

As Amended by House Committee

Session of 2005

HOUSE BILL No. 2005

By Representative Lane

12-8

10 AN ACT concerning elections; relating to disclosure of felony convictions
11 by certain candidates; ~~amending K.S.A. 2004 Supp. 12-4516 and 21-~~
12 ~~4619 and repealing the existing sections; also repealing K.S.A. 2003~~
13 ~~Supp. 21-4619, as amended by section 59 of chapter 154 of the 2004~~
14 ~~Session Laws of Kansas.~~

15

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

17 Section 1. (a) Each candidate for public office shall disclose whether
18 or not such person has been convicted of a felony offense. If a candidate
19 for public office has been convicted of a felony offense, such candidate
20 shall disclose; **such conviction** on a form provided by the secretary of
21 state: ~~(1) Each such felony offense even if the record of such guilty plea~~
22 ~~or conviction has been expunged; (2) the date of the offense; (3) the date~~
23 ~~of the conviction; and (4) the state or other jurisdiction in which the~~
24 ~~conviction occurred.~~

25 ~~—(b) Failure to disclose conviction of a felony offense is a class A~~
26 ~~misdemeanor.~~

27 ~~—(c) Whenever a person is elected to public office and such person is~~
28 ~~convicted for violating this section, such candidate shall immediately for-~~
29 ~~feit such public office and such public office shall be deemed to be vacant.~~
30 ~~Any resultant vacancy in such public office shall be filled as provided by~~
31 ~~law.~~

32 ~~—(d) (b)~~ (b) For the purposes of this section: (1) “Felony offense” shall
33 include any offense classified as a felony under the laws of this state, the
34 laws of another state or federal law.

35 (2) “Local office” shall have the meaning ascribed to it in K.S.A. 25-
36 4143 and amendments thereto.

37 (3) “Public office” shall include any state office or local office.

38 (4) “State office” shall have the meaning ascribed to it in K.S.A. 25-
39 4143 and amendments thereto.

40 ~~Sec. 2. K.S.A. 2004 Supp. 12-4516 is hereby amended to read as~~
41 ~~follows: 12-4516. (a) (1) Except as provided in subsection (b), any person~~
42 ~~who has been convicted of a violation of a city ordinance of this state may~~
43 ~~petition the convicting court for the expungement of such conviction and~~

1 ~~related arrest records if three or more years have elapsed since the~~
2 ~~person:~~
3 ~~—(A) Satisfied the sentence imposed, or~~
4 ~~—(B) was discharged from probation, parole or a suspended sentence.~~
5 ~~—(2) Except as provided in subsection (b), any person who has fulfilled~~
6 ~~the terms of a diversion agreement based on a violation of a city ordinance~~
7 ~~of this state may petition the court for the expungement of such diversion~~
8 ~~agreement and related arrest records if three or more years have elapsed~~
9 ~~since the terms of the diversion agreement were fulfilled.~~
10 ~~—(b) No person may petition for expungement until five or more years~~
11 ~~have elapsed since the person satisfied the sentence imposed or the terms~~
12 ~~of a diversion agreement or was discharged from probation, parole, con-~~
13 ~~ditional release or a suspended sentence, if such person was convicted of~~
14 ~~the violation of a city ordinance which would also constitute:~~
15 ~~—(1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-~~
16 ~~ments thereto;~~
17 ~~—(2) a violation of K.S.A. 8-1567, and amendments thereto;~~
18 ~~—(3) driving while the privilege to operate a motor vehicle on the public~~
19 ~~highways of this state has been canceled, suspended or revoked, as pro-~~
20 ~~hibited by K.S.A. 8-262, and amendments thereto;~~
21 ~~—(4) perjury resulting from a violation of K.S.A. 8-261a, and amend-~~
22 ~~ments thereto;~~
23 ~~—(5) a violation of the provisions of the fifth clause of K.S.A. 8-142,~~
24 ~~and amendments thereto, relating to fraudulent applications;~~
25 ~~—(6) any crime punishable as a felony wherein a motor vehicle was~~
26 ~~used in the perpetration of such crime;~~
27 ~~—(7) failing to stop at the scene of an accident and perform the duties~~
28 ~~required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;~~
29 ~~—(8) a violation of the provisions of K.S.A. 40-3104, and amendments~~
30 ~~thereto, relating to motor vehicle liability insurance coverage; or~~
31 ~~—(9) a violation of K.S.A. 21-3405b, and amendments thereto.~~
32 ~~—(c) When a petition for expungement is filed, the court shall set a~~
33 ~~date for a hearing of such petition and shall cause notice of such hearing~~
34 ~~to be given to the prosecuting attorney and the arresting law enforcement~~
35 ~~agency. The petition shall state: (1) The defendant's full name;~~
36 ~~—(2) the full name of the defendant at the time of arrest, conviction or~~
37 ~~diversion, if different than the defendant's current name;~~
38 ~~—(3) the defendant's sex, race and date of birth;~~
39 ~~—(4) the crime for which the defendant was arrested, convicted or~~
40 ~~diverted;~~
41 ~~—(5) the date of the defendant's arrest, conviction or diversion; and~~
42 ~~—(6) the identity of the convicting court, arresting law enforcement~~
43 ~~agency or diverting authority. A municipal court may prescribe a fee to~~

