Session of 2025

SENATE BILL No. 187

By Committee on Judiciary

2-4

AN ACT concerning children and minors; relating to juvenile offenders; requiring certain records or files to be automatically expunged from a juvenile's record; amending K.S.A. 38-2312 and repealing the existing section.

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

Section 1. K.S.A. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in subsections (b) and (c)~~,~~*:*

(1) On and after July 1, 2025, upon final discharge for an adjudication concerning an act committed by a juvenile which, if committed by an adult, would constitute any offense other than an offense described in subsection (b), the court shall order the expungement of all records or files related to such adjudication. An order expunging records or files pursuant to this paragraph shall not require any action by the juvenile. No docket fee shall be charged.

(2) Any records or files specified in this code concerning a juvenile *that have not been expunged pursuant to paragraph (1)* may be expunged upon application to a judge of the court of the county ~~in which~~ *where* the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or~~,~~ if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)(3) or (a)(5), and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A. 21-5506(a), and amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior

to its repeal, or K.S.A. 21-5506(b), and amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 21-5514(a), and amendments thereto, internet trading in child pornography; K.S.A. 21-5514(b), and amendments thereto, aggravated internet trading in child pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 21-5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or K.S.A. 21-5601(a), and amendments thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 21-5602, and amendments thereto, abuse of a child; or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

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

(d) *(1)* When a petition for expungement is filed *pursuant to subsection (a)(2)*, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state:

~~(1)~~*(A)* The juvenile's full name;

~~(2)~~*(B)* the full name of the juvenile as reflected in the court record, if different than ~~(1)~~ *subparagraph (A)*;

~~(3)~~*(C)* the juvenile's sex and date of birth;

~~(4)~~*(D)* the offense for which the juvenile was adjudicated;

~~(5)~~*(E)* the date of the trial; and

~~(6)~~*(F)* the identity of the trial court.

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of $176. On and after July 1, 2019, through June 30, 2025, the supreme court may impose a charge, not to exceed $19 per case, to fund the costs of non-judicial personnel. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(e) (1) After *the* hearing *on a petition for expungement pursuant to*

subsection (a)(2), the court shall order the expungement of the records and files if the court finds that:

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

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

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

(B) since the final discharge of the juvenile, the juvenile has not been convicted of a felony ~~or of a misdemeanor other than a traffic offense~~ or adjudicated as a juvenile offender under the revised Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication; and

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

(2) The court may require that all court costs, fees and restitution shall be paid.

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

(g) A certified copy of any order made pursuant to subsection (a) or (d) shall be sent to the Kansas bureau of investigation, which shall notify every juvenile or criminal justice agency which may possess records or files ordered to be expunged. If the agency fails to comply with the order within a reasonable time after its receipt, such agency may be adjudged in contempt of court and punished accordingly.

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

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

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

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

(1) The person whose record was expunged;

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

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

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

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

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

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

(8) the Kansas sentencing commission; or

(9) the Kansas bureau of investigation, for the purposes of:

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

amendments thereto; or

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

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

Sec. 2. K.S.A. 38-2312 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.