.A. 48-2917, *and amendments thereto*.

9 (c) In a case referred to it, the court of military review may act only
10 with respect to the findings and sentence as approved by the convening
11 authority. It may affirm only such findings of guilty and the sentence, or
12 such part or amount of the sentence, as it finds correct in law and fact and
13 determines, on the basis of the entire record, should be approved. In
14 considering the record, it may weigh the evidence, judge the credibility of
15 witnesses and determine controverted questions of fact, recognizing that
16 the trial court saw and heard the witnesses.

17 (d) If the court of military review sets aside the findings and sentence,
18 it may, except where the setting aside is based on lack of sufficient
19 evidence in the record to support the findings, order a rehearing. If it sets
20 aside the findings and sentence and does not order a rehearing, it shall
21 order that the charges be dismissed.

22 (e) The judge advocate general shall, unless there is to be further
23 action by the governor, the adjutant general; *or* the Kansas court of
24 *criminal* appeals ~~or the Kansas supreme court~~, instruct the convening
25 authority to take action in accordance with the decision of the court of
26 military review. If the court of military review has ordered a rehearing but
27 the convening authority finds a rehearing impracticable, the convening
28 authority shall dismiss the charges.

29 (f) The governor shall prescribe uniform rules of procedure for courts
30 of military review and shall periodically formulate policies and procedure
31 in regard to review of court-martial cases in the office of the judge
32 advocate general and by courts of military review.

33 (g) No member of a court of military review shall be required or, on
34 the member's own initiative, be permitted to prepare, approve, disapprove,
35 review or submit, with respect to any other member of the same or another
36 court of military review, an effectiveness, fitness or efficiency report, or
37 any other report or document used in whole or in part for the purpose of
38 determining whether a member of the armed forces is qualified to be
39 advanced in grade, or in determining the assignment or transfer of a
40 member of the armed forces, or in determining whether a member of the
41 armed forces shall be retained on active duty.

42 (h) No member of a court of military review shall be eligible to
43 review the record of any trial if such member served as investigating

1 officer in the case or served as a member of the court-martial before which
2 such trial was conducted, or served as military judge, trial or defense
3 counsel or reviewing officer of such trial.

4 Sec. 58. K.S.A. 48-2923 is hereby amended to read as follows: 48-
5 2923. (a) The Kansas court of *criminal* appeals shall review the record in:

6 (1) All cases reviewed by a court of military review which the judge
7 advocate general orders sent to the *Kansas* court of *criminal* appeals for
8 review; and

9 (2) all cases reviewed by a court of military review in which, upon
10 petition of the accused and on good cause shown, the *Kansas* court of
11 *criminal* appeals has granted a review.

12 (b) The accused may petition the Kansas court of *criminal* appeals for
13 review of a decision of a court of military review within 60 days from the
14 earlier of:

15 (1) The date on which the accused is notified of the decision of the
16 court of military review; or

17 (2) the date on which a copy of the decision of the court of military
18 review, after being served on appellate counsel of record for the accused, if
19 any, is deposited in the United States mails for delivery by first class
20 certified mail to the accused at an address provided by the accused or, if no
21 such address has been provided by the accused, at the latest address listed
22 for the accused in the accused's official service record. The *Kansas* court
23 of *criminal* appeals shall act upon such a petition promptly in accordance
24 with the rules of the court.

25 (c) In any case reviewed by it, the Kansas court of *criminal* appeals
26 may act only with respect to the findings and sentence as approved by the
27 convening authority and as affirmed or set aside as incorrect in law by the
28 court of military review. In a case which the judge advocate general orders
29 sent to the *Kansas* court of *criminal* appeals, that action need be taken only
30 with respect to the issues raised by the judge advocate general. In a case
31 reviewed upon petition of the accused, that action need be taken only with
32 respect to issues specified in the grant of review. The *Kansas* court of
33 *criminal* appeals shall take action only with respect to matters of law.

34 (d) If the Kansas court of *criminal* appeals sets aside the findings and
35 sentence, it may, except where the setting aside is based on lack of
36 sufficient evidence in the record to support the findings, order a rehearing.
37 If it sets aside the findings and sentence and does not order a rehearing, it
38 shall order that the charges be dismissed.

39 (e) After it has acted on a case, the Kansas court of *criminal* appeals
40 may direct the judge advocate general to return the record to the court of
41 military review for further review in accordance with the decision of the
42 court. Otherwise, unless there is to be further action by the governor, the
43 judge advocate general shall instruct the convening authority to take action

1 in accordance with that decision. If the court has ordered a rehearing, but
2 the convening authority finds a rehearing impracticable, the convening
3 authority may dismiss the charges.

4 Sec. 59. K.S.A. 48-2924 is hereby amended to read as follows: 48-
5 2924. (a) The record of trial in each general court-martial that is not
6 otherwise reviewed under K.S.A. 48-2922, *and amendments thereto*, shall
7 be examined in the office of the judge advocate general if there is a finding
8 of guilty and the accused does not waive or withdraw the accused's right to
9 appellate review under K.S.A. 48-2917, *and amendments thereto*. If any
10 part of the findings or sentence is found to be unsupported in law or if
11 reassessment of the sentence is appropriate, the judge advocate general
12 may modify or set aside the findings or sentence or both. If the judge
13 advocate general so directs, the record shall be reviewed by a court of
14 military review under K.S.A. 48-2922, *and amendments thereto*, but in
15 that event there may be no further review by the Kansas court of *criminal*
16 *appeals* except under subsection (b)(2) of K.S.A. 48-2923, *and*
17 *amendments thereto*.

18 (b) The findings or sentence, or both, in a court-martial case not
19 reviewed under subsection (a) or under K.S.A. 48-2922, *and amendments*
20 *thereto*, may be modified or set aside, in whole or in part, by the judge
21 advocate general on the ground of newly discovered evidence, fraud on the
22 court, lack of jurisdiction over the accused or the offense, error prejudicial
23 to the substantial rights of the accused, or the appropriateness of the
24 sentence. If such a case is considered upon application of the accused, the
25 application must be filed in the office of the judge advocate general by the
26 accused on or before the last day of the two-year period beginning on the
27 date the sentence is approved under subsection (c) of K.S.A. 48-2916, *and*
28 *amendments thereto*, unless the accused establishes good cause for failure
29 to file within that time.

30 (c) If the judge advocate general sets aside the findings or sentence,
31 the judge advocate general may, except when the setting aside is based on
32 lack of sufficient evidence in the record to support the findings, order a
33 rehearing. If the judge advocate general sets aside the findings and
34 sentence and does not order a rehearing, the judge advocate general shall
35 order that the charges be dismissed. If the judge advocate general orders a
36 rehearing but the convening authority finds a rehearing impractical, the
37 convening authority shall dismiss the charges.

38 Sec. 60. K.S.A. 48-2925 is hereby amended to read as follows: 48-
39 2925. (a) The judge advocate general shall detail in the judge advocate
40 general's office one or more commissioned officers as appellate
41 government counsel, and one or more commissioned officers as appellate
42 defense counsel, who are qualified under subsection (b)(2) of K.S.A. 48-
43 2905, *and amendments thereto*.

1 (b) Appellate government counsel shall represent the state of Kansas
2 before the court of military review or the Kansas court of *criminal* appeals
3 when directed to do so by the judge advocate general. ~~Appellate~~
4 ~~government counsel may represent the state before the Kansas supreme~~
5 ~~court in cases arising under this chapter when requested to do so by the~~
6 ~~attorney general.~~

7 (c) Appellate defense counsel shall represent the accused before the
8 court of military review; *or* the Kansas court of *criminal* appeals ~~or the~~
9 ~~Kansas supreme court.~~

10 (1) When requested by the accused; or

11 (2) when the state is represented by counsel.

12 (d) The accused has the right to be represented before the court of
13 military review; *or* the Kansas court of *criminal* appeals; ~~or the Kansas~~
14 ~~supreme court~~ by civilian counsel if provided by the accused and at the
15 accused's own expense.

16 (e) Military appellate counsel shall also perform such other functions
17 in connection with the review of court-martial cases as the judge advocate
18 directs.

19 Sec. 61. K.S.A. 48-2926 is hereby amended to read as follows: 48-
20 2926. (a) If, in the case of a commissioned officer, the sentence of a court-
21 martial extends to dismissal, that part of the sentence providing for
22 dismissal may not be executed until approved by the adjutant general. In
23 such a case, the governor may commute, remit or suspend the sentence, or
24 any part of the sentence, as the governor sees fit. In time of war or national
25 emergency, the governor may commute a sentence of dismissal to
26 reduction to any enlisted grade. A person so reduced may be required to
27 serve for the duration of the war or emergency and six months thereafter.

28 (b) (1) If a sentence extends to dismissal, or a dishonorable or bad-
29 conduct discharge and if the right of the accused to appellate review is not
30 waived, and an appeal is not withdrawn, under K.S.A. 48-2917, *and*
31 *amendments thereto*, that part of the sentence extending to dismissal or a
32 dishonorable or bad-conduct discharge may not be executed until there is a
33 final judgment as to the legality of the proceedings and, with respect to
34 dismissal, approval under subsection (a) as appropriate. A judgment as to
35 legality of the proceedings is final in such cases when review is completed
36 by a court of military review and:

37 (A) The time for the accused to file a petition for review by the
38 Kansas court of *criminal* appeals has expired and the accused has not filed
39 a timely petition for such review and the case is not otherwise under
40 review by that court;

41 (B) such a petition is rejected by the Kansas court of *criminal*
42 appeals; or

43 (C) review is completed in accordance with the judgment of the

1 Kansas court of *criminal* appeals.

2 (2) If a sentence extends to dismissal or a dishonorable or bad-
3 conduct discharge and if the right of the accused to appellate review is
4 waived, or an appeal is withdrawn, under K.S.A. 48-2917, *and*
5 *amendments thereto*, that part of the sentence extending to dismissal or a
6 bad-conduct or dishonorable discharge may not be executed until review
7 of the case by a judge advocate, and any action on that review, under
8 K.S.A. 48-2920, *and amendments thereto*, is completed. Any other part of
9 a court-martial sentence may be ordered executed by the convening
10 authority or other person acting on the case under K.S.A. 48-2916, *and*
11 *amendments thereto*, when approved by such person under that section.

12 (c) The convening authority or other person acting on the case under
13 K.S.A. 48-2916, *and amendments thereto*, may suspend the execution of
14 any sentence or part thereof.

15 Sec. 62. K.S.A. 48-2928 is hereby amended to read as follows: 48-
16 2928. At any time within two years after approval by the convening
17 authority of a court-martial sentence, the accused may petition the judge
18 advocate general for a new trial on the grounds of newly discovered
19 evidence or fraud on the court. If the accused's case is pending before a
20 court of military review or before the Kansas court of *criminal* appeals, the
21 judge advocate general shall refer the petition to the appropriate court for
22 action. Otherwise the judge advocate general shall act upon the petition.

23 Sec. 63. K.S.A. 2012 Supp. 55-1410 is hereby amended to read as
24 follows: 55-1410. Any action of the commission under the Kansas natural
25 gas pricing act is subject to review by the ~~supreme~~ court of *civil appeals* in
26 accordance with the Kansas judicial review act. Such review shall be taken
27 in the same manner and time as allowed by law for actions for review by
28 the court of *civil* appeals of orders of the commission which relate to rate
29 hearings.

30 Sec. 64. K.S.A. 2012 Supp. 60-223 is hereby amended to read as
31 follows: 60-223. (a) *Prerequisites*. One or more members of a class may
32 sue or be sued as representative parties on behalf of all members only if:
33 (1) The class is so numerous that joinder of all members is impracticable;
34 (2) there are questions of law or fact common to the class; (3) the claims or
35 defenses of the representative parties are typical of the claims or defenses
36 of the class; and (4) the representative parties will fairly and adequately
37 protect the interests of the class.

38 (b) *Types of class actions*. A class action may be maintained if the
39 prerequisites of subsection (a) are satisfied and if:

40 (1) Prosecuting separate actions by or against individual members
41 would create a risk of: (A) Inconsistent or varying adjudications with
42 respect to individual class members that would establish incompatible
43 standards of conduct for the party opposing the class; or (B) adjudications

1 with respect to individual class members that as a practical matter, would
2 be dispositive of the interests of the other members not parties to the
3 individual adjudications or would substantially impair or impede their
4 ability to protect their interests; or

5 (2) the party opposing the class has acted or refused to act on grounds
6 that apply generally to the class, so that final injunctive relief or
7 corresponding declaratory relief is appropriate respecting the class as a
8 whole; or

9 (3) the court finds that the questions of law or fact common to class
10 members predominate over any questions affecting only individual
11 members, and that a class action is superior to other available methods for
12 fairly and efficiently adjudicating the controversy. The matters pertinent to
13 these findings include: (A) The class member's interest in individually
14 controlling the prosecution or defense of separate actions; (B) the extent
15 and nature of any litigation concerning the controversy already begun by
16 or against class members; (C) the desirability or undesirability of
17 concentrating the litigation of the claims in the particular forum; and (D)
18 the likely difficulties in managing a class action.