1 be charged as costs for a person petitioning for an order of expungement
2 pursuant to this section. Any person who may have relevant information
3 about the petitioner may testify at the hearing. The court may inquire
4 into the background of the petitioner and shall have access to any reports
5 or records relating to the petitioner that are on file with the secretary of
6 corrections or the Kansas parole board.

7 ~~—(d) At the hearing on the petition, the court shall order the peti-~~
8 ~~tioner's arrest record, conviction or diversion expunged if the court finds~~
9 ~~that:~~

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

13 ~~—(2) the circumstances and behavior of the petitioner warrant the~~
14 ~~expungement; and~~

15 ~~—(3) the expungement is consistent with the public welfare.~~

16 ~~—(e) When the court has ordered an arrest record, conviction or di-~~
17 ~~version expunged, the order of expungement shall state the information~~
18 ~~required to be contained in the petition. The clerk of the court shall send~~
19 ~~a certified copy of the order of expungement to the Kansas bureau of~~
20 ~~investigation which shall notify the federal bureau of investigation, the~~
21 ~~secretary of corrections and any other criminal justice agency which may~~
22 ~~have a record of the arrest, conviction or diversion. After the order of~~
23 ~~expungement is entered, the petitioner shall be treated as not having been~~
24 ~~arrested, convicted or diverted of the crime, except that:~~

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

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

30 ~~—(A) In any application for employment as a detective with a private~~
31 ~~detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;~~
32 ~~as security personnel with a private patrol operator, as defined by K.S.A.~~
33 ~~75-7b01, and amendments thereto; or with an institution, as defined in~~
34 ~~K.S.A. 76-12a01, and amendments thereto, of the department of social~~
35 ~~and rehabilitation services;~~

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

38 ~~—(C) to aid in determining the petitioner's qualifications for employ-~~
39 ~~ment with the Kansas lottery or for work in sensitive areas within the~~
40 ~~Kansas lottery as deemed appropriate by the executive director of the~~
41 ~~Kansas lottery;~~

42 ~~—(D) to aid in determining the petitioner's qualifications for executive~~
43 ~~director of the Kansas racing commission, for employment with the com-~~

