

HOUSE BILL No. 2113

By Joint Committee on Corrections and Juvenile Justice Oversight

Proposed Amendments to HB 2113 - clock start
House Committee on Corrections and Juvenile Justice
Prepared by the Office of Revisor of Statutes
February 6, 2023

1 AN ACT concerning expungement; relating to expungement under the
2 Kansas code of procedure for municipal courts, the Kansas criminal
3 code and the revised Kansas juvenile justice code; prohibiting denial of
4 a petition for expungement due to the petitioner's inability to pay
5 outstanding costs, fees, fines or restitution; providing that the waiting
6 period for expungement starts on the date of conviction or adjudication;
7 authorizing expungement of a juvenile adjudication if the juvenile has
8 not committed a felony offense in the previous two years; amending
9 K.S.A. 12-4516 and 38-2312 and K.S.A. 2022 Supp. 21-6614 and
10 repealing the existing sections.

strike

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

12 Section 1. K.S.A. 12-4516 is hereby amended to read as follows: 12-
13 4516. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any
14 person who has been convicted of a violation of a city ordinance of this
15 state may petition the convicting court for the expungement of such
16 conviction and related arrest records if three or more years have elapsed
17 since the person:

who has been

18 (A) Satisfied the sentence imposed; or
19 (B) was discharged from probation, parole or a suspended sentence
20 was convicted of such violation.

:
(A) Satisfied the sentence imposed; or
(B) was discharged from probation, parole or a suspended sentence

21 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any
22 person who has fulfilled the terms of a diversion agreement based on a
23 violation of a city ordinance of this state may petition the court for the
24 expungement of such diversion agreement and related arrest records if
25 three or more years have elapsed since the terms of the diversion
26 agreement were fulfilled.

27 (b) Any person convicted of a violation of any ordinance that is
28 prohibited by either K.S.A. 12-16,134(a) or (b), and amendments thereto,
29 and which that was adopted prior to July 1, 2014, or who entered into a
30 diversion agreement in lieu of further criminal proceedings for such
31 violation, may petition the convicting court for the expungement of such
32 conviction or diversion agreement and related arrest records.

33 (c) Any person convicted of the violation of a city ordinance which
34 that would also constitute a violation of K.S.A. 21-3512, prior to its repeal,
35 or a violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto, or
36

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

5 (1) One or more years have elapsed since the person ~~was convicted of~~
6 ~~such violation or~~ satisfied the sentence imposed or the terms of a ~~such~~
7 diversion agreement or was discharged from probation, parole, conditional
8 release or a suspended sentence; and

the sentence imposed or

or was discharged from probation, parole, conditional
release or a suspended sentence

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

15 (d) ~~No person may petition for expungement until five or more years~~
16 ~~have elapsed since the person satisfied the sentence imposed or the terms~~
17 ~~of a diversion agreement or was discharged from probation, parole,~~
18 ~~conditional release or a suspended sentence, if such person was Any~~
19 ~~person convicted of the violation of a city ordinance which that would also~~
20 ~~constitute a violation of any of the following statutes, or who entered into~~
21 ~~a diversion agreement in lieu of further criminal proceedings for such~~
22 ~~violation, shall not petition for expungement until five or more years have~~
23 ~~elapsed since the person was convicted of such violation or satisfied the~~
24 ~~terms of such diversion agreement.~~

No person may petition for expungement until five or more years
have elapsed since the person satisfied the sentence imposed or
the terms of a diversion agreement or was discharged from
probation, parole, conditional release or a suspended sentence, if
such person was

25 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
26 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto;

27 (2) driving while the privilege to operate a motor vehicle on the
28 public highways of this state has been canceled, suspended or revoked, as
29 prohibited by K.S.A. 8-262, and amendments thereto;

30 (3) perjury resulting from a violation of K.S.A. 8-261a, and
31 amendments thereto;

32 (4) a violation of the provisions of K.S.A. 8-142 *Fifth*, and
33 amendments thereto, relating to fraudulent applications;

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

36 (6) failing to stop at the scene of an accident and perform the duties
37 required by K.S.A. ~~8-1602~~; 8-1603, prior to its repeal, or *K.S.A. 8-1602 or*
38 *8-1604*, and amendments thereto;

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

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

42 (e) (1) ~~No person may petition for expungement until five or more~~
43 ~~years have elapsed since the person satisfied the sentence imposed or the~~