19 (c) *Certification order; notice to class members; judgment; issues*
20 *classes; subclasses.* (1) *Certification order.* (A) *Time to issue.* At an early
21 practicable time after a person sues or is sued as a class representative, the
22 court must determine by order whether to certify the action as a class
23 action.

24 (B) *Defining the class; appointing class counsel.* An order that
25 certifies a class action must define the class and the class claims, issues or
26 defenses, and must appoint class counsel under subsection (g).

27 (C) *Altering or amending the order.* An order that grants or denies
28 class certification may be altered or amended before final judgment.

29 (2) *Notice.* (A) *For subsection (b)(1) or (b)(2) classes.* For any class
30 certified under subsection (b)(1) or (b)(2), the court may direct appropriate
31 notice to the class.

32 (B) *For subsection (b)(3) classes.* For any class certified under
33 subsection (b)(3), the court must direct to class members the best notice
34 that is practicable under the circumstances, including individual notice to
35 all members who can be identified through reasonable effort. The notice
36 must clearly and concisely state in plain, easily understood language:

- 37 (i) The nature of the action;
38 (ii) the definition of the class certified;
39 (iii) the class claims, issues or defenses;
40 (iv) that a class member may enter an appearance through an attorney
41 if the member so desires;
42 (v) that the court will exclude from the class any member who
43 requests exclusion;

- 1 (vi) the time and manner for requesting exclusion; and
2 (vii) the binding effect of a class judgment on members under
3 subsection (c)(3).
- 4 (3) *Judgment.* Whether or not favorable to the class, the judgment in a
5 class action must:
- 6 (A) In an action maintained as a class action under subsection (b)(1)
7 or (b)(2), include and describe those whom the court finds to be class
8 members; and
- 9 (B) in an action maintained as a class action under subsection (b)(3),
10 include and specify or describe those to whom the notice provided in
11 subsection (c)(2) was directed, who have not requested exclusion, and
12 whom the court finds to be class members.
- 13 (4) *Particular issues.* When appropriate, an action may be brought or
14 maintained as a class action with respect to particular issues.
- 15 (5) *Subclasses.* When appropriate, a class may be divided into
16 subclasses that are each treated as a class under this section.
- 17 (d) *Conducting the action.* (1) *In general.* In conducting an action
18 under this section, the court may issue orders that:
- 19 (A) Determine the course of proceedings or prescribe measures to
20 prevent undue repetition or complication in presenting evidence or
21 argument;
- 22 (B) require, to protect class members and fairly conduct the action,
23 giving appropriate notice to some or all class members of:
- 24 (i) Any step in the action;
- 25 (ii) the proposed extent of the judgment; or
- 26 (iii) the members' opportunity to signify whether they consider the
27 representation fair and adequate, to intervene and present claims or
28 defenses, or to otherwise come into the action;
- 29 (C) impose conditions on the representative parties or on intervenors;
- 30 (D) require that the pleadings be amended to eliminate allegations
31 about representation of absent persons and that the action proceed
32 accordingly; or
- 33 (E) deal with similar procedural matters.
- 34 (2) *Combining and amending orders.* An order under subsection (d)
35 (1) may be altered or amended from time to time and may be combined
36 with an order under K.S.A. 60-216, and amendments thereto.
- 37 (e) *Settlement, voluntary dismissal or compromise.* The claims, issues
38 or defenses of a certified class may be settled, voluntarily dismissed or
39 compromised only with the court's approval. The following procedures
40 apply to a proposed settlement, voluntary dismissal or compromise:
- 41 (1) The court must direct notice in a reasonable manner to all class
42 members who would be bound by the proposal;
- 43 (2) if the proposal would bind class members, the court may approve

1 it only after a hearing and on finding that it is fair, reasonable and
2 adequate;

3 (3) the parties seeking approval must file a statement identifying any
4 agreement made in connection with the proposal;

5 (4) if the class action was previously certified under subsection (b)
6 (3), the court may refuse to approve a settlement unless it affords a new
7 opportunity to request exclusion to individual class members who had an
8 earlier opportunity to request exclusion, but did not do so; and

9 (5) any class member may object to the proposal if it requires court
10 approval under this subsection (e); the objection may be withdrawn only
11 with the court's approval.

12 (f) *Appeals*. The court of *civil* appeals may permit an appeal from an
13 order granting or denying class action certification under this section if
14 application is made to the court within 14 days after the order is entered.
15 An appeal does not stay proceedings in the district court unless the district
16 judge or the court of *civil* appeals so orders.

17 (g) *Class counsel*. (1) *Appointing class counsel*. Unless a statute
18 provides otherwise, a court that certifies a class must appoint class
19 counsel. In appointing class counsel, the court:

20 (A) Must consider:

21 (i) The work counsel has done in identifying or investigating potential
22 claims in the action;

23 (ii) counsel's experience in handling class actions, other complex
24 litigation and the types of claims asserted in the action;

25 (iii) counsel's knowledge of the applicable law; and

26 (iv) the resources that counsel will commit to representing the class;

27 (B) may consider any other matter pertinent to counsel's ability to
28 fairly and adequately represent the interests of the class;

29 (C) may order potential class counsel to provide information on any
30 subject pertinent to the appointment and to propose terms for attorney's
31 fees and nontaxable costs;

32 (D) may include in the appointing order provisions about the award
33 of attorney's fees or nontaxable costs under subsection (h); and

34 (E) may make further orders in connection with the appointment.

35 (2) *Standard for appointing class counsel*. When one applicant seeks
36 appointment as class counsel, the court may appoint that applicant only if
37 the applicant is adequate under subsection (g)(1) and (g)(4). If more than
38 one adequate applicant seeks appointment, the court must appoint the
39 applicant best able to represent the interests of the class.

40 (3) *Interim counsel*. The court may designate interim counsel to act
41 on behalf of a putative class before determining whether to certify the
42 action as a class action.

43 (4) *Duty of class counsel*. Class counsel must fairly and adequately

1 represent the interests of the class.

2 (h) *Attorney's fees and nontaxable costs.* In a certified class action,
3 the court may award reasonable attorney's fees and nontaxable costs that
4 are authorized by law or by the parties' agreement. The following
5 procedures apply:

6 (1) A claim for an award must be made by motion, subject to the
7 provisions of this subsection, at a time the court sets. Notice of the motion
8 must be served on all parties and, for motions by class counsel, directed to
9 class members in a reasonable manner;

10 (2) a class member, or a party from whom payment is sought, may
11 object to the motion;

12 (3) the court may hold a hearing and must find the facts and state its
13 legal conclusions under subsection (a) of K.S.A. 60-252, and amendments
14 thereto; and

15 (4) the court may refer issues related to the amount of the award to a
16 special master as provided in K.S.A. 60-253, and amendments thereto.

17 Sec. 65. K.S.A. 60-1301 is hereby amended to read as follows: 60-
18 1301. A justice of the supreme court, a judge of the court of *criminal*
19 appeals, a *judge of the court of civil appeals* or a district judge, or in the
20 district judge's absence from the county a district magistrate judge, shall
21 have authority to appoint a receiver in conformity with the provisions of
22 K.S.A. 60-1302 and 60-1303, and amendments thereto, whose duty it shall
23 be to keep, preserve, and manage all property and protect any business or
24 business interest entrusted to the receiver pending the determination of any
25 proceeding in which such property or interest may be affected by the final
26 judgment. A person who has an interest in property or in the outcome of
27 the proceeding shall not be appointed or continued as a receiver if
28 objection is made thereto by another interested party unless the judge finds
29 and rules that such objection is arbitrary or unreasonable.

30 Sec. 66. K.S.A. 2012 Supp. 60-1501 is hereby amended to read as
31 follows: 60-1501. (a) Subject to the provisions of K.S.A. 60-1507, and
32 amendments thereto, any person in this state who is detained, confined or
33 restrained of liberty on any pretense whatsoever, and any parent, guardian,
34 or next friend for the protection of infants or allegedly incapacitated or
35 incompetent persons, physically present in this state may prosecute a writ
36 of habeas corpus in the supreme court, court of *criminal* appeals or the
37 district court of the county in which such restraint is taking place. No
38 docket fee shall be required, as long as the petitioner complies with the
39 provisions of subsection (b) of K.S.A. 60-2001, and amendments thereto.

40 (b) Except as provided in K.S.A. 60-1507, and amendments thereto,
41 an inmate in the custody of the secretary of corrections shall file a petition
42 for writ pursuant to subsection (a) within 30 days from the date the action
43 was final, but such time is extended during the pendency of the inmate's

1 timely attempts to exhaust such inmate's administrative remedies.

2 (c) Except as provided in K.S.A. 60-1507, and amendments thereto, a
3 patient in the custody of the secretary of social and rehabilitation services
4 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall file a
5 petition for writ pursuant to subsection (a) within 30 days from the date the
6 action was final, but such time is extended during the pendency of the
7 patient's timely attempts to exhaust such patient's administrative remedies.

8 Sec. 67. K.S.A. 2012 Supp. 60-1505 is hereby amended to read as
9 follows: 60-1505. (a) *Summary proceedings.* The judge shall proceed in a
10 summary way to hear and determine the cause and may do so regardless of
11 whether the person restrained is present. If the plaintiff is an inmate in the
12 custody of the secretary of corrections and the motion and the files and
13 records of the case conclusively show that the inmate is entitled to no
14 relief, the writ shall be dissolved at the cost of the inmate.

15 (b) *Infectious diseases.* When any person is restrained because of an
16 alleged infectious or communicable disease, the judge may appoint at least
17 one competent physician to make an examination of such person and
18 report findings to the judge.

19 (c) *Temporary orders.* The judge may make an order for the
20 temporary custody of the party and any other temporary orders during the
21 pendency of the proceeding that justice may require.

22 (d) *Judgment.* If the court determines that the restraint is not
23 wrongful, the writ shall be dissolved at the cost of the plaintiff. If the
24 restraint is found to be wrongful, the judgment shall be either that the
25 person shall be released, or that custody shall be transferred to some other
26 person rightfully entitled thereto, and the court may make such other
27 orders as justice and equity or the welfare of a minor physically present in
28 the state may require. In cases in which the person restrained is a minor, or
29 other incompetent or incapacitated, at the time of rendering judgment at
30 the request of any person adversely affected thereby, the judge shall stay
31 the enforcement of the judgment for a period of not to exceed 48 hours to
32 permit the filing of an appeal, and the judge may provide for the temporary
33 custody of the person during such stay in such manner as the judge sees fit.
34 Enforcement of the judgment after the taking of any appeal may be stayed
35 on such terms and conditions, including such provisions for custody during
36 pendency of the appeal, as the judge shall prescribe. If the state, in open
37 court, announces its intention to appeal from an order discharging a
38 prisoner, the judge shall stay the enforcement of the judgment for a period
39 not more than 24 hours to permit the filing of an appeal.

40 (e) (1) *The record.* In habeas corpus proceedings involving
41 extradition to another state, when written notice of appeal from a judgment
42 or an order is filed, the transcript shall be prepared within 21 days after the
43 notice of appeal is filed and sent to the appellate court for review. The

1 appellate court may shorten or extend the time for filing the record if there
2 is a reasonable explanation for the need for such action. When the record is
3 received by the appellate court, the court shall set the time for filing of
4 briefs, if briefs are desired, and shall set the appeal for submission.

5 (2) *Hearing.* Such cases, taken to the court of *criminal* appeals by
6 appeal, shall be heard at the earliest practicable time. The appellant need
7 not be personally present, and such appeal shall be heard and determined
8 upon the law and the facts arising upon record. No incidental question
9 which may have arisen on the hearing of the application before the court
10 shall be reviewed.

11 (3) *Orders on appeal.* In such cases, the appellate court shall render
12 such judgment and make such orders as the law and the nature of the case
13 may require, and may make such orders relative to the costs in the case as
14 may seem right, allowing costs and fixing the amount, or allowing no cost
15 at all.