1 mission or for work in sensitive areas in parimutuel racing as deemed
2 appropriate by the executive director of the commission, or to aid in
3 determining qualifications for licensure or renewal of licensure by the
4 commission;
5 ~~—(E) upon application for a commercial driver's license under K.S.A.~~
6 ~~8-2,125 through 8-2,142, and amendments thereto;~~
7 ~~—(F) to aid in determining the petitioner's qualifications to be an em-~~
8 ~~ployee of the state gaming agency;~~
9 ~~—(G) to aid in determining the petitioner's qualifications to be an em-~~
10 ~~ployee of a tribal gaming commission or to hold a license issued pursuant~~
11 ~~to a tribal-state gaming compact, or~~
12 ~~—(H) in any application for registration as a broker-dealer, agent, in-~~
13 ~~vestment adviser or investment adviser representative all as defined in~~
14 ~~K.S.A. 17-1252 section 2 of chapter 154 of the 2004 Session Laws of~~
15 ~~Kansas and amendments thereto;~~
16 ~~—(3) the petitioner shall disclose, as required by section 1, and amend-~~
17 ~~ments thereto, that the conviction occurred;~~
18 ~~—(3) (4) the court, in the order of expungement, may specify other~~
19 ~~circumstances under which the arrest, conviction or diversion is to be~~
20 ~~disclosed, and~~
21 ~~—(4) (5) the conviction may be disclosed in a subsequent prosecution~~
22 ~~for an offense which requires as an element of such offense a prior con-~~
23 ~~viction of the type expunged.~~
24 ~~—(f) Whenever a person is convicted of an ordinance violation, pleads~~
25 ~~guilty and pays a fine for such a violation, is placed on parole or probation~~
26 ~~or is granted a suspended sentence for such a violation, the person shall~~
27 ~~be informed of the ability to expunge the arrest records or conviction.~~
28 ~~Whenever a person enters into a diversion agreement, the person shall~~
29 ~~be informed of the ability to expunge the diversion.~~
30 ~~—(g) Subject to the disclosures required pursuant to subsection (c), in~~
31 ~~any application for employment, license or other civil right or privilege,~~
32 ~~or any appearance as a witness, a person whose arrest records, conviction~~
33 ~~or diversion of an offense has been expunged under this statute may state~~
34 ~~that such person has never been arrested, convicted or diverted of such~~
35 ~~offense.~~
36 ~~—(h) Whenever the record of any arrest, conviction or diversion has~~
37 ~~been expunged under the provisions of this section or under the provi-~~
38 ~~sions of any other existing or former statute, the custodian of the records~~
39 ~~of arrest, conviction, diversion and incarceration relating to that crime~~
40 ~~shall not disclose the existence of such records, except when requested~~
41 ~~by:~~
42 ~~—(1) The person whose record was expunged;~~
43 ~~—(2) a private detective agency or a private patrol operator, and the~~

1 request is accompanied by a statement that the request is being made in
2 conjunction with an application for employment with such agency or op-
3 erator by the person whose record has been expunged;
4 ~~—(3)—a court, upon a showing of a subsequent conviction of the person~~
5 ~~whose record has been expunged;~~
6 ~~—(4)—the secretary of social and rehabilitation services, or a designee of~~
7 ~~the secretary, for the purpose of obtaining information relating to em-~~
8 ~~ployment in an institution, as defined in K.S.A. 76-12a01, and amend-~~
9 ~~ments thereto, of the department of social and rehabilitation services of~~
10 ~~any person whose record has been expunged;~~
11 ~~—(5)—a person entitled to such information pursuant to the terms of the~~
12 ~~expungement order;~~
13 ~~—(6)—a prosecuting attorney, and such request is accompanied by a~~
14 ~~statement that the request is being made in conjunction with a prosecu-~~
15 ~~tion of an offense that requires a prior conviction as one of the elements~~
16 ~~of such offense;~~
17 ~~—(7)—the supreme court, the clerk or disciplinary administrator thereof,~~
18 ~~the state board for admission of attorneys or the state board for discipline~~
19 ~~of attorneys, and the request is accompanied by a statement that the~~
20 ~~request is being made in conjunction with an application for admission,~~
21 ~~or for an order of reinstatement, to the practice of law in this state by the~~
22 ~~person whose record has been expunged;~~
23 ~~—(8)—the Kansas lottery, and the request is accompanied by a statement~~
24 ~~that the request is being made to aid in determining qualifications for~~
25 ~~employment with the Kansas lottery or for work in sensitive areas within~~
26 ~~the Kansas lottery as deemed appropriate by the executive director of the~~
27 ~~Kansas lottery;~~
28 ~~—(9)—the governor or the Kansas racing commission, or a designee of~~
29 ~~the commission, and the request is accompanied by a statement that the~~
30 ~~request is being made to aid in determining qualifications for executive~~
31 ~~director of the commission, for employment with the commission, for~~
32 ~~work in sensitive areas in parimutuel racing as deemed appropriate by~~
33 ~~the executive director of the commission or for licensure, renewal of~~
34 ~~licensure or continued licensure by the commission;~~
35 ~~—(10)—the state gaming agency, and the request is accompanied by a~~
36 ~~statement that the request is being made to aid in determining qualifi-~~
37 ~~cations: (A) To be an employee of the state gaming agency; or (B) to be~~
38 ~~an employee of a tribal gaming commission or to hold a license issued~~
39 ~~pursuant to a tribal-state gaming compact; or~~
40 ~~—(11)—the Kansas securities commissioner, or a designee of the com-~~
41 ~~missioner, and the request is accompanied by a statement that the request~~
42 ~~is being made in conjunction with an application for registration as a~~
43 ~~broker-dealer, agent, investment adviser or investment adviser represen-~~