1 ~~terms of a diversion agreement or was discharged from probation, parole,~~
 2 ~~conditional release or a suspended sentence, if such person was.~~*Any person*
 3 ~~convicted of a first violation of a city ordinance which that would also~~
 4 ~~constitute a first violation of K.S.A. 8-1567, and amendments thereto, or~~
 5 ~~who entered into a diversion agreement in lieu of further criminal~~
 6 ~~proceedings for such violation, shall not petition for expungement until~~
 7 ~~five or more years have elapsed since the person was convicted of such~~
 8 ~~violation or satisfied the terms of such diversion agreement.~~

No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was

9 (2) ~~No person may petition for expungement until 10 or more years~~
 10 ~~have elapsed since the person satisfied the sentence imposed or was~~
 11 ~~discharged from probation, parole, conditional release or a suspended~~
 12 ~~sentence, if such person was.~~*Any person* ~~convicted of a second or~~
 13 ~~subsequent violation of a city ordinance which that would also constitute a~~
 14 ~~second or subsequent violation of K.S.A. 8-1567, and amendments~~
 15 ~~thereto, shall not petition for expungement until 10 or more years have~~
 16 ~~elapsed since the person was convicted of such violation.~~

No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole, conditional release or a suspended sentence, if such person was

17 (3) The provisions of this subsection shall apply to all violations
 18 committed on or after July 1, 2006.

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

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

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

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

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

42 (h) (I) At the hearing on the petition, the court shall order the
 43 petitioner's arrest record, conviction or diversion expunged if the court

1 finds that:

2 ~~(+)~~(A) The petitioner has not been convicted of a felony in the past
3 two years and no proceeding involving any such crime is presently
4 pending or being instituted against the petitioner;

5 ~~(=)~~(B) the circumstances and behavior of the petitioner warrant the
6 expungement; and

7 ~~(=)~~(C) the expungement is consistent with the public welfare.

8 (2) *The court shall not deny the petition for expungement due to the*
9 *petitioner's inability to pay outstanding costs, fees, fines or restitution. The*
10 *petitioner's unwillingness, rather than inability, to pay such costs, fees,*
11 *fines or restitution may be considered as a factor in denying the petition*
12 *for expungement.*

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

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

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

31 (A) In any application for licensure as a private detective, private
32 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-
33 7b21, and amendments thereto, or employment as a detective with a
34 private detective agency, as defined by K.S.A. 75-7b01, and amendments
35 thereto; as security personnel with a private patrol operator, as defined by
36 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined
37 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
38 for aging and disability services;

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

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

- 1 Kansas lottery;
- 2 (D) to aid in determining the petitioner's qualifications for executive
3 director of the Kansas racing and gaming commission, for employment
4 with the commission or for work in sensitive areas in parimutuel racing as
5 deemed appropriate by the executive director of the commission, or to aid
6 in determining qualifications for licensure or renewal of licensure by the
7 commission;
- 8 (E) to aid in determining the petitioner's qualifications for the
9 following under the Kansas expanded lottery act: (i) Lottery gaming
10 facility manager or prospective manager, racetrack gaming facility
11 manager or prospective manager, licensee or certificate holder; or (ii) an
12 officer, director, employee, owner, agent or contractor thereof;
- 13 (F) upon application for a commercial driver's license under K.S.A.
14 8-2,125 through 8-2,142, and amendments thereto;
- 15 (G) to aid in determining the petitioner's qualifications to be an
16 employee of the state gaming agency;
- 17 (H) to aid in determining the petitioner's qualifications to be an
18 employee of a tribal gaming commission or to hold a license issued
19 pursuant to a tribal-state gaming compact;
- 20 (I) in any application for registration as a broker-dealer, agent,
21 investment adviser or investment adviser representative all as defined in
22 K.S.A. 17-12a102, and amendments thereto;
- 23 (J) in any application for employment as a law enforcement officer, as
24 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;
- 25 (K) for applications received on and after July 1, 2006, to aid in
26 determining the petitioner's qualifications for a license to carry a concealed
27 weapon pursuant to the personal and family protection act, K.S.A. 75-7c01
28 et seq., and amendments thereto; or
- 29 (L) for applications received on and after July 1, 2016, to aid in
30 determining the petitioner's qualifications for a license to act as a bail
31 enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, *and*
32 *amendments thereto*, and K.S.A. 2022 Supp. 50-6,141, and amendments
33 thereto;
- 34 (3) the court, in the order of expungement, may specify other
35 circumstances under which the arrest, conviction or diversion is to be
36 disclosed;~~and~~
- 37 (4) the conviction may be disclosed in a subsequent prosecution for
38 an offense which requires as an element of such offense a prior conviction
39 of the type expunged; *and*
- 40 (5) *the petitioner shall continue to be responsible for fully satisfying*
41 *any outstanding costs, fees, fines and restitution related to the arrest,*
42 *conviction or diversion. For the purpose of collecting such outstanding*
43 *costs, fees, fines or restitution, the following persons shall have access to*