16 Sec. 68. K.S.A. 60-2101 is hereby amended to read as follows: 60-
17 2101. (a) (1) The court of *civil* appeals shall have jurisdiction to hear
18 appeals from district courts, except in those cases reviewable by law in the
19 district court and in those cases where a direct appeal to the supreme court
20 is required by law. The court of *civil* appeals also shall have jurisdiction to
21 hear appeals from administrative decisions where a statute specifically
22 authorizes an appeal directly to the court of *civil* appeals from an
23 administrative body or office. ~~In any case properly before it,~~ The court of
24 *civil* appeals shall have jurisdiction to correct, modify, vacate or reverse
25 any act, order or judgment of a district court *in order* to assure that any
26 such act, order or judgment is just, legal and free of abuse.

27 (2) *The court of criminal appeals shall have jurisdiction to hear*
28 *appeals from district courts, except in those cases reviewable by law in the*
29 *district court. The court of criminal appeals shall have jurisdiction to*
30 *correct, modify, vacate or reverse any act, order or judgment of a district*
31 *court in order to assure that any such act, order or judgment is just, legal*
32 *and free of abuse.*

33 (3) Appeals from the district court to the court of *criminal* appeals in
34 criminal cases shall be subject to the provisions of K.S.A. 22-3601 and 22-
35 3602, and amendments thereto, and appeals from the district court to the
36 court of *civil* appeals in civil actions shall be subject to the provisions of
37 K.S.A. 60-2102, and amendments thereto.

38 ~~(b) The supreme court shall have jurisdiction to correct, modify,~~
39 ~~vacate or reverse any act, order or judgment of a district court or court of~~
40 ~~appeals in order to assure that any such act, order or judgment is just, legal~~
41 ~~and free of abuse. An appeal from a final judgment of a district court in~~
42 ~~any civil action in which a statute of this state or of the United States has~~
43 ~~been held unconstitutional shall be taken directly to the supreme court.~~

1 ~~Direct appeals from the district court to the supreme court in criminal~~
2 ~~eases shall be as prescribed by K.S.A. 22-3601 and 22-3602, and~~
3 ~~amendments thereto.~~ Cases appealed to the court of *criminal appeals or*
4 *the court of civil appeals* may be transferred to the supreme court as
5 provided in ~~K.S.A. 20-3016 and 20-3017 sections 11 and 12,~~ and
6 amendments thereto, and any decision of the court of *criminal appeals or*
7 *the court of civil appeals* shall be subject to review by the supreme court
8 as provided in subsection (b) of ~~K.S.A. 20-3018 section 13,~~ and
9 amendments thereto, ~~except that any party may appeal from a final~~
10 ~~decision of the court of appeals to the supreme court, as a matter of right,~~
11 ~~whenever a question under the constitution of either the United States or~~
12 ~~the state of Kansas arises for the first time as a result of such decision.~~

13 (c) As used in the code of civil procedure, the term "appellate court"
14 means the supreme court or court of *civil appeals*, depending on the
15 context in which such term is used and the respective jurisdiction of such
16 courts over appeals in civil actions as provided in this section and K.S.A.
17 60-2102, and amendments thereto.

18 (d) A judgment rendered or final order made by a political or taxing
19 subdivision, or any agency thereof, exercising judicial or quasi-judicial
20 functions may be reversed, vacated or modified by the district court on
21 appeal. If no other means for perfecting such appeal is provided by law, it
22 shall be sufficient for an aggrieved party to file a notice that such party is
23 appealing from such judgment or order with such subdivision or agency
24 within 30 days of its entry, and then causing true copies of all pertinent
25 proceedings before such subdivision or agency to be prepared and filed
26 with the clerk of the district court in the county in which such judgment or
27 order was entered. The clerk shall thereupon docket the same as an action
28 in the district court, which court shall then proceed to review the same,
29 either with or without additional pleadings and evidence, and enter such
30 order or judgment as justice shall require. A docket fee shall be required
31 by the clerk of the district court as in the filing of an original action.

32 Sec. 69. K.S.A. 2012 Supp. 60-2102 is hereby amended to read as
33 follows: 60-2102. (a) *Appeal to court of appeals as matter of right.* Except
34 for any order or final decision of a district magistrate judge, the appellate
35 jurisdiction of the court of *civil appeals* may be invoked by appeal as a
36 matter of right from:

37 (1) An order that discharges, vacates or modifies a provisional
38 remedy.

39 (2) An order that grants, continues, modifies, refuses or dissolves an
40 injunction, or an order that grants or refuses relief in the form of
41 mandamus, quo warranto or habeas corpus.

42 (3) An order that appoints a receiver or refuses to wind up a
43 receivership or to take steps to accomplish the purposes thereof, such as

1 directing sales or other disposal of property, or an order involving the tax
2 or revenue laws, the title to real estate, the constitution of this state or the
3 constitution, laws or treaties of the United States.

4 (4) A final decision in any action, except in an action where a direct
5 appeal to the supreme court is required by law. In any appeal or cross
6 appeal from a final decision, any act or ruling from the beginning of the
7 proceedings shall be reviewable.

8 (b) *Appeal to supreme court as matter of right.* The appellate
9 jurisdiction of the supreme court may be invoked by appeal as a matter of
10 right from:

11 ~~(1) A preliminary or final decision in which a statute of this state has~~
12 ~~been held unconstitutional as a violation of Article 6 of the Kansas~~
13 ~~constitution pursuant to K.S.A. 2012 Supp. 72-64b03, and amendments~~
14 ~~thereto. Any appeal filed pursuant to this subsection (b)(1) shall be filed~~
15 ~~within 30 days of the date the preliminary or final decision is filed.~~

16 ~~(2) a final decision of the district court in any action challenging the~~
17 ~~constitutionality of or arising out of any provision of the Kansas expanded~~
18 ~~lottery act, any lottery gaming facility management contract or any~~
19 ~~racetrack gaming facility management contract entered into pursuant to the~~
20 ~~Kansas expanded lottery act.~~

21 (c) *Other appeals.* When a district judge, in making in a civil action
22 an order not otherwise appealable under this section, is of the opinion that
23 such order involves a controlling question of law as to which there is
24 substantial ground for difference of opinion and that an immediate appeal
25 from the order may materially advance the ultimate termination of the
26 litigation, the judge shall so state in writing in such order. The court of
27 *civil* appeals may thereupon, in its discretion, permit an appeal to be taken
28 from such order, if application is made to it within 14 days after the entry
29 of the order under such terms and conditions as the supreme court fixes by
30 rule. Application for an appeal hereunder shall not stay proceedings in the
31 district court unless the district judge or an appellate court or a judge
32 thereof so orders.

33 Sec. 70. K.S.A. 60-3201 is hereby amended to read as follows: 60-
34 3201. (a) *Except as provided in subsection (b),* the Kansas supreme court
35 may answer questions of law certified to it by the supreme court of the
36 United States, a court of appeals of the United States, a United States
37 district court or the highest appellate court or the intermediate appellate
38 court of any other state, when requested by the certifying court if there are
39 involved in any proceeding before it questions of law of this state which
40 may be determinative of the cause then pending in the certifying court and
41 as to which it appears to the certifying court there is no controlling
42 precedent in the decisions of the supreme court ~~and~~ or the *appropriate*
43 court of appeals of this state.

1 (b) *If a question of law certified to the Kansas supreme court is not a*
2 *question within the supreme court's original jurisdiction or appellate*
3 *jurisdiction as provided by law, the supreme court shall refer such*
4 *question to the appropriate court of appeals. The appropriate court of*
5 *appeals may answer such question.*

6 Sec. 71. K.S.A. 60-3208 is hereby amended to read as follows: 60-
7 3208. The supreme court, *the court of criminal appeals* or the court of
8 *civil* appeals of this state, on its own motion or the motion of any party,
9 may order certification of questions of law to the highest court of any state
10 when it appears to the certifying court that there are involved in any
11 proceeding before the court questions of law of the receiving state which
12 may be determinative of the cause then pending in the certifying court and
13 it appears to the certifying court that there are no controlling precedents in
14 the decisions of the highest court or intermediate appellate courts of the
15 receiving state.

16 Sec. 72. K.S.A. 2012 Supp. 61-3902 is hereby amended to read as
17 follows: 61-3902. (a) All appeals from orders, rulings, decisions or
18 judgments of district magistrate judges under the code of civil procedure
19 for limited actions shall be taken in the manner provided in subsection (a)
20 of K.S.A. 60-2103a, and amendments thereto. All appeals from orders,
21 rulings, decisions or judgments of district judges under the code of civil
22 procedure for limited actions shall be taken in the manner provided in
23 subsections (a) and (b) of K.S.A. 60-2103, and amendments thereto.
24 Notwithstanding the foregoing provisions of this subsection, if judgment
25 has been rendered in an action for forcible detainer and the defendant
26 desires to appeal from that portion of the judgment granting restitution of
27 the premises, notice of appeal shall be filed within seven days after entry
28 of judgment. The notice of appeal shall specify the party or parties taking
29 the appeal; the order, ruling, decision or judgment appealed from; and the
30 court to which the appeal is taken.

31 (b) The provisions of K.S.A. 60-2001, and amendments thereto, shall
32 apply to appeals pursuant to this section.

33 (c) An appeal from an action heard by a district magistrate judge shall
34 be taken to a district judge of the county. An appeal from an action heard
35 by a district judge shall be taken to the court of *civil* appeals.

36 Sec. 73. K.S.A. 2012 Supp. 65-3008a is hereby amended to read as
37 follows: 65-3008a. (a) No permit shall be issued, modified, renewed or
38 reopened without first providing the public an opportunity to comment and
39 request a public hearing on the proposed permit action. The request for a
40 public hearing on the issuance of a permit shall set forth the basis for the
41 request and a public hearing shall be held if, in the judgment of the
42 secretary, there is sufficient reason.

43 (b) The secretary shall affirm, modify or reverse the decision on such

1 permit after the public comment period or public hearing, and shall affirm
2 the issuance of any permit the terms and conditions of which comply with
3 all requirements established by rules and regulations promulgated pursuant
4 to the Kansas air quality act. Any person who participated in the public
5 comment process or the public hearing who otherwise would have
6 standing under K.S.A. 77-611, and amendments thereto, shall have
7 standing to obtain judicial review of the secretary's final action on the
8 permit pursuant to the Kansas judicial review act in the court of *civil*
9 appeals. Any such person other than the applicant for or holder of the
10 permit shall not be required to have exhausted administrative remedies in
11 order to be entitled to review. The court of *civil* appeals shall have original
12 jurisdiction to review any such final agency action. The record before the
13 court of *civil* appeals shall be confined to the agency record for judicial
14 review and consist of the documentation submitted to or developed by the
15 secretary in making the final permit decision, including the permit
16 application and any addenda or amendments thereto, the permit summary,
17 the draft permit, all written comments properly submitted to the secretary,
18 all testimony presented at any public hearing held on the permit
19 application, all responses by the applicant or permit holder to any written
20 comments or testimony, the secretary's response to the public comments
21 and testimony and the final permit.

22 (c) When determined appropriate by the secretary, the procedures set
23 out in subsection (a) may be required prior to the issuance, modification,
24 renewal or reopening of an approval.

25 Sec. 74. K.S.A. 2012 Supp. 65-3013 is hereby amended to read as
26 follows: 65-3013. (a) Any person who owns or is in control of any plant,
27 building, structure, process or equipment may apply to the secretary for a
28 variance from rules and regulations governing the quality, nature, duration
29 or extent of emissions. The application shall be accompanied by such
30 information and data as the secretary may reasonably require. The
31 secretary may grant such variance if the secretary finds that:

32 (1) The emissions occurring or proposed to occur do not endanger or
33 tend significantly to endanger human health or safety; and

34 (2) Compliance with the rules and regulations from which variance is
35 sought would produce serious hardships without equal or greater benefits
36 to the public.

37 (b) No variance shall be granted pursuant to this section except after
38 public hearing on due notice and until the secretary has considered the
39 relative interests of the applicant, other owners of property likely to be
40 affected by the discharges, and the general public.

41 (c) Any variance or renewal thereof shall be granted within the
42 requirements of subsection (a) and for time periods and under conditions
43 consistent with the reasons therefor, and within the following limitations:

1 (1) If the variance is granted on the ground that there is no practicable
2 means known or available for the adequate prevention, abatement or
3 control of the air pollution involved, it shall be only until the necessary
4 means for prevention, abatement or control become known and available
5 and subject to the taking of any substitute or alternate measures that the
6 secretary may prescribe.

7 (2) If the variance is granted on the ground that compliance with the
8 particular requirement or requirements from which variance is sought will
9 necessitate the taking of measures which, because of their extent or cost,
10 must be spread over a considerable period of time, it shall be for a period
11 not to exceed such reasonable time as the secretary finds is requisite for
12 the taking of the necessary measures. A variance granted on the ground
13 specified herein shall contain a timetable for the taking of action in an
14 expeditious manner and shall be conditioned on adherence to such
15 timetable.