1 tative by such agency and the application was submitted by the person
2 whose record has been expunged.

3 —Sec. 3.—K.S.A. 2004 Supp. 21-4619 is hereby amended to read as
4 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),
5 any person convicted in this state of a traffic infraction, cigarette or to-
6 bacco infraction, misdemeanor or a class D or E felony, or for crimes
7 committed on or after July 1, 1993, nondrug crimes ranked in severity
8 levels 6 through 10 or any felony ranked in severity level 4 of the drug
9 grid, may petition the convicting court for the expungement of such con-
10 viction or related arrest records if three or more years have elapsed since
11 the person: (A) Satisfied the sentence imposed, or (B) was discharged
12 from probation, a community correctional services program, parole, post-
13 release supervision, conditional release or a suspended sentence.

14 —(2)—Except as provided in subsections (b) and (c), any person who has
15 fulfilled the terms of a diversion agreement may petition the district court
16 for the expungement of such diversion agreement and related arrest re-
17 cords if three or more years have elapsed since the terms of the diversion
18 agreement were fulfilled.

19 —(b)—Except as provided in subsection (c), no person may petition for
20 expungement until five or more years have elapsed since the person sat-
21 isfied the sentence imposed, the terms of a diversion agreement or was
22 discharged from probation, a community correctional services program,
23 parole, postrelease supervision, conditional release or a suspended sen-
24 tence, if such person was convicted of a class A, B or C felony, or for
25 crimes committed on or after July 1, 1993, if convicted of an off-grid
26 felony or any nondrug crime ranked in severity levels 1 through 5 or any
27 felony ranked in severity levels 1 through 3 of the drug grid, or:

28 —(1)—Vehicular homicide, as defined by K.S.A. 21-3405 and amend-
29 ments thereto or as prohibited by any law of another state which is in
30 substantial conformity with that statute;

31 —(2)—a violation of K.S.A. 8-1567 and amendments thereto, or a viola-
32 tion of any law of another state, which declares to be unlawful the acts
33 prohibited by that statute;

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

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

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

1 that statute;

2 ~~—(6) any crime punishable as a felony wherein a motor vehicle was~~
3 ~~used in the perpetration of such crime;~~

4 ~~—(7) failing to stop at the scene of an accident and perform the duties~~
5 ~~required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;~~
6 ~~or required by a law of another state which is in substantial conformity~~
7 ~~with those statutes;~~