- 1 *the expunged case file notwithstanding any expungement:*
- 2 (A) *The clerk of the court;*
- 3 (B) *a contracting agent as defined in K.S.A. 12-4119, and*
4 *amendments thereto;*
- 5 (C) *the petitioner and the petitioner's attorney;*
- 6 (D) *the beneficiary under an order of restitution as defined in K.S.A.*
7 *12-4119, and amendments thereto, and such beneficiary's attorney; and*
- 8 (E) *any other person as authorized by a court order if the court finds*
9 *it is necessary for the person to have access to the expunged case file for*
10 *the purpose of collecting the outstanding costs, fees, fines or restitution.*
- 11 (j) Whenever a person is convicted of an ordinance violation, pleads
12 guilty and pays a fine for such a violation, is placed on parole or probation
13 or is granted a suspended sentence for such a violation, the person shall be
14 informed of the ability to expunge the arrest records or conviction.
15 Whenever a person enters into a diversion agreement, the person shall be
16 informed of the ability to expunge the diversion.
- 17 (k) Subject to the disclosures required pursuant to subsection (i), in
18 any application for employment, license or other civil right or privilege, or
19 any appearance as a witness, a person whose arrest records, conviction or
20 diversion of an offense has been expunged under this statute may state that
21 such person has never been arrested, convicted or diverted of such offense.
- 22 (l) Whenever the record of any arrest, conviction or diversion has
23 been expunged under the provisions of this section or under the provisions
24 of any other existing or former statute, the custodian of the records of
25 arrest, conviction, diversion and incarceration relating to that crime shall
26 not disclose the existence of such records, except when requested by:
- 27 (1) The person whose record was expunged;
- 28 (2) a private detective agency or a private patrol operator, and the
29 request is accompanied by a statement that the request is being made in
30 conjunction with an application for employment with such agency or
31 operator by the person whose record has been expunged;
- 32 (3) a court, upon a showing of a subsequent conviction of the person
33 whose record has been expunged;
- 34 (4) the secretary for aging and disability services, or a designee of the
35 secretary, for the purpose of obtaining information relating to employment
36 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
37 of the Kansas department for aging and disability services of any person
38 whose record has been expunged;
- 39 (5) a person entitled to such information pursuant to the terms of the
40 expungement order;
- 41 (6) a prosecuting attorney, and such request is accompanied by a
42 statement that the request is being made in conjunction with a prosecution
43 of an offense that requires a prior conviction as one of the elements of such

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

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

3 (B) act as a bail enforcement agent pursuant to K.S.A. 75-7e01
4 through 75-7e09, *and amendments thereto*, and K.S.A. 2022 Supp. 50-
5 6,141, and amendments thereto;

6 (14) the Kansas sentencing commission;

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

11 (16) a law enforcement agency and the request is accompanied by a
12 statement that the request is being made to aid in determining eligibility
13 for employment as a law enforcement officer as defined by K.S.A. 22-
14 2202, and amendments thereto.

15 Sec. 2. K.S.A. 2022 Supp. 21-6614 is hereby amended to read as
16 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
17 and (f), any person convicted in this state of a traffic infraction, cigarette
18 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
19 committed on or after July 1, 1993, any nongrid felony or felony ranked in
20 severity levels 6 through 10 of the nondrug grid, or for crimes committed
21 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
22 severity level 4 of the drug grid, or for crimes committed on or after July
23 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
24 the convicting court for the expungement of such conviction ~~or and~~ related
25 arrest records if three or more years have elapsed since the person: ~~(A)~~
26 ~~Satisfied the sentence imposed; or (B) was discharged from probation, a~~
27 ~~community correctional services program, parole, postrelease supervision,~~
28 ~~conditional release or a suspended sentence~~ *was convicted of such offense.*