16 (3) If the variance is granted on the ground that it is justified to
17 relieve or prevent hardship of a kind other than that provided for in
18 subsections (c)(1) and (2), it shall be for not more than one year.

19 (d) Any variance granted pursuant to this section may be renewed on
20 terms and conditions and for periods which would be appropriate on initial
21 granting of a variance. If complaint is made to the secretary on account of
22 the variance, no renewal thereof shall be granted, unless following public
23 hearing on the complaint on due notice, the secretary finds that renewal is
24 justified. No renewal shall be granted except on application therefor. Any
25 such application shall be made at least 60 days prior to the expiration of
26 the variance. Immediately upon receipt of an application for renewal the
27 secretary shall give public notice of such application in accordance with
28 rules and regulations of the secretary.

29 (e) A variance or renewal shall not be a right of the applicant or
30 holder thereof but shall be in the discretion of the secretary. Within 15 days
31 after the secretary's written decision to grant or deny a variance or renewal
32 thereof, the applicant or holder of a variance or renewal may file a request
33 for a hearing with the secretary. Such hearing shall be conducted in
34 accordance with the Kansas administrative procedure act. However, any
35 person who participated in the public comment process or the public
36 hearing or who otherwise would have standing under K.S.A. 77-611, and
37 amendments thereto, and is adversely affected by any final action of the
38 secretary pursuant to this section shall have standing to obtain judicial
39 review of the secretary's final action on the variance or renewal in the
40 court of *civil* appeals. Any such person other than the applicant for or
41 holder of the permit shall not be required to have exhausted administrative
42 remedies in order to be entitled to review. The court of *civil* appeals shall
43 have original jurisdiction to review any such final agency action. The

1 record before the court of *civil* appeals shall be confined to the agency
2 record for judicial review and consist of the documentation submitted to or
3 developed by the secretary in making the final variance or renewal
4 decision, including the variance or renewal application and any addenda or
5 amendments thereto, the variance or renewal summary, the draft variance
6 or renewal, all written comments properly submitted to the secretary, all
7 testimony presented at any public hearing held on the variance or renewal
8 application, all responses by the applicant or holder of a variance or
9 renewal to any written comments or testimony, the secretary's response to
10 the public comments and testimony and the final variance or renewal.

11 (f) Nothing in this section and no variance or renewal granted
12 pursuant hereto shall be construed to prevent or limit the application of the
13 emergency provisions and procedures of K.S.A. 65-3012, and amendments
14 thereto, to any person or any person's property.

15 Sec. 75. K.S.A. 2012 Supp. 65-4211 is hereby amended to read as
16 follows: 65-4211. (a) Any person aggrieved by a decision of the board, and
17 affected thereby, shall be entitled to judicial review in accordance with the
18 provisions of the Kansas judicial review act.

19 (b) Any party may have review of the final judgment or decision of
20 the district court by appeal to the ~~supreme~~ court of *civil appeals* pursuant
21 to the Kansas judicial review act.

22 Sec. 76. K.S.A. 66-118a is hereby amended to read as follows: 66-
23 118a. (a) As used in this act:

24 (1) "Party" means any person, firm, corporation, association,
25 municipality, taxpayer, municipal organization, mercantile, agricultural or
26 manufacturing organization or system, public utility or common carrier
27 interested in any matter pending before the state corporation commission
28 or in proceedings for review of an order or decision of the commission.

29 (2) "Public utility" means a public utility as defined by K.S.A. 66-
30 104, and amendments thereto.

31 (b) The court of *civil* appeals shall have exclusive jurisdiction to
32 review any agency action of the state corporation commission arising from
33 a rate hearing requested by a public utility or requested by the state
34 corporation commission when a public utility is a necessary party.
35 Proceedings for review of other agency actions of the state corporation
36 commission shall be in accordance with K.S.A. 77-609, and amendments
37 thereto.

38 (c) In proceedings for review of an agency action of the commission,
39 the state corporation commission and any public utility which participated
40 in the agency proceeding and could be bound by the review shall be parties
41 to the proceedings and shall have all rights and privileges granted by this
42 act to any other party to such proceedings.

43 (d) A proceeding for review timely filed shall not be dismissed but

1 shall be transferred to the proper court if it is determined to have been
2 improperly filed: (A) In the court of *civil* appeals for an action not arising
3 from a rate hearing; or (B) in the district court in accordance with K.S.A.
4 77-609, and amendments thereto, for an action arising from a rate hearing.

5 Sec. 77. K.S.A. 66-118g is hereby amended to read as follows: 66-
6 118g. (a) The filing or pendency of the application for review provided for
7 in this act shall not in itself stay or suspend the operation of any order or
8 decision of the commission, except as provided in subsection (b), but,
9 during the pendency of such proceeding the court, in its discretion, may
10 stay or suspend, in whole or in part, the operation of the order or decision
11 of the commission. No order staying or suspending an order or decision of
12 the commission shall be made by any court of this state without five days'
13 notice and after a hearing. If a stay or suspension is allowed, the order
14 granting such stay or suspension shall contain a specific finding, based
15 upon evidence submitted to the court and identified by reference thereto,
16 that great or irreparable damage would otherwise result to the petitioner
17 and specifying the nature of the damage.

18 (b) If the court of *civil* appeals does not issue a final order within 120
19 days after the filing with the clerk of the court of *civil* appeals of an
20 application for judicial review of an order or decision of the commission in
21 a public utility rate case, the court of *civil* appeals shall automatically stay
22 the order or decision of the commission, to the extent provided in this
23 subsection, when such stay is requested by motion of a public utility that is
24 a party to the action. The commission's order or decision shall be stayed
25 only to the extent that the commission did not grant the amount that is
26 being contested by the public utility on appeal. The public utility may
27 collect, pursuant to K.S.A. 66-118h, and amendments thereto, rates up to
28 but not exceeding the amount that is being contested by the public utility
29 on appeal. The provisions of K.S.A. 66-118h through 66-118k, and
30 amendments thereto, shall be applicable to orders or decisions stayed
31 pursuant to this section.

32 Sec. 78. K.S.A. 68-527a is hereby amended to read as follows: 68-
33 527a. Whenever a dispute arises over the maintenance, improvement
34 ~~and/or~~ or inspection of roads located on county lines or township lines on
35 designated county line roads as provided for in K.S.A. 68-507 and 68-527,
36 *and amendments thereto*, the district court of the county in which the road
37 is located shall have jurisdiction to hear and settle the dispute. If the
38 decision involves a designated county line road, the district court of any
39 county which adjoins such county line road shall have jurisdiction of and it
40 shall be its duty to hear and settle the dispute. If an action is filed in more
41 than one district court, the last action filed shall be dismissed on motion.
42 Appeals to the ~~supreme~~ court of *civil* appeals may be taken from the
43 decision of the district court.

1 Sec. 79. K.S.A. 2012 Supp. 72-64b03 is hereby amended to read as
2 follows: 72-64b03. (a) If a petition is filed in a district court of this state
3 alleging a violation of article 6 of the Kansas constitution, the chief judge
4 of such district court shall notify the ~~chief justice of the supreme court~~
5 *judge of the court of civil appeals* of such petition within three business
6 days thereafter.

7 (b) ~~Within three business days of receiving such notice, the chief~~
8 ~~justice shall notify the chief judge of the court of appeals.~~ Within 10
9 business days of receiving *such* notice ~~by the chief justice~~, the chief judge
10 *of the court of civil appeals* shall appoint a panel of three current or retired
11 district court judges to preside over such civil action. The chief judge shall
12 designate one of such judges to be the presiding judge of the panel. The
13 judicial panel shall be considered a court of competent jurisdiction to hear
14 and decide the civil action.

15 (c) The judicial panel shall establish venue pursuant to K.S.A. 2012
16 Supp. 72-64b04, and amendments thereto.

17 (d) As a part of a remedy, preliminary decision or final decision in
18 which a statute or legislative enactment of this state has been held
19 unconstitutional as a violation of article 6 of the Kansas constitution, the
20 judicial panel or any master or other person or persons appointed by the
21 panel to hear or determine a cause or controversy or to make or enforce
22 any order or remedy ordered by a court pursuant to K.S.A. 60-253, and
23 amendments thereto, or any other provision of law, shall not have the
24 authority to order a school district or any attendance center within a school
25 district to be closed or enjoin the use of all statutes related to the
26 distribution of funds for public education.

27 Sec. 80. K.S.A. 74-601 is hereby amended to read as follows: 74-601.

28 (a) There is hereby created the state corporation commission, which shall
29 consist of three members appointed by the governor, subject to
30 confirmation by the senate as provided in K.S.A. 75-4315b, and
31 amendments thereto. Except as provided by K.S.A. 46-2601, *and*
32 *amendments thereto*, no person appointed to the commission shall exercise
33 any power, duty or function as a member of the commission until
34 confirmed by the senate. No more than two members of the commission
35 shall belong to the same political party. Each member shall be appointed
36 for a term of four years and until a successor has been appointed and
37 confirmed. In case of a vacancy in the office of a member of the
38 commission, the governor shall appoint a successor to fill the vacancy for
39 the unexpired term.

40 (b) The terms of members who are serving on the commission on the
41 effective date of this act shall expire on March 15, of the year in which
42 such member's term would have expired under the provisions of this
43 section prior to amendment by this act. Thereafter, members shall be

1 appointed for terms of four years and until their successors are appointed
2 and confirmed.

3 (c) The commission shall elect one of its members as chairperson of
4 the commission. The chairperson of the commission shall receive an
5 annual salary in an amount equal to the annual salary prescribed by law for
6 the chief judge of the court of *civil* appeals, payable monthly. Each other
7 member of the commission shall receive an annual salary in an amount
8 equal to the annual salary paid by the state to a judge of the court of *civil*
9 appeals, other than the chief judge, payable monthly. Each member of the
10 commission shall devote full time to the duties of the office.

11 (d) The provisions of the Kansas governmental operations
12 accountability law apply to the state corporation commission and the
13 commission is subject to audit, review and evaluation under such law.

14 Sec. 81. K.S.A. 2012 Supp. 74-2426 is hereby amended to read as
15 follows: 74-2426. (a) Orders of the state court of tax appeals on any
16 appeal, in any proceeding under the tax protest, tax grievance or tax
17 exemption statutes or in any other original proceeding before the court
18 shall be rendered and served in accordance with the provisions of the
19 Kansas administrative procedure act. Notwithstanding the provisions of
20 subsection (g) of K.S.A. 77-526, and amendments thereto, a final order of
21 the court shall be rendered in writing and served within 120 days after the
22 matter was fully submitted to the court unless this period is waived or
23 extended with the written consent of all parties or for good cause shown.

24 (b) No final order of the court shall be subject to review pursuant to
25 subsection (c) unless the aggrieved party first files a petition for
26 reconsideration of that order with the court in accordance with the
27 provisions of K.S.A. 77-529, and amendments thereto.

28 (c) Any action of the court pursuant to this section is subject to
29 review in accordance with the Kansas judicial review act, except that:

30 (1) The parties to the action for judicial review shall be the same
31 parties as appeared before the court in the administrative proceedings
32 before the court. The court shall not be a party to any action for judicial
33 review of an action of the court.

34 (2) There is no right to review of any order issued by the court in a
35 no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq.,
36 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and
37 statutes of a similar character. The court of *civil* appeals has jurisdiction
38 for review of all final orders issued after June 30, 2008, in all other cases.

39 (3) In addition to the cost of the preparation of the transcript, the
40 appellant shall pay to the state court of tax appeals the other costs of
41 certifying the record to the reviewing court. Such payment shall be made
42 prior to the transmission of the agency record to the reviewing court.

43 (d) If review of an order of the state court of tax appeals relating to

1 excise, income or estate taxes, is sought by a person other than the director
2 of taxation, such person shall give bond for costs at the time the petition is
3 filed. The bond shall be in the amount of 125% of the amount of taxes
4 assessed or a lesser amount approved by the court of *civil* appeals and shall
5 be conditioned on the petitioner's prosecution of the review without delay
6 and payment of all costs assessed against the petitioner.

7 (e) If review of an order is sought by a party other than the director of
8 property valuation or a taxing subdivision and the order determines,
9 approves, modifies or equalizes the amount of valuation which is
10 assessable and for which the tax has not been paid, a bond shall be given
11 in the amount of 125% of the amount of the taxes assessed or a lesser
12 amount approved by the reviewing court. The bond shall be conditioned on
13 the petitioner's prosecution of the review without delay and payment of all
14 costs assessed against the petitioner.