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

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

11 ~~—(c) There shall be no expungement of convictions for the following~~
12 ~~offenses or of convictions for an attempt to commit any of the following~~
13 ~~offenses: (1) Rape as defined in subsection (a)(2) of K.S.A. 21-3502 and~~
14 ~~amendments thereto; (2) indecent liberties with a child as defined in~~
15 ~~K.S.A. 21-3503 and amendments thereto; (3) aggravated indecent liber-~~
16 ~~ties with a child as defined in K.S.A. 21-3504 and amendments thereto;~~
17 ~~(4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-~~
18 ~~3505 and amendments thereto; (5) aggravated criminal sodomy as defined~~
19 ~~in K.S.A. 21-3506 and amendments thereto; (6) indecent solicitation of a~~
20 ~~child as defined in K.S.A. 21-3510 and amendments thereto; (7) aggra-~~
21 ~~vated indecent solicitation of a child as defined in K.S.A. 21-3511 and~~
22 ~~amendments thereto; (8) sexual exploitation of a child as defined in K.S.A.~~
23 ~~21-3516 and amendments thereto; (9) aggravated incest as defined in~~
24 ~~K.S.A. 21-3603 and amendments thereto; (10) endangering a child as~~
25 ~~defined in K.S.A. 21-3608 and amendments thereto; (11) abuse of a child~~
26 ~~as defined in K.S.A. 21-3609 and amendments thereto; (12) capital murder~~
27 ~~as defined in K.S.A. 21-3439 and amendments thereto; (13) murder~~
28 ~~in the first degree as defined in K.S.A. 21-3401 and amendments thereto;~~
29 ~~(14) murder in the second degree as defined in K.S.A. 21-3402 and~~
30 ~~amendments thereto; (15) voluntary manslaughter as defined in K.S.A.~~
31 ~~21-3403 and amendments thereto; (16) involuntary manslaughter as de-~~
32 ~~fined in K.S.A. 21-3404 and amendments thereto; (17) involuntary man-~~
33 ~~slaughter while driving under the influence of alcohol or drugs as defined~~
34 ~~in K.S.A. 2004 Supp. 21-3442 and amendments thereto; (18) sexual bat-~~
35 ~~tery as defined in K.S.A. 21-3517 and amendments thereto; (19) aggra-~~
36 ~~vated sexual battery as defined in K.S.A. 21-3518 and amendments~~
37 ~~thereto; or (20) any conviction for any offense in effect at any time prior~~
38 ~~to the effective date of this act, that is comparable to any offense as~~
39 ~~provided in this subsection.~~

40 ~~—(d) 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~~
42 ~~to be given to the prosecuting attorney and the arresting law enforcement~~
43 ~~agency. The petition shall state: (1) The defendant's full name;~~

1 ~~—(2)—~~ the full name of the defendant at the time of arrest, conviction or
2 diversion, if different than the defendant's current name;
3 ~~—(3)—~~ the defendant's sex, race and date of birth;
4 ~~—(4)—~~ the crime for which the defendant was arrested, convicted or
5 diverted;
6 ~~—(5)—~~ the date of the defendant's arrest, conviction or diversion; and
7 ~~—(6)—~~ the identity of the convicting court, arresting law enforcement
8 authority or diverting authority. There shall be no docket fee for filing a
9 petition pursuant to this section. All petitions for expungement shall be
10 docketed in the original criminal action. Any person who may have rel-
11 evant information about the petitioner may testify at the hearing. The
12 court may inquire into the background of the petitioner and shall have
13 access to any reports or records relating to the petitioner that are on file
14 with the secretary of corrections or the Kansas parole board.
15 ~~—(c)—~~ At the hearing on the petition, the court shall order the peti-
16 tioner's arrest record, conviction or diversion expunged if the court finds
17 that:
18 ~~—(1)—~~ The petitioner has not been convicted of a felony in the past two
19 years and no proceeding involving any such crime is presently pending
20 or being instituted against the petitioner;
21 ~~—(2)—~~ the circumstances and behavior of the petitioner warrant the
22 expungement; and
23 ~~—(3)—~~ the expungement is consistent with the public welfare.
24 ~~—(f)—~~ When the court has ordered an arrest record, conviction or diver-
25 sion expunged, the order of expungement shall state the information re-
26 quired to be contained in the petition. The clerk of the court shall send
27 a certified copy of the order of expungement to the Kansas bureau of
28 investigation which shall notify the federal bureau of investigation, the
29 secretary of corrections and any other criminal justice agency which may
30 have a record of the arrest, conviction or diversion. After the order of
31 expungement is entered, the petitioner shall be treated as not having been
32 arrested, convicted or diverted of the crime, except that:
33 ~~—(1)—~~ Upon conviction for any subsequent crime, the conviction that
34 was expunged may be considered as a prior conviction in determining the
35 sentence to be imposed;
36 ~~—(2)—~~ the petitioner shall disclose that the arrest, conviction or diversion
37 occurred if asked about previous arrests, convictions or diversions:
38 ~~—(A)—~~ In any application for licensure as a private detective, private
39 detective agency, certification as a firearms trainer pursuant to K.S.A.
40 2004 Supp. 75-7b21, and amendments thereto, or employment as a de-
41 tective with a private detective agency, as defined by K.S.A. 75-7b01 and
42 amendments thereto; as security personnel with a private patrol operator,
43 as defined by K.S.A. 75-7b01 and amendments thereto, or with an insti-