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

34 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
35 3512, prior to its repeal, convicted of a violation of K.S.A. 2022 Supp. 21-
36 6419, and amendments thereto, or who entered into a diversion agreement
37 in lieu of further criminal proceedings for such violation, may petition the
38 convicting court for the expungement of such conviction or diversion
39 agreement and related arrest records if:

40 (1) One or more years have elapsed since the person ~~satisfied the~~
41 ~~sentence imposed~~ *was convicted of such offense* ~~or fulfilled~~ the terms of a
42 *such* diversion agreement ~~or was discharged from probation, a community~~
43 ~~correctional services program, parole, postrelease supervision, conditional~~

: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program parole, postrelease supervision, conditional release or a suspended sentence

satisfied the sentence imposed

1 release or a suspended sentence; and

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

8 (c) Except as provided in subsections (e) and (f), ~~no person may~~
9 ~~petition for expungement until five or more years have elapsed since the~~
10 ~~person satisfied the sentence imposed or the terms of a diversion~~
11 ~~agreement or was discharged from probation, a community correctional~~
12 ~~services program, parole, postrelease supervision, conditional release or a~~
13 ~~suspended sentence, if such person was convicted of~~
14 ~~any person convicted~~
15 ~~of a violation described in this subsection, or who entered into a diversion~~
16 ~~agreement in lieu of further criminal proceedings for such violation, shall~~
17 ~~not petition for expungement until five or more years have elapsed since~~
18 ~~the person was convicted of such violation or satisfied the terms of such~~
19 ~~diversion agreement.~~

19 (1) A class A, B or C felony, or for crimes committed on or after July
20 1, 1993, ~~if convicted of an off-grid felony or any felony ranked in severity~~
21 ~~levels 1 through 5 of the nondrug grid, or for crimes committed on or after~~
22 ~~July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels~~
23 ~~1 through 3 of the drug grid, or for crimes committed on or after July 1,~~
24 ~~2012, any felony ranked in severity levels 1 through 4 of the drug grid,~~
25 ~~or;~~

26 (1)(2) vehicular homicide, as defined in K.S.A. 21-3405, prior to its
27 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto, or as
28 prohibited by any law of another state that is in substantial conformity
29 with that statute;

30 (2)(3) driving while the privilege to operate a motor vehicle on the
31 public highways of this state has been canceled, suspended or revoked, as
32 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
33 any law of another state that is in substantial conformity with that statute;

34 (3)(4) perjury resulting from a violation of K.S.A. 8-261a, and
35 amendments thereto, or resulting from the violation of a law of another
36 state that is in substantial conformity with that statute;

37 (4)(5) violating the provisions of K.S.A. 8-142 *Fifth*, and
38 amendments thereto, relating to fraudulent applications or violating the
39 provisions of a law of another state that is in substantial conformity with
40 that statute;

41 (5)(6) any crime punishable as a felony wherein a motor vehicle was
42 used in the perpetration of such crime;

43 (6)(7) failing to stop at the scene of an accident and perform the

or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence

no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of

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

4 ~~(7)(8)~~ violating the provisions of K.S.A. 40-3104, and amendments
5 thereto, relating to motor vehicle liability insurance coverage; or

6 ~~(8)(9)~~ a violation of K.S.A. 21-3405b, prior to its repeal.

7 ~~(d) (1) No person may petition for expungement until five or more
8 years have elapsed since the person satisfied the sentence imposed or the
9 terms of a diversion agreement or was discharged from probation, a
10 community correctional services program, parole, postrelease supervision,
11 conditional release or a suspended sentence, if such person was *Any person*
12 convicted of a first violation of K.S.A. 8-1567, and amendments thereto,
13 including any diversion for such violation *or who entered into a diversion
14 agreement in lieu of further criminal proceedings for such violation, shall
15 not petition for expungement until five or more years have elapsed since
16 the person was convicted of such violation or satisfied the terms of such
17 diversion agreement.*~~

18 ~~(2) No person may petition for expungement until 10 or more years
19 have elapsed since the person satisfied the sentence imposed or was
20 discharged from probation, a community correctional services program,
21 parole, postrelease supervision, conditional release or a suspended
22 sentence, if such person was *Any person* convicted of a second or
23 subsequent violation of K.S.A. 8-1567, and amendments thereto, *shall not
24 petition for expungement until 10 or more years have elapsed since the
25 person was convicted of such violation.*~~