15 Sec. 82. K.S.A. 2012 Supp. 74-8762 is hereby amended to read as
16 follows: 74-8762. (a) As used in this section:

17 (1) "Affiliated person" means:

18 (A) Any member of the immediate family of a state or local official;
19 or

20 (B) any partnership, firm, corporation or limited liability company
21 with which a state or local official is associated or in which a state or local
22 official has an interest, or any partner, officer, director or employee thereof
23 while the state or local official is associated with such partnership, firm,
24 corporation or company.

25 (2) "State or local official" means any person who, on or after January
26 9, 2006, is:

27 (A) Any state officer or employee required to file a written statement
28 of substantial interests pursuant to the state governmental ethics law and
29 any other state officer or employee with responsibility for matters affecting
30 activities or operations of any lottery gaming facility or racetrack gaming
31 facility;

32 (B) the governor or any full-time professional employee of the office
33 of the governor;

34 (C) any member of the legislature and any full-time professional
35 employee of the legislature;

36 (D) any justice of the supreme court, *judge of the court of criminal*
37 *appeals*, judge of the court of *civil* appeals or judge of the district court;

38 (E) the head of any state agency, the assistant or deputy heads of any
39 state agency, or the head of any division within a state agency; or

40 (F) any member of the governing body of a city or county where a
41 lottery gaming facility or racetrack gaming facility is located; any
42 municipal or county judge of such city or county; any city, county or
43 district attorney of such city or county; and any member of or attorney for

1 the planning board or zoning board of such city or county and any
2 professional planner or consultant regularly employed or retained by such
3 planning board or zoning board.

4 (b) No state or local official or affiliated person shall hold, directly or
5 indirectly, an interest in, be employed by, represent or appear for a lottery
6 gaming facility or racetrack gaming facility, or for any lottery gaming
7 facility manager or racetrack gaming facility manager, or any holding or
8 intermediary company with respect thereto, in connection with any cause,
9 application or matter.

10 No state or local official or affiliated person shall represent, appear for
11 or negotiate on behalf of any person submitting a proposal for a lottery
12 gaming facility or racetrack gaming facility, or on behalf of any lottery
13 gaming facility manager or racetrack gaming facility manager, or any
14 holding or intermediary company with respect thereto, in connection with
15 any cause, application or matter.

16 (c) No state or local official or affiliated person, within five years
17 immediately subsequent to the termination of the office or employment of
18 the official, shall hold, directly or indirectly, an interest in, be employed by
19 or represent, appear for or negotiate on behalf of any person submitting a
20 proposal for a lottery gaming facility or racetrack gaming facility, or on
21 behalf of any lottery gaming facility manager or racetrack gaming facility
22 manager, in connection with any cause, application or matter, or on behalf
23 of any holding or intermediary company with respect thereto, in
24 connection with any phase of development of a lottery gaming facility or
25 racetrack gaming facility or any other matter whatsoever related to
26 activities or operations of a lottery gaming facility or racetrack gaming
27 facility.

28 (d) No state or local official shall solicit or accept, directly or
29 indirectly, any complimentary service or discount from any person
30 submitting a proposal for a lottery gaming facility or racetrack gaming
31 facility, or from any lottery gaming facility manager or racetrack gaming
32 facility manager, which such official knows or has reason to know is other
33 than a service or discount that is offered to members of the general public
34 in like circumstance.

35 (e) No state or local official shall influence, or attempt to influence,
36 by use of official authority, the decision of the Kansas lottery commission,
37 lottery gaming facility review board or Kansas racing and gaming
38 commission pursuant to this act; the investigation of a proposal for a
39 lottery gaming facility or racetrack gaming facility pursuant to this act; or
40 any proceeding to enforce the provisions of this act or rules and
41 regulations of the Kansas lottery commission or Kansas racing and gaming
42 commission. Any such attempt shall be reported promptly to the attorney
43 general.

1 (f) Willful violation of this section is a class A misdemeanor.

2 Sec. 83. K.S.A. 2012 Supp. 74-8813 is hereby amended to read as
3 follows: 74-8813. (a) A nonprofit organization may apply to the
4 commission for an organization license to conduct horse races or an
5 organization license to conduct greyhound races, or both such licenses. In
6 addition, an organization license may authorize the licensee to construct or
7 own a racetrack facility if so provided by the commission. The application
8 for an organization license shall be filed with the commission at a time and
9 place prescribed by rules and regulations of the commission. The
10 application shall specify the days when and the exact location where it
11 proposes to conduct such races and shall be in a form and include such
12 information as the commission prescribes. A nonrefundable application fee
13 in the form of a certified check or bank draft shall accompany the
14 application. Except as provided pursuant to K.S.A. 74-8814, and
15 amendments thereto, such fee shall be \$5,000 for each application. If the
16 application fee is insufficient to pay the reasonable expenses of processing
17 the application and investigating the applicant's qualifications for
18 licensure, the commission shall require the applicant to pay to the
19 commission, at such times and in such form as required by the
20 commission, any additional amounts necessary to pay such expenses. No
21 license shall be issued to an applicant until the applicant has paid such
22 additional amounts in full, and such amounts shall not be refundable
23 except to the extent that they exceed the actual expenses of processing the
24 application and investigating the applicant's qualifications for licensure.

25 (b) If an applicant for an organization license is proposing to
26 construct a racetrack facility, such applicant, at the time of submitting the
27 application, shall deposit with the commission, in such form as prescribed
28 by rules and regulations of the commission, the sum of: (1) \$500,000, if
29 the number of racing days applied for in a racing season is 150 days or
30 more; (2) \$250,000, if the number of racing days applied for is less than
31 150 days; or (3) a lesser sum established by the commission, if the
32 applicant meets the qualifications set forth in subsection (a)(1) or (a)(2) of
33 K.S.A. 74-8814, and amendments thereto, or if the applicant will be
34 conducting races only on the state fairgrounds. Only one such deposit shall
35 be required for a dual racetrack facility. The executive director shall remit
36 any deposit received pursuant to this subsection to the state treasurer in
37 accordance with the provisions of K.S.A. 75-4215, and amendments
38 thereto. Upon receipt of each such remittance, the state treasurer shall
39 deposit the entire amount in the state treasury to the credit of the racing
40 applicant deposit fund created by K.S.A. 74-8828, and amendments
41 thereto. If the application is denied by the commission, the deposit, and
42 any interest accrued thereon, shall be refunded to the applicant. If the
43 license is granted by the commission in accordance with the terms of the

1 application or other terms satisfactory to the applicant, the deposit, and any
2 interest accrued thereon, shall be refunded to the licensee upon completion
3 of the racetrack facility in accordance with the terms of the license. If the
4 licensee fails to complete the racetrack facility in accordance with the
5 terms of the license, the deposit, and any interest accrued thereon, shall be
6 forfeited by the applicant.

7 (c) To qualify for an organization license to conduct horse or
8 greyhound races:

9 (1) The applicant shall be a bona fide, nonprofit organization which,
10 if applicable, meets the requirements of subsection (d);

11 (2) the applicant shall have, either by itself or through contractual
12 relationships with other persons or businesses approved by the
13 commission, the financial capability, manpower and technical expertise, as
14 determined by the commission, to properly conduct horse races or
15 greyhound races, or both, and, if applicable, to operate a parimutuel
16 wagering system;

17 (3) if the applicant is proposing to construct a racetrack facility, the
18 applicant shall submit detailed plans for the construction of such facility,
19 including the means and source of financing such construction and
20 operation, sufficient to convince the commission that such plans are
21 feasible;

22 (4) submit for commission approval a written copy of each contract
23 and agreement which the applicant proposes to enter into, including all
24 those listed in subsection (n), which contracts and agreements shall
25 conform to the restrictions placed thereon by subsections (n), (o) and (p);

26 (5) the applicant shall propose to conduct races within only one
27 county, and in such county the majority of the qualified electors have
28 approved either: (A) The constitutional amendment permitting the conduct
29 of horse and dog races and parimutuel wagering thereon; or (B) a
30 proposition permitting horse and dog races and parimutuel wagering
31 thereon within the boundaries of such county;

32 (6) no director, officer, employee or agent of the applicant shall have
33 been convicted of any of the following in any court of any state or of the
34 United States or shall have been adjudicated in the last five years in any
35 such court of committing as a juvenile an act which, if committed by an
36 adult, would constitute any of the following: (A) Fixing of horse or
37 greyhound races; (B) illegal gambling activity; (C) illegal sale or
38 possession of any controlled substance; (D) operation of any illegal
39 business; (E) repeated acts of violence; or (F) any felony;

40 (7) no director or officer of the applicant shall be addicted to, and a
41 user of, alcohol or a controlled substance; and

42 (8) no director or officer of the applicant shall have failed to meet any
43 monetary or tax obligation to the federal government or to any state or

1 local government, whether or not relating to the conduct or operation of a
2 race meet held in this state or any other jurisdiction.

3 (d) To qualify for an organization license to conduct horse or
4 greyhound races, a nonprofit organization, other than a fair association, a
5 horsemen's nonprofit organization or a nonprofit organization conducting
6 races only on the state fair grounds, shall:

7 (1) Distribute all of its net earnings from the conduct of horse and
8 greyhound races, other than that portion of the net earnings which is
9 necessary to satisfy the debt service obligations, not otherwise deducted
10 from net earnings, of an organization licensee owning the racetrack facility
11 or that portion of the net earnings which is set aside as reasonable reserves
12 for future improvement, maintenance and repair of the racetrack facility
13 owned by the organization licensee, only to organizations, other than itself,
14 which: (A) Have been exempted from the payment of federal income taxes
15 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
16 as in effect July 1, 1987, (B) are domiciled in this state and (C) expend the
17 moneys so distributed only within this state;

18 (2) distribute not more than 25% of such net earnings to any one such
19 organization in any calendar year;

20 (3) not engage in, and have no officer, director or member who
21 engages in, any prohibited transaction, as defined by section 503(b) of the
22 federal internal revenue code of 1986, as in effect July 1, 1987; and

23 (4) have no officer, director or member who is not a bona fide
24 resident of this state.

25 (e) Within 30 days after the date specified for filing, the commission
26 shall examine each application for an organization license for compliance
27 with the provisions of this act and rules and regulations of the commission.
28 If any application does not comply with the provisions of this act or rules
29 and regulations of the commission, the application may be rejected or the
30 commission may direct the applicant to comply with the provisions of this
31 act or rules and regulations of the commission within a reasonable time, as
32 determined by the commission. Upon proof by the applicant of
33 compliance, the commission may reconsider the application. If an
34 application is found to be in compliance and the commission finds that the
35 issuance of the license would be within the best interests of horse and
36 greyhound racing within this state from the standpoint of both the public
37 interest and the horse or greyhound industry, as determined solely within
38 the discretion of the commission, the commission may issue an
39 organization license to the applicant. The commission shall approve the
40 issuance of organization licenses for a period established by the
41 commission but not to exceed 25 years. Such license may provide that
42 during its term it constitutes an exclusive license within a radius of the
43 location specified in the license, as determined by the commission. No

1 racing of any kind regulated by this act shall be conducted by any other
2 person within the territory covered by such exclusive license without the
3 written consent of the licensee. For each license issued, the commission
4 shall specify the location, type, time and date of all races and race
5 meetings which the commission has approved for the licensee to conduct.
6 The license shall be issued upon receipt of the license fee and the
7 furnishing of a surety bond or other financial security approved by the
8 commission, conditioned on, and in an amount determined by the
9 commission as sufficient to pay, the licensee's potential financial liability
10 for unpaid taxes, purses and distribution of parimutuel winnings and
11 breakage. No organization license shall be transferred to any other
12 organization or entity.

13 (f) When considering the granting of organization licenses or racing
14 days between two or more competing applicants, the commission shall
15 give consideration to the following factors:

16 (1) The character, reputation, experience and financial stability of
17 those persons within the applicant organizations who will be supervising
18 the conduct of the races and parimutuel wagering for the organization;

19 (2) the quality of the racing facilities and adjoining accommodations;

20 (3) the amount of revenue that can reasonably be expected to be
21 generated from state and local taxes, the economic impact for the
22 respective horse or greyhound breeding industries in Kansas and the
23 indirect economic benefit to the surrounding area, in the determination of
24 which economic benefit the commission shall solicit written
25 recommendations from all interested parties in the surrounding area;

26 (4) the location of the race meetings in relation to the principal
27 centers of population and the effect of such centers on the ability of the
28 organizations to sustain a financially sound racing operation; and

29 (5) testimony from interested parties at public hearings to be
30 conducted in the geographic areas where the applicants would be
31 conducting their race meetings.

32 (g) Except as otherwise provided pursuant to K.S.A. 74-8814, and
33 amendments thereto, each organization licensee shall pay a license fee in
34 the amount of \$200 for each day of racing approved by the commission.
35 Such fees shall be paid at such times and by such means as prescribed by
36 rules and regulations of the commission. The commission may authorize
37 the state treasurer to refund from the state racing fund a fee paid for any
38 racing day which was canceled with advance notice to and with the
39 approval of the commission.

40 (h) Organization licensees may apply to the commission for changes
41 in approved race meetings or dates or for additional race meetings or dates
42 as needed throughout the terms of their licenses. Application shall be made
43 upon forms furnished by the commission and shall contain or be

1 accompanied by such information as the commission prescribes. Upon
2 approval by the commission, the organization licensee shall pay an
3 additional license fee for any race days in excess of the number originally
4 approved and included in the calculation of the initial license fee.

5 (i) All organization licenses shall be reviewed annually by the
6 commission to determine if the licensee is complying with the provisions
7 of this act and rules and regulations of the commission and following such
8 proposed plans and operating procedures as were approved by the
9 commission. The commission may review an organization license more
10 often than annually upon its own initiative or upon the request of any
11 interested party. The commission shall require each organization licensee,
12 other than a fair association, or horsemen's nonprofit organization, to file
13 annually with the commission a certified financial audit of the licensee by
14 an independent certified public accountant, which audit shall be open to
15 inspection by the public, and may require an organization licensee to
16 provide any other information necessary for the commission to conduct the
17 annual or periodic review.

18 (j) Subject to the provisions of subsection (k), the commission, in
19 accordance with the Kansas administrative procedure act, may suspend or
20 revoke an organization license or may impose a civil fine not exceeding
21 \$5,000, or may both suspend such license and impose such fine, for each
22 of the following violations by a licensee:

23 (1) One or more violations, or a pattern of repeated violations, of the
24 provisions of this act or rules and regulations of the commission;

25 (2) failure to follow one or more provisions of the licensee's plans for
26 the financing, construction or operation of a racetrack facility as submitted
27 to and approved by the commission;

28 (3) failure to maintain compliance with the requirements of
29 subsection (c) or (d), if applicable, for the initial issuance of an
30 organization license;

31 (4) failure to properly maintain or to make available to the
32 commission such financial and other records sufficient to permit the
33 commission to verify the licensee's nonprofit status and compliance with
34 the provisions of this act or rules and regulations of the commission;

35 (5) providing to the commission any information material to the
36 issuance, maintenance or renewal of the licensee's license knowing such
37 information to be false or misleading;

38 (6) failure to meet the licensee's financial obligations incurred in
39 connection with the conduct of a race meeting; or

40 (7) a violation of K.S.A. 74-8833, and amendments thereto, or any
41 rules and regulations adopted pursuant to that section.

42 (k) Prior to suspension or revocation of a license pursuant to
43 subsection (j), the commission shall give written notice of the reason

1 therefor in detail to the organization licensee and to all facility owner and
2 facility manager licensees with whom the organization licensee is doing
3 business. Upon receipt of such notice by all of such licensees, the
4 organization licensee shall have 30 days in which to cure the alleged
5 violation, if it can be cured. If the commission finds that the violation has
6 not been cured upon expiration of the 30 days, or upon a later deadline
7 granted by the commission, or if the commission finds that the alleged
8 violation is of such a nature that it cannot be cured, the commission shall
9 proceed to suspend or revoke the license pursuant to subsection (j).
10 Nothing in this subsection shall be construed to preclude the commission
11 from imposing a fine pursuant to subsection (j) even if the violation is
12 cured within 30 days or such other period as provided by the commission.

13 (l) Prior to the expiration of an organization license, the organization
14 may apply to the commission for renewal of such license. The renewal
15 application shall be in a form and include such information as the
16 commission prescribes. The commission shall grant such renewal if the
17 organization meets all of the qualifications required for an initial license.
18 The commission may charge a fee for the processing of the renewal
19 application not to exceed the application fee authorized for an initial
20 license.

21 (m) Once an organization license has been issued, no person
22 thereafter and during the term of such license shall in any manner become
23 the owner or holder, directly or indirectly, of any shares of stock or
24 certificates or other evidence of ownership or become a director or officer
25 of such organization licensee without first having obtained the written
26 approval of the commission.

27 (n) An organization licensee shall submit to the commission for
28 approval a copy of each contract and agreement which the organization
29 licensee proposes to enter into and any proposed modification of any such
30 contract or agreement, including but not limited to those involving:

- 31 (1) Any person to be employed by the organization licensee;
- 32 (2) any person supplying goods and services to the organization
33 licensee, including management, consulting or other professional services;
- 34 (3) any lease of facilities, including real estate or equipment or other
35 personal property; or
- 36 (4) the operation of any concession within or adjacent to the racetrack
37 facility.

38 The commission shall reject any such contract or agreement which
39 violates any provision of this act or rules and regulations of the
40 commission, which provides for payment of money or other valuable
41 consideration which is clearly in excess of the fair market value of the
42 goods, services or facilities being purchased or leased or which, in the case
43 of a contract or agreement with a facility owner licensee or a facility

1 manager licensee, would not protect the organization licensee from
2 incurring losses due to contractual liability.

3 (o) Organization licensees shall not by lease, contract, agreement,
4 understanding or arrangement of any kind grant, assign or turn over to any
5 person the parimutuel system of wagering described in K.S.A. 74-8819,
6 and amendments thereto, or the operation and conduct of any horse or
7 greyhound race to which such wagering applies, but this subsection shall
8 not prohibit the organization licensee from contracting with and
9 compensating others for providing services in connection with the
10 financing, acquisition, construction, equipping, maintenance and
11 management of the racetrack facility; the hiring and training of personnel;
12 the promotion of the facility; operation and conduct of a simulcast race
13 displayed by a simulcasting licensee; parimutuel wagering at racetrack
14 facilities; and parimutuel wagering at off-track wagering and intertrack
15 wagering facilities in other jurisdictions to which live races conducted by
16 the organization licensee are simulcast.

17 (p) An organization licensee shall not in any manner permit a person
18 other than such licensee to have a share, percentage or proportion of
19 money received from parimutuel wagering at the racetrack facility except
20 as specifically set forth in this act, except that:

21 (1) A facility owner licensee may receive gross percentage rental fees
22 under a lease if all terms of the lease are disclosed to the commission and
23 such lease is approved by the commission;

24 (2) a person who has contracted with an organization licensee to
25 provide one or more of the services permitted by subsection (o) may
26 receive compensation in the form of a percentage of the money received
27 from parimutuel wagering if such contract is approved by the commission
28 and such person is licensed as a facility manager; and

29 (3) a person who has contracted with a simulcasting licensee to allow
30 such licensee to display a simulcast race conducted by such person may
31 receive compensation in the form of a percentage of or a fee deducted
32 from the money received by the licensee from parimutuel wagers placed
33 on such race if such contract is filed with the commission.

34 (q) Directors or officers of an organization licensee are not liable in a
35 civil action for damages arising from their acts or omissions when acting
36 as individual directors or officers, or as a board as a whole, of a nonprofit
37 organization conducting races pursuant to this act, unless such conduct
38 constitutes willful or wanton misconduct or intentionally tortious conduct,
39 but only to the extent the directors and officers are not required to be
40 insured by law or are not otherwise insured against such acts or omissions.
41 Nothing in this section shall be construed to affect the liability of an
42 organization licensee for damages in a civil action caused by the negligent
43 or wrongful acts or omissions of its directors or officers, and a director's or

1 officer's negligence or wrongful act or omission, while acting as a director
2 or officer, shall be imputed to the organization licensee for the purpose of
3 apportioning liability for damages to a third party pursuant to K.S.A. 60-
4 258a, and amendments thereto.

5 (r) If an applicant for an organization license proposes to construct a
6 racetrack facility and the commission determines that such license should
7 be issued to the applicant, the commission shall issue to the applicant an
8 organization license conditioned on the submission by the licensee to the
9 commission, within a period of time prescribed by the commission, of a
10 commitment for financing the construction of the racetrack facility by a
11 financial institution or other source, subject to approval by the
12 commission. If such commitment is not submitted within the period of
13 time originally prescribed by the commission or such additional time as
14 authorized by the commission, the license shall expire at the end of such
15 period.

16 (s) If an organization licensee's license authorizes the construction of
17 a dual racetrack facility, such license shall be conditioned on the
18 completion of such facility within a time specified by the commission. If,
19 within the time specified by the commission, the licensee has not
20 constructed a dual racetrack facility in accordance with the plans
21 submitted to the commission pursuant to subsection (c)(3), the
22 commission, in accordance with the Kansas administrative procedure act,
23 shall:

24 (1) Impose upon the licensee a civil fine equal to 5% of the total
25 parimutuel pools for all races held at the licensee's facility on and after the
26 date that racing with parimutuel wagering is first conducted at such facility
27 and until the date that construction of the dual racetrack facility is
28 completed and horse racing has begun; and

29 (2) revoke the licensee's license unless the licensee demonstrates
30 reasonable cause for the failure to complete the facility.

31 (t) Any license granted an organization licensee to conduct races at a
32 dual racetrack facility shall be conditioned on the organization licensee's
33 conducting live horse races on not less than 20% of the annual racing days
34 granted the licensee by the commission. If an organization licensee fails to
35 comply with such condition, the commission may revoke the organization
36 licensee's license unless the licensee demonstrates reasonable justification
37 for the failure.

38 (u) The refusal to renew an organization license shall be in
39 accordance with the Kansas administrative procedure act and shall be
40 subject to review under the Kansas judicial review act.

41 (v) The grant or denial of an original organization license shall not be
42 subject to the Kansas administrative procedure act. Such grant or denial
43 shall be a matter to be determined in the sole discretion of the commission,

1 whose decision shall be final upon the grant of a license to one of two
2 more competing applicants without the necessity of a hearing on the denial
3 of a license to each other competing applicant. Any action for judicial
4 review of such decision shall be by appeal to the ~~supreme~~ court of *civil*
5 *appeals* in accordance with the Kansas judicial review act, except that the
6 scope of review shall be limited to whether the action of the commission
7 was arbitrary or capricious or constituted an abuse of discretion. All
8 competing applicants for the organization license shall be parties to such
9 appeal. Any such appeal shall have priority over other cases except those
10 having statutory priority.

11 (w) The commission may adopt rules and regulations regulating
12 crossover employment between organization licensees and facility
13 manager licensees and facility owner licensees.

14 Sec. 84. K.S.A. 2012 Supp. 74-8815 is hereby amended to read as
15 follows: 74-8815. (a) Any person, partnership, corporation or association,
16 or the state of Kansas or any political subdivision thereof, may apply to the
17 commission for a facility owner license to construct or own, or both, a
18 racetrack facility which includes a racetrack and other areas designed for
19 horse racing or greyhound racing, or both.

20 (b) Any person, partnership, corporation or association may apply to
21 the commission for a facility manager license to manage a racetrack
22 facility.

23 (c) A facility owner license or a facility manager license shall be
24 issued for a period established by the commission but not to exceed 25
25 years. The application for a facility owner license shall be accompanied by
26 a nonrefundable fee of \$5,000. An application for a facility manager
27 license shall be accompanied by a nonrefundable fee of \$5,000. If the
28 application fee is insufficient to pay the reasonable expenses of processing
29 the application and investigating the applicant's qualifications for
30 licensure, the commission shall require the applicant to pay to the
31 commission, at such times and in such form as required by the
32 commission, any additional amounts necessary to pay such expenses. No
33 license shall be issued to an applicant until the applicant has paid such
34 additional amounts in full, and such amounts shall not be refundable
35 except to the extent that they exceed the actual expenses of processing the
36 application and investigating the applicant's qualifications for licensure.

37 (d) If an applicant for a facility owner license is proposing to
38 construct a racetrack facility, such applicant, at the time of submitting the
39 application, shall deposit with the commission, in such form as prescribed
40 by rules and regulations of the commission, the sum of: (1) \$500,000, if
41 the number of racing days applied for by organization licensee applicants
42 proposing to race at the facility is 150 days or more in a racing season; (2)
43 \$250,000, if such number of racing days applied for is less than 150 days;

1 or (3) a lesser sum established by the commission, if the applicant is the
2 state or a political subdivision of the state. Only one such deposit shall be
3 required for a dual racetrack facility. The executive director shall remit any
4 deposit received pursuant to this subsection to the state treasurer in
5 accordance with the provisions of K.S.A. 75-4215, and amendments
6 thereto. Upon receipt of each such remittance, the state treasurer shall
7 deposit the entire amount in the state treasury to the credit of the racing
8 applicant deposit fund created by K.S.A. 74-8828, and amendments
9 thereto. If the application is denied by the commission, the deposit, and
10 any interest accrued thereon, shall be refunded to the applicant. If the
11 license is granted by the commission in accordance with the terms of the
12 application or other terms satisfactory to the applicant, the deposit, and any
13 interest accrued thereon, shall be refunded to the licensee upon completion
14 of the racetrack facility in accordance with the terms of the license. If the
15 licensee fails to complete the racetrack facility in accordance with the
16 terms of the license, the deposit, and any interest accrued thereon, shall be
17 forfeited by the applicant.