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

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

33 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
34 2022 Supp. 21-5503, and amendments thereto;

35 (2) indecent liberties with a child or aggravated indecent liberties
36 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
37 or K.S.A. 2022 Supp. 21-5506, and amendments thereto;

38 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
39 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
40 amendments thereto;

41 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
42 to its repeal, or K.S.A. 2022 Supp. 21-5504, and amendments thereto;

43 (5) indecent solicitation of a child or aggravated indecent solicitation

No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was

including any diversion for such violation

No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was

- 1 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
2 or K.S.A. 2022 Supp. 21-5508, and amendments thereto;
- 3 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
4 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;
- 5 (7) internet trading in child pornography or aggravated internet
6 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,
7 and amendments thereto;
- 8 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
9 repeal, or K.S.A. 2022 Supp. 21-5604, and amendments thereto;
- 10 (9) endangering a child or aggravated endangering a child, as defined
11 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2022 Supp.
12 21-5601, and amendments thereto;
- 13 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
14 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;
- 15 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
16 or K.S.A. 2022 Supp. 21-5401, and amendments thereto;
- 17 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to
18 its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;
- 19 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior
20 to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;
- 21 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
22 its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;
- 23 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
24 its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments thereto;
- 25 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
26 or K.S.A. 2022 Supp. 21-5505, and amendments thereto, when the victim
27 was less than 18 years of age at the time the crime was committed;
- 28 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
29 its repeal, or K.S.A. 2022 Supp. 21-5505, and amendments thereto;
- 30 (18) a violation of K.S.A. 8-2,144, and amendments thereto,
31 including any diversion for such violation; or
- 32 (19) any conviction for any offense in effect at any time prior to July
33 1, 2011, that is comparable to any offense as provided in this subsection.
- 34 (f) Except as provided in K.S.A. 22-4908, and amendments thereto,
35 for any offender who is required to register as provided in the Kansas
36 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
37 there shall be no expungement of any conviction or any part of the
38 offender's criminal record while the offender is required to register as
39 provided in the Kansas offender registration act.
- 40 (g) (1) When a petition for expungement is filed, the court shall set a
41 date for a hearing of such petition and shall cause notice of such hearing to
42 be given to the prosecutor and the arresting law enforcement agency. The
43 petition shall state the:

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

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

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

24 (h) (1) At the hearing on the petition, the court shall order the
25 petitioner's arrest record, conviction or diversion expunged if the court
26 finds that:

27 ~~(A)~~ (A) The petitioner has not been convicted of a felony in the past
28 two years and no proceeding involving any such crime is presently
29 pending or being instituted against the petitioner;

30 ~~(B)~~ (B) the circumstances and behavior of the petitioner warrant the
31 expungement;

32 ~~(C)~~ (C) the expungement is consistent with the public welfare; and

33 ~~(D)~~ (D) with respect to petitions seeking expungement of a felony
34 conviction, possession of a firearm by the petitioner is not likely to pose a
35 threat to the safety of the public.

36 (2) *The court shall not deny the petition for expungement due to the*
37 *petitioner's inability to pay outstanding costs, fees, fines or restitution.*
38 *The petitioner's unwillingness, rather than inability, to pay such costs,*
39 *fees, fines or restitution may be considered as a factor in denying the*
40 *petition for expungement.*

41 (i) When the court has ordered an arrest record, conviction or
42 diversion expunged, the order of expungement shall state the information
43 required to be contained in the petition. The clerk of the court shall send a

1 certified copy of the order of expungement to the Kansas bureau of
2 investigation—~~that~~, *which* shall *then* notify the federal bureau of
3 investigation, the secretary of corrections and any other criminal justice
4 agency that may have a record of the arrest, conviction or diversion. If the
5 case was appealed from municipal court, the clerk of the district court shall
6 send a certified copy of the order of expungement to the municipal court.
7 The municipal court shall order the case expunged once the certified copy
8 of the order of expungement is received. After the order of expungement is
9 entered, the petitioner shall be treated as not having been arrested,
10 convicted or diverted of the crime, except that:

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

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

16 (A) In any application for licensure as a private detective, private
17 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-
18 7b21, and amendments thereto, or employment as a detective with a
19 private detective agency, as defined by K.S.A. 75-7b01, and amendments
20 thereto; as security personnel with a private patrol operator, as defined by
21 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined
22 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
23 for aging and disability services;

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

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

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

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

41 (F) upon application for a commercial driver's license under K.S.A.
42 8-2,125 through 8-2,142, and amendments thereto;

43 (G) to aid in determining the petitioner's qualifications to be an

- 1 employee of the state gaming agency;
- 2 (H) to aid in determining the petitioner's qualifications to be an
3 employee of a tribal gaming commission or to hold a license issued
4 pursuant to a tribal-state gaming compact;
- 5 (I) in any application for registration as a broker-dealer, agent,
6 investment adviser or investment adviser representative all as defined in
7 K.S.A. 17-12a102, and amendments thereto;
- 8 (J) in any application for employment as a law enforcement officer as
9 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or
- 10 (K) to aid in determining the petitioner's qualifications for a license to
11 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
12 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and
13 amendments thereto;
- 14 (3) the court, in the order of expungement, may specify other
15 circumstances under which the conviction is to be disclosed;
- 16 (4) the conviction may be disclosed in a subsequent prosecution for
17 an offense that requires as an element of such offense a prior conviction of
18 the type expunged;~~and~~
- 19 (5) upon commitment to the custody of the secretary of corrections,
20 any previously expunged record in the possession of the secretary of
21 corrections may be reinstated and the expungement disregarded, and the
22 record continued for the purpose of the new commitment; *and*
- 23 (6) *the petitioner shall continue to be responsible for fully satisfying*
24 *any outstanding costs, fees, fines and restitution related to the arrest,*
25 *conviction or diversion. For the purpose of collecting such outstanding*
26 *costs, fees, fines or restitution, the following persons shall have access to*
27 *the expunged case file notwithstanding any expungement:*
- 28 (A) *The clerk of the court;*
- 29 (B) *a contracting agent as defined in K.S.A. 12-4119, and*
30 *amendments thereto;*
- 31 (C) *the petitioner and the petitioner's attorney;*
- 32 (D) *the beneficiary under an order of restitution as defined in K.S.A.*
33 *12-4119, and amendments thereto, and such beneficiary's attorney; and*
- 34 (E) *any other person as authorized by a court order if the court finds*
35 *it is necessary for the person to have access to the expunged case file for*
36 *the purpose of collecting the outstanding costs, fees, fines or restitution.*
- 37 (j) Whenever a person is convicted of a crime, pleads guilty and pays
38 a fine for a crime, is placed on parole, postrelease supervision or
39 probation, is assigned to a community correctional services program, is
40 granted a suspended sentence or is released on conditional release, the
41 person shall be informed of the ability to expunge the arrest records or
42 conviction. Whenever a person enters into a diversion agreement, the
43 person shall be informed of the ability to expunge the diversion.

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

6 (2) A person whose arrest record, conviction or diversion of a crime
7 that resulted in such person being prohibited by state or federal law from
8 possessing a firearm has been expunged under this statute shall be deemed
9 to have had such person's right to keep and bear arms fully restored. This
10 restoration of rights shall include, but not be limited to, the right to use,
11 transport, receive, purchase, transfer and possess firearms. The provisions
12 of this paragraph shall apply to all orders of expungement, including any
13 orders issued prior to July 1, 2021.

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

19 (1) The person whose record was expunged;

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

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

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

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

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

36 (7) the supreme court, the clerk or disciplinary administrator thereof,
37 the state board for admission of attorneys or the state board for discipline
38 of attorneys, and the request is accompanied by a statement that the
39 request is being made in conjunction with an application for admission, or
40 for an order of reinstatement, to the practice of law in this state by the
41 person whose record has been expunged;

42 (8) the Kansas lottery, and the request is accompanied by a statement
43 that the request is being made to aid in determining qualifications for

1 employment with the Kansas lottery or for work in sensitive areas within
2 the Kansas lottery as deemed appropriate by the executive director of the
3 Kansas lottery;

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

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

18 (11) the Kansas sentencing commission;

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

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

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

34 (15) a law enforcement agency and the request is accompanied by a
35 statement that the request is being made to aid in determining eligibility
36 for employment as a law enforcement officer as defined by K.S.A. 22-
37 2202, and amendments thereto;

38 (16) (A) the attorney general and the request is accompanied by a
39 statement that the request is being made to aid in determining
40 qualifications for a license to act as a bail enforcement agent pursuant to
41 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.
42 2022 Supp. 50-6,141, and amendments thereto; or

43 (B) the attorney general for any other purpose authorized by law,

1 except that an expungement record shall not be the basis for denial of a
2 license to carry a concealed handgun under the personal and family
3 protection act; or

4 (17) the Kansas bureau of investigation, for the purpose of
5 completing a person's criminal history record information within the
6 central repository, in accordance with K.S.A. 22-4701 et seq., and
7 amendments thereto.

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

10 (2) Upon the issuance of an order of expungement that resulted in the
11 restoration of a person's right to keep and bear arms, the Kansas bureau of
12 investigation shall report to the federal bureau of investigation that such
13 expunged record be withdrawn from the national instant criminal
14 background check system. The Kansas bureau of investigation shall
15 include such order of expungement in the person's criminal history record
16 for purposes of documenting the restoration of such person's right to keep
17 and bear arms.

18 Sec. 3. K.S.A. 38-2312 is hereby amended to read as follows: 38-
19 2312. (a) Except as provided in subsections (b) and (c), any records or files
20 specified in this code concerning a juvenile may be expunged upon
21 application to a judge of the court of the county in which the records or
22 files are maintained. The application for expungement may be made by the
23 juvenile, if 18 years of age or older or, if the juvenile is less than 18 years
24 of age, by the juvenile's parent or next friend.

25 (b) There shall be no expungement of records or files concerning acts
26 committed by a juvenile which, if committed by an adult, would constitute
27 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022 Supp. 21-
28 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,
29 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
30 thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal,
31 or K.S.A. 2022 Supp. 21-5404, and amendments thereto, voluntary
32 manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2022 Supp.
33 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-
34 3439, prior to its repeal, or K.S.A. 2022 Supp. 21-5401, and amendments
35 thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 2022
36 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto, involuntary
37 manslaughter while driving under the influence of alcohol or drugs; K.S.A.
38 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and
39 amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A.
40 2022 Supp. 21-5506(a), and amendments thereto, indecent liberties with a
41 child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-
42 5506(b), and amendments thereto, aggravated indecent liberties with a
43 child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2022 Supp. 21-

1 5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.
2 21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and
3 amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior
4 to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments thereto,
5 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its
6 repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, sexual
7 exploitation of a child; K.S.A. 2022 Supp. 21-5514(a), and amendments
8 thereto, internet trading in child pornography; K.S.A. 2022 Supp. 21-
9 5514(b), and amendments thereto, aggravated internet trading in child
10 pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2022 Supp. 21-
11 5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608,
12 prior to its repeal, or K.S.A. 2022 Supp. 21-5601(a), and amendments
13 thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.
14 2022 Supp. 21-5602, and amendments thereto, abuse of a child; or which
15 would constitute an attempt to commit a violation of any of the offenses
16 specified in this subsection.

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

23 (d) (1) When a petition for expungement is filed, the court shall set a
24 date for a hearing on the petition and shall give notice thereof to the
25 county or district attorney. The petition shall state *the*:

- 26 ~~(1) The (A)~~ Juvenile's full name;
27 ~~(2) the (B)~~ full name of the juvenile as reflected in the court record, if
28 different than ~~(1) subparagraph (A)~~;
29 ~~(3) the (C)~~ juvenile's sex and date of birth;
30 ~~(4) the (D)~~ offense for which the juvenile was adjudicated;
31 ~~(5) the (E)~~ date of the trial; and
32 ~~(6) the (F)~~ identity of the trial court.

33 (2) Except as otherwise provided by law, a petition for expungement
34 shall be accompanied by a docket fee in the amount of \$176. On and after
35 July 1, 2019, through June 30, 2025, the supreme court may impose a
36 charge, not to exceed \$19 per case, to fund the costs of non-judicial
37 personnel. All petitions for expungement shall be docketed in the original
38 action.

39 (3) Any person who may have relevant information about the
40 petitioner may testify at the hearing. The court may inquire into the
41 background of the petitioner.