18 (e) A facility owner license shall be granted only to an applicant that
19 already owns an existing racetrack facility or has submitted with its
20 application detailed plans for the construction of such facility, including
21 the means and source of financing such construction and operation
22 sufficient to convince the commission that such plans are feasible. A
23 facility manager license shall be granted only to an applicant that has a
24 facility management contract with an organization licensed pursuant to
25 K.S.A. 74-8813, and amendments thereto.

26 (f) An applicant for a facility owner license or facility manager
27 license, or both, shall not be granted a license if there is substantial
28 evidence that the applicant for the license, or any officer or director,
29 stockholder, member or owner of or other person having a financial
30 interest in the applicant:

31 (1) Has been suspended or ordered to cease operation of a parimutuel
32 racing facility in another jurisdiction by the appropriate authorities in that
33 jurisdiction, has been ordered to cease association or affiliation with such a
34 racing facility or has been banned from such a racing facility;

35 (2) has been convicted by a court of any state or of the United States
36 of any criminal act involving fixing or manipulation of parimutuel races,
37 violation of any law involving gambling or controlled substances or drug
38 violations involving horses or greyhounds, or has been adjudicated in the
39 last five years in any such court of committing as a juvenile an act which,
40 if committed by an adult, would constitute such a criminal act, or if any
41 employee or agent assisting the applicant in activities relating to
42 ownership or management of a racetrack facility or to the conduct of races
43 has been so convicted or adjudicated;

1 (3) has been convicted by a court of any state or of the United States
2 of any felony involving dishonesty, fraud, theft, counterfeiting, alcohol
3 violations or embezzlement, or has been adjudicated in the last five years
4 in any such court of committing as a juvenile an act which, if committed
5 by an adult, would constitute such a felony, or if any employee or agent
6 assisting the applicant in activities relating to ownership or management of
7 a racetrack facility or to the conduct of races has been so convicted or
8 adjudicated;

9 (4) has not demonstrated financial responsibility sufficient to meet
10 the obligations being undertaken pursuant to its contract with the
11 organization licensee;

12 (5) is not in fact the person or entity authorized to or engaged in the
13 licensed activity;

14 (6) is or becomes subject to a contract or option to purchase under
15 which 10% or more of the ownership or other financial interest or
16 membership interest are subject to purchase or transfer, unless the contract
17 or option has been disclosed to the commission and the commission has
18 approved the sale or transfer during the license period;

19 (7) has made a statement of a material fact in the application or
20 otherwise in response to official inquiry by the commission knowing such
21 statement to be false; or

22 (8) has failed to meet any monetary or tax obligation to the federal
23 government or to any state or local government, whether or not relating to
24 the conduct or operation of a race meet held in this state or any other
25 jurisdiction.

26 (g) No person or entity shall be qualified to hold a facility manager
27 license if such person or entity, or any director, officer, employee or agent
28 thereof, is addicted to, and a user of, alcohol or a controlled substance.

29 (h) All facility owner licenses and facility manager licenses shall be
30 reviewed annually by the commission to determine if the licensee is
31 complying with the provisions of this act and rules and regulations of the
32 commission and following such proposed plans and operating procedures
33 as were approved by the commission. The commission may review a
34 facility owner license or facility manager license more often than annually
35 upon its own initiative or upon the request of any interested party. The
36 commission shall require each facility owner licensee and each facility
37 manager licensee to file annually with the commission a certified financial
38 audit of the licensee by an independent certified public accountant, which
39 audit shall be open to inspection by the public, and may require any such
40 licensee to provide any other information necessary for the commission to
41 conduct the annual or periodic review.

42 (i) Subject to the provisions of subsection (j), the commission, in
43 accordance with the Kansas administrative procedure act, may suspend or

1 revoke a facility owner or facility manager license or may impose a civil
2 fine not exceeding \$10,000 per failure or violation, or may both suspend
3 such license and impose such fine, if the commission finds probable cause
4 to believe that:

5 (1) In the case of a facility owner licensee, the licensee has failed to
6 follow one or more provisions of the licensee's plans for the financing,
7 construction or operation of a racetrack facility as submitted to and
8 approved by the commission; or

9 (2) in the case of either a facility owner licensee or facility manager
10 licensee, the licensee has violated any of the terms and conditions of
11 licensure provided by this section or any other provision of this act or any
12 rule and regulation of the commission.

13 (j) Prior to suspension or revocation of a license pursuant to
14 subsection (i), the commission shall give written notice of the reason
15 therefor to the licensee and all other interested parties. The licensee shall
16 have 30 days from receipt of the notice to cure the alleged failure or
17 violation, if it can be cured. If the commission finds that the failure or
18 violation has not been cured upon expiration of the 30 days or upon a later
19 deadline granted by the commission, or if the alleged violation is of such a
20 nature that it cannot be cured, the commission may proceed to suspend or
21 revoke the licensee's license pursuant to subsection (i). Nothing in this
22 subsection shall be construed to preclude the commission from imposing a
23 fine pursuant to subsection (i) even if the violation is cured within 30 days
24 or such other period as provided by the commission.

25 (k) If an applicant for a facility owner license proposes to construct a
26 racetrack facility and the commission determines that such license should
27 be issued to the applicant, the commission shall issue to the applicant a
28 facility owner license conditioned on the submission by the licensee to the
29 commission, within a period of time prescribed by the commission, of a
30 commitment for financing the construction of the racetrack facility by a
31 financial institution or other source, subject to approval by the
32 commission. If such commitment is not submitted within the period of
33 time originally prescribed by the commission or such additional time as
34 authorized by the commission, the license shall expire at the end of such
35 period.

36 (l) If a facility owner licensee's license authorizes the construction of
37 a dual racetrack facility, such license shall be conditioned on the
38 completion of such facility within a time specified by the commission. If,
39 within the time specified by the commission, the licensee has not
40 constructed a dual racetrack facility in accordance with the plans
41 submitted to the commission pursuant to subsection (e), the commission,
42 in accordance with the Kansas administrative procedure act, shall:

43 (1) Impose upon the licensee a civil fine equal to 5% of the total

1 parimutuel pools for all races held at the licensee's facility on and after the
2 date that racing with parimutuel wagering is first conducted at such facility
3 and until the date that construction of the dual racetrack facility is
4 completed and horse racing has begun; and

5 (2) revoke the licensee's license unless the licensee demonstrates
6 reasonable cause for the failure to complete the facility.

7 (m) The refusal to renew a facility owner license or a facility manager
8 license shall be in accordance with the Kansas administrative procedure
9 act and shall be subject to review under the Kansas judicial review act.

10 (n) The grant or denial of an original facility owner license or facility
11 manager license shall not be subject to the Kansas administrative
12 procedure act. Such grant or denial shall be a matter to be determined in
13 the sole discretion of the commission, whose decision shall be final upon
14 the grant of a license to one of two or more competing applicants without
15 the necessity of a hearing on the denial of a license to each other
16 competing applicant. Any action for judicial review of such decision shall
17 be by appeal to the ~~supreme~~ court of *civil appeals* in accordance with the
18 Kansas judicial review act, except that the scope of review shall be limited
19 to whether the action of the commission was arbitrary or capricious or
20 constituted an abuse of discretion. All competing applicants for the facility
21 owner license or facility manager license shall be parties to such appeal.
22 Any such appeal shall have priority over other cases except those having
23 statutory priority.

24 (o) The commission may adopt rules and regulations regulating
25 crossover employment between facility manager licensees and facility
26 owner licensees and organization licensees.

27 Sec. 85. K.S.A. 2012 Supp. 75-430 is hereby amended to read as
28 follows: 75-430. (a) The secretary of state shall compile, index and publish
29 a publication to be known as the Kansas register. Such register shall
30 contain:

31 (1) All acts of the legislature required to be published in the Kansas
32 register;

33 (2) all executive orders and directives of the governor which are
34 required to be filed in the office of the secretary of state;

35 (3) summaries of all opinions of the attorney general interpreting acts
36 of the legislature as prepared by the office of the attorney general;

37 (4) notice of any public comment period on contemplated
38 modification of an existing rule and regulation, and, in accordance with the
39 provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, and
40 amendments thereto, all notices of hearings on proposed administrative
41 rules and regulations and the full text of all administrative rules and
42 regulations that have been adopted and filed with the secretary of state;

43 (5) the full text of all administrative rules and regulations which have

1 been adopted and filed in accordance with the provisions of article 4 of
2 chapter 77 of the Kansas Statutes Annotated, and amendments thereto,
3 except that the secretary of state may publish a summary of any rule and
4 regulation together with the address of the state agency from which a copy
5 of the full text of the proposed rules and regulations may be received, if
6 such rule and regulation is lengthy and expensive to publish and otherwise
7 available in published form and a summary will, in the opinion of the
8 secretary, properly notify the public of the contents of such rule and
9 regulation;

10 (6) a cumulative index of all administrative rules and regulations
11 which have been adopted and filed in accordance with the provisions of
12 article 4 of chapter 77 of the Kansas Statutes Annotated, and amendments
13 thereto;

14 (7) all notices of hearings of special legislative interim study
15 committees, descriptions of all prefiled bills and resolutions and
16 descriptions of all bills and resolutions introduced in the legislature during
17 any session of the legislature, and other legislative information which is
18 approved for publication by the legislative coordinating council;

19 (8) the hearings docket of the Kansas supreme court, *the court of*
20 *criminal appeals* and the court of *civil* appeals;

21 (9) summaries of all orders of the state court of tax appeals which
22 have statewide application;

23 (10) all advertisements for contracts for construction, repairs,
24 improvements or purchases by the state of Kansas or any agency thereof
25 for which competitive bids are required; and

26 (11) any other information which the secretary of state deems to be of
27 sufficient interest to the general public to merit its publication or which is
28 required by law to be published in the Kansas register.

29 (b) The secretary of state shall publish such register at regular
30 intervals, but not less than weekly.

31 (c) Each issue of the register shall contain a table of contents.

32 (d) A cumulative index to all information required by K.S.A. 75-430
33 through 75-434, and amendments thereto, to be published during the
34 previous year shall be published at least once each year.

35 (e) The secretary of state may omit from the register any information
36 the publication of which the secretary deems cumbersome, expensive, or
37 otherwise inexpedient, if the information is made available in printed or
38 processed form by the adopting agency on application for it, and if the
39 register contains a notice stating the general subject matter of the
40 information and the manner in which a copy of it may be obtained.

41 (f) One copy of each issue of the register shall be made available
42 without charge on request to each officer, board, commission, and
43 department of the state having statewide jurisdiction, to each member of

1 the legislature, to each county clerk in the state, and to the supreme court,
2 *court of criminal appeals*, court of *civil* appeals and each district court.

3 (g) The secretary of state shall make paper copies of the register
4 available upon payment of a fee to be fixed by the secretary of state under
5 K.S.A. 75-433, and amendments thereto.

6 Sec. 86. K.S.A. 2012 Supp. 75-3120h is hereby amended to read as
7 follows: 75-3120h. (a) The annual salary of *the chief judge of the court of*
8 *criminal appeals*, the chief judge of the court of *civil* appeals and each of
9 the other judges of the court of *criminal appeals and court of civil appeals*
10 shall be paid in equal installments each payroll period in accordance with
11 this section.

12 (b) Except as otherwise provided in K.S.A. 75-3120l, and
13 amendments thereto, the annual salary of *the chief judge of the court of*
14 *criminal appeals and the chief judge of the court of civil* appeals shall be
15 \$122,062.

16 (c) Except as otherwise provided in K.S.A. 75-3120l, and
17 amendments thereto, the annual salary of the other judges of the court of
18 *criminal appeals and court of civil appeals* shall be \$118,971.

19 Sec. 87. K.S.A. 2012 Supp. 75-3120l is hereby amended to read as
20 follows: 75-3120l. (a) Whenever the rates of compensation of the pay plan
21 for persons in the classified service under the Kansas civil service act are
22 increased for payroll periods chargeable to fiscal years commencing after
23 June 30, 1993, the annual salary of the chief justice of the supreme court,
24 each other justice of the supreme court, *the chief judge of the court of*
25 *criminal appeals*, the chief judge of the court of *civil* appeals, each other
26 judge of the *court of criminal appeals and court of civil* appeals, each
27 district judge and each district magistrate judge shall be increased by an
28 amount, adjusted to the nearest dollar, computed by multiplying the
29 average of the percentage increases in all monthly steps of such pay plan
30 by the annual salary of the justice or judge which is being received as
31 provided by law and which is in effect prior to the effective date of such
32 increase in the rates of compensation of the pay plan for persons in the
33 classified service under the Kansas civil service act.

34 (b) If increases in the monthly rates of compensation from step
35 movements of the pay plan for persons in the classified service under the
36 Kansas civil service act are authorized for the fiscal year ending June 30,
37 1995, or any fiscal year thereafter, the annual salary of the chief justice of
38 the supreme court, each other justice of the supreme court, *the chief judge*
39 *of the court of criminal appeals*, the chief judge of the court of *civil*
40 *appeals*, each other judge of the *court of criminal appeals and court of*
41 *civil* appeals, each district judge and each district magistrate judge shall be
42 increased by an amount, adjusted to the nearest dollar, computed by
43 multiplying the average percentage increase in the monthly rate of

1 compensation from step movements on the pay plan for persons in the
2 classified service under the Kansas civil service act determined under
3 subsection (c) by the annual salary of the justice or judge which is being
4 received as provided by law and which is in effect prior to the effective
5 date of such increase. The increase in the annual salary of each justice or
6 judge pursuant to this subsection shall take effect on the first day of the
7 first payroll period which is chargeable to the fiscal year in which such
8 step movements on the pay plan are authorized to take effect.

9 (c) For purposes of subsection (b), the average percentage increase in
10 the monthly rate of compensation from step movements on the pay plan
11 for persons in the classified service under the Kansas civil service act shall
12 be equal to the percentage certified by the secretary of administration
13 which equals the estimated average of the percentage increases in all
14 monthly rates of compensation from step movements on the pay plan for
15 persons in the classified service under the Kansas civil service act which
16 are authorized to take effect during the fiscal year in which such step
17 movements on the pay plan are authorized to take effect.

18 (d) If the increase under subsection (a) takes effect on the first day of
19 the first payroll period of the fiscal year, the percentage rate increases
20 determined under subsections (a) and (b) shall be added together and such
21 aggregate percentage increase of compensation under this section shall be
22 used to increase the rate of compensation of each justice or judge instead
23 of applying the increases under subsections (a) and (b) separately.

24 (e) The provisions of this section shall not apply to the annual salary
25 of any district judge nor the salary of any magistrate judge for any payroll
26 period chargeable to the fiscal year ending June 30, 2007. The provisions
27 of this section shall apply to the annual salary of each district judge or
28 magistrate judge for payroll periods chargeable to fiscal years
29 commencing after June 30, 2007.

30 Sec. 88. K.S.A. 75-3216 is hereby amended to read as follows: 75-
31 3216. Nothing in article 32 of chapter 75 of Kansas Statutes Annotated,
32 *and amendments thereto*, shall be construed to limit the expenses when
33 traveling in-state or out-of-state of the governor, any member of the
34 legislature, any officer or employee of the legislative branch including the
35 office of revisor of statutes or legislative research department, any officer
36 or member of the interstate cooperation commission, any justice of the
37 supreme court, any judge of the *court of criminal appeals or court of civil*
38 *appeals*, the judicial administrator, the clerk of the supreme court, any
39 member of the state board of law examiners, any member of the
40 commission on judicial qualifications, any judge of the district court, any
41 elective state officer, any appointed state officer or employee when such
42 appointive officer or employee is required by an elected state officer to
43 accompany such elected state officer on an official trip or any designated

1 employee of the governor while representing the governor at an out-of-
2 state official function.

3 Sec. 89. K.S.A. 2012 Supp. 75-37,135 is hereby amended to read as
4 follows: 75-37,135. (a) (1) Prior to entering a contract for legal services
5 where the amount of the fees paid to an attorney or firm of attorneys
6 reasonably may exceed \$1,000,000, the director of purchases shall submit
7 the proposed request for proposal to the legislative budget committee.
8 Within 30 days after submission of such request for proposal, the
9 committee may hold a public hearing on the proposed request for proposal
10 and shall issue a report to the director of purchases. The report shall
11 include any proposed changes to the proposed request for proposal
12 suggested by the committee. The committee is not authorized to waive the
13 evidentiary privileges of the state, or any of the persons or entities that
14 state attorneys are representing or acting in concert with in any litigation
15 or anticipated litigation. The committee, the director of purchases and their
16 employees shall take all reasonable steps to protect such privileges. The
17 director of purchases shall review the report and adopt a final request for
18 proposal as deemed appropriate in view of the report and shall file the final
19 request for proposal with the legislative budget committee.

20 (2) If the proposed request for proposal does not contain the changes
21 proposed by the committee, the director of purchases shall submit with the
22 final request for proposal a letter stating the reasons why such proposed
23 changes were not adopted. The director of purchases shall not release the
24 final request for proposal until at least 10 days after the date of submission
25 of the final request for proposal to the legislative budget committee.

26 (3) If the legislative budget committee makes no suggested changes
27 to the proposed request for proposal or fails to report any suggested
28 changes within 60 days of the submission of the proposed request for
29 proposal to such committee, the director of purchases may release the
30 request for proposal.

31 (b) After awarding a contract for legal services where the amount of
32 the fees paid to an attorney or firm of attorneys reasonably may exceed
33 \$1,000,000, the director of purchases shall submit the contract to the
34 legislative budget committee. Within 30 days after submission of such
35 contract, the committee may hold a public hearing on the contract and
36 shall issue a report to the director of purchases. The report shall include
37 any concerns of the committee.

38 (c) The provisions of this section shall not apply in any action in
39 which the state of Kansas or any state agency, officer or employee is a
40 defendant and a contract for legal services is to be entered. The director of
41 purchases shall prepare a report each calendar quarter while such legal
42 proceeding is in progress. Such report shall include the case citation and
43 the date upon which the action was filed. The director of purchases shall

1 submit the report to the legislative coordinating council, the chairperson of
2 the committee on ways and means of the senate, the chairperson of the
3 committee on appropriations of the house of representatives and the
4 chairperson of the Kansas performance review board.

5 (d) The director of purchases shall prepare a detailed report at least
6 once in each calendar quarter of each legal proceeding which has been
7 completed and for which a contingency fee arrangement was entered. Such
8 report shall disclose the hours worked on the case, the expenses incurred,
9 the aggregate fee amount and a breakdown as to the hourly rate, based on
10 hours worked divided into fee recovered, less expenses. The director of
11 purchases shall submit the report to the legislative coordinating council,
12 the chairperson of the committee on ways and means of the senate, the
13 chairperson of the committee on appropriations of the house of
14 representatives and the chairperson of the Kansas performance review
15 board.

16 (e) Reasonable attorney fees to be paid by the state or defendant in an
17 action where the attorney was hired by the state with a contingency fee
18 agreement shall be approved by the judge after an evidentiary hearing and
19 prior to final disposition of the case by the district court. Any individual
20 may provide information to the court and be heard before the court with
21 regard to the reasonableness of attorney fees paid by the state or defendant
22 under the contingency fee agreement. Compensation for reasonable
23 attorney fees for services performed in an appeal of a judgment in any
24 such action to the court of *civil* appeals shall be approved after an
25 evidentiary hearing by the chief judge or by the presiding judge of the
26 panel hearing the case. Compensation for reasonable attorney fees for
27 services performed in an appeal of a judgment in any such action to the
28 supreme court shall be approved after an evidentiary hearing by the
29 departmental justice for the department in which the appeal originated. In
30 determining the reasonableness of such compensation, the judge or justice
31 shall consider the following:

32 (1) The time and labor required, the novelty and difficulty of the
33 questions involved and the skill requisite to perform the legal service
34 properly.

35 (2) The likelihood, if apparent to the client, that the acceptance of the
36 particular employment will preclude other employment by the attorney.

37 (3) The fee customarily charged in the locality for similar legal
38 services.

39 (4) The amount involved and the results obtained.

40 (5) The time limitations imposed by the client or by the
41 circumstances.

42 (6) The nature and length of the professional relationship with the
43 client.

1 (7) The experience, reputation and ability of the attorney or attorneys
2 performing the services.

3 (8) Whether the fee is fixed or contingent.

4 (f) In the case of any contract for legal services for the board of
5 trustees of the Kansas public employees retirement system negotiated or to
6 be negotiated in accordance with the provisions of K.S.A. 75-37,102, and
7 amendments thereto, where the amount of fees paid to an attorney or to a
8 firm of attorneys reasonably may exceed \$1,000,000, references to the
9 "director of purchases" in subsections (a), (b) and (c) of this section shall
10 be construed to apply to the board of trustees of the Kansas public
11 employees retirement system and each duty or function prescribed in such
12 subsections shall be assumed and performed by the board of trustees of the
13 Kansas public employees retirement system.

14 Sec. 90. K.S.A. 77-609 is hereby amended to read as follows: 77-609.

15 (a) The district court shall conduct judicial review except when:

16 (1) A statute specifically provides for review of an agency action by
17 appeal directly to the court of *civil* appeals; or

18 (2) otherwise provided by law.

19 (b) Except as otherwise provided by K.S.A. 8-259, 31-144, 44-556,
20 72-5430a and 74-2426, and amendments thereto, venue is in the county in
21 which the order or agency action is entered or is effective or the rule and
22 regulation is promulgated.

23 Sec. 91. K.S.A. 77-623 is hereby amended to read as follows: 77-623.
24 Decisions on petitions for judicial review of agency action are reviewable
25 by the ~~appellate courts~~ *court of civil appeals* as in other civil cases.

26 Sec. 92. K.S.A. 77-627 is hereby amended to read as follows: 77-627.
27 Decisions on petitions for civil enforcement are reviewable by the
28 ~~appellate courts~~ *court of civil appeals* as in other civil cases.

29 Sec. 93. K.S.A. 2012 Supp. 82a-1505 is hereby amended to read as
30 follows: 82a-1505. (a) Any action of the panel is subject to review in
31 accordance with the Kansas judicial review act.

32 (b) The review proceedings shall have precedence in the district
33 court. Appellate proceedings shall have precedence in the court of *civil*
34 appeals ~~and in the state supreme court~~ under such terms and conditions as
35 the ~~supreme~~ court may fix by rule.

36 Sec. 94. K.S.A. 9-1907, 12-811, 13-1228h, 17-6906, 19-3517, 20-
37 101, 20-139, 20-158, 20-163, 20-1a14, 20-205, 20-207, 20-208, 20-211,
38 20-310b, 20-2201, 20-2616, 20-2622, 20-3001, 20-3006, as amended by
39 section 3 of 2013 House Bill No. 2019, 20-3010, as amended by section 4
40 of 2013 House Bill No. 2019, 20-3011, 20-3012, 20-3013, 20-3014, 20-
41 3015, 20-3016, 20-3018, 20-3019, 20-3208, 22-2202, 22-2514, 22-2804,
42 22-3612, 22-4507, 24-702, 25-3206, 48-2922, 48-2923, 48-2924, 48-2925,
43 48-2926, 48-2928, 60-1301, 60-2101, 60-3201, 60-3208, 66-118a, 66-

1 118g, 68-527a, 74-601, 75-3216, 77-609, 77-623 and 77-627 and K.S.A.
2 2012 Supp. 7-121b, 20-1a15, 20-2601, 20-3002, as amended by section 2
3 of 2013 House Bill No. 2019, 20-3017, 20-3202, 21-5207, 21-6619, 21-
4 6628, 22-3402, 22-3601, as amended by section 26 of 2013 Senate
5 Substitute for House Bill No. 2034, 22-3602, 22-3604, 22-4701, as
6 amended by section 2 of 2013 House Bill No. 2041, 26-504, 38-2382, 44-
7 556, 45-217, 46-234, 55-1410, 60-223, 60-1501, 60-1505, 60-2102, 61-
8 3902, 65-3008a, 65-3013, 65-4211, 72-64b03, 74-2426, 74-8762, 74-8813,
9 74-8815, 75-430, 75-3120h, 75-3120l, 75-37,135 and 82a-1505 and
10 section 1 of 2013 House Bill No. 2019 are hereby repealed.

11 Sec. 95. This act shall take effect and be in force from and after
12 August 31, 2014, and its publication in the statute book.