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

1 (A) (i) The juvenile has reached 23 years of age or that two years
2 have elapsed since the final ~~discharge~~ *adjudication*;

discharge

3 (ii) one year has elapsed since the final ~~discharge~~ for an adjudication
4 concerning acts committed by a juvenile which, if committed by an adult,
5 would constitute a violation of K.S.A. 2022 Supp. 21-6419, and
6 amendments thereto; or

discharge for an

7 (iii) the juvenile is a victim of human trafficking, aggravated human
8 trafficking or commercial sexual exploitation of a child, the adjudication
9 concerned acts committed by the juvenile as a result of such victimization,
10 including, but not limited to, acts which, if committed by an adult, would
11 constitute a violation of K.S.A. 2022 Supp. 21-6203 or 21-6419, and
12 amendments thereto, and the hearing on expungement occurred on or after
13 the date of final ~~discharge~~ *adjudication*. The provisions of this clause shall
14 not allow an expungement of records or files concerning acts described in
15 subsection (b);

discharge

16 (B) ~~since the final discharge of the juvenile~~ *in the past two years*, the
17 juvenile has not been convicted of a felony ~~or of a misdemeanor other than~~
18 ~~a traffic offense~~ or adjudicated as a juvenile offender under the revised
19 Kansas juvenile justice code *for a felony* and no proceedings are pending
20 seeking such a conviction or adjudication; and

21 (C) the circumstances and behavior of the petitioner warrant
22 expungement.

23 (2) ~~The court may require that all court costs, fees and restitution~~
24 ~~shall be paid~~ *shall not deny the petition for expungement due to the*
25 *juvenile's inability to pay outstanding costs, fees, fines or restitution. The*
26 *petitioner's unwillingness, rather than inability, to pay such costs, fees,*
27 *fines or restitution may be considered as a factor in denying the petition*
28 *for expungement. Unless the court orders otherwise, expungement shall*
29 *not release the juvenile from the obligation to pay outstanding costs, fees,*
30 *fines or restitution.*

31 (f) Upon entry of an order expunging records or files, the offense
32 which the records or files concern shall be treated as if it never occurred,
33 except that upon conviction of a crime or adjudication in a subsequent
34 action under this code the offense may be considered in determining the
35 sentence to be imposed. The petitioner, the court and all law enforcement
36 officers and other public offices and agencies shall properly reply on
37 inquiry that no record or file exists with respect to the juvenile. Inspection
38 of the expunged files or records thereafter may be permitted by order of
39 the court upon petition by the person who is the subject thereof. The
40 inspection shall be limited to inspection by the person who is the subject of
41 the files or records and the person's designees.

42 (g) A certified copy of any order made pursuant to subsection (a) or
43 (d) shall be sent to the Kansas bureau of investigation, which shall *then*

1 notify every juvenile or criminal justice agency which may possess records
2 or files ordered to be expunged. If the agency fails to comply with the
3 order within a reasonable time after its receipt, such agency may be
4 adjudged in contempt of court and punished accordingly.

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

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

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

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

18 (1) The person whose record was expunged;

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

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

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

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

32 (6) the Kansas lottery, and the request is accompanied by a statement
33 that the request is being made to aid in determining qualifications for
34 employment with the Kansas lottery or for work in sensitive areas within
35 the Kansas lottery as deemed appropriate by the executive director of the
36 Kansas lottery;

37 (7) the governor or the Kansas racing commission, or a designee of
38 the commission, and the request is accompanied by a statement that the
39 request is being made to aid in determining qualifications for executive
40 director of the commission, for employment with the commission, for
41 work in sensitive areas in parimutuel racing as deemed appropriate by the
42 executive director of the commission or for licensure, renewal of licensure
43 or continued licensure by the commission;

- 1 (8) the Kansas sentencing commission; or
- 2 (9) the Kansas bureau of investigation, for the purposes of:
 - 3 (A) Completing a person's criminal history record information within
 - 4 the central repository in accordance with K.S.A. 22-4701 et seq., and
 - 5 amendments thereto; or
 - 6 (B) providing information or documentation to the federal bureau of
 - 7 investigation, in connection with the national instant criminal background
 - 8 check system, to determine a person's qualification to possess a firearm.
 - 9 (l) The provisions of subsection (k)(9) shall apply to all records
 - 10 created prior to, on and after July 1, 2011.
- 11 Sec. 4. K.S.A. 12-4516 and 38-2312 and K.S.A. 2022 Supp. 21-6614
- 12 are hereby repealed.
- 13 Sec. 5. This act shall take effect and be in force from and after its
- 14 publication in the statute book.