1 ~~tution, as defined in K.S.A. 76-12a01 and amendments thereto, of the~~
2 ~~department of social and rehabilitation services;~~
3 ~~—(B) in any application for admission, or for an order of reinstatement,~~
4 ~~to the practice of law in this state;~~
5 ~~—(C) to aid in determining the petitioner's qualifications for employ-~~
6 ~~ment with the Kansas lottery or for work in sensitive areas within the~~
7 ~~Kansas lottery as deemed appropriate by the executive director of the~~
8 ~~Kansas lottery;~~
9 ~~—(D) to aid in determining the petitioner's qualifications for executive~~
10 ~~director of the Kansas racing commission, for employment with the com-~~
11 ~~mission or for work in sensitive areas in parimutuel racing as deemed~~
12 ~~appropriate by the executive director of the commission, or to aid in~~
13 ~~determining qualifications for licensure or renewal of licensure by the~~
14 ~~commission;~~
15 ~~—(E) upon application for a commercial driver's license under K.S.A.~~
16 ~~8-2,125 through 8-2,142, and amendments thereto;~~
17 ~~—(F) to aid in determining the petitioner's qualifications to be an em-~~
18 ~~ployee of the state gaming agency;~~
19 ~~—(G) to aid in determining the petitioner's qualifications to be an em-~~
20 ~~ployee of a tribal gaming commission or to hold a license issued pursuant~~
21 ~~to a tribal state gaming compact;~~
22 ~~—(H) in any application for registration as a broker-dealer, agent, in-~~
23 ~~vestment adviser or investment adviser representative all as defined in~~
24 ~~K.S.A. 17-1252 section 2 of chapter 154 of the 2004 Session Laws of~~
25 ~~Kansas and amendments thereto; or~~
26 ~~—(I) in any application for a commercial guide permit or associate~~
27 ~~guide permit under K.S.A. 32-964, and amendments thereto; or~~
28 ~~—(J) in any application for employment as a law enforcement officer as~~
29 ~~defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;~~
30 ~~—(3) the petitioner shall disclose, as required by section 1, and amend-~~
31 ~~ments thereto, that the conviction occurred;~~
32 ~~—(3) (4) the court, in the order of expungement, may specify other~~
33 ~~circumstances under which the conviction is to be disclosed;~~
34 ~~—(4) (5) the conviction may be disclosed in a subsequent prosecution~~
35 ~~for an offense which requires as an element of such offense a prior con-~~
36 ~~viction of the type expunged, and~~
37 ~~—(5) (6) upon commitment to the custody of the secretary of correc-~~
38 ~~tions, any previously expunged record in the possession of the secretary~~
39 ~~of corrections may be reinstated and the expungement disregarded, and~~
40 ~~the record continued for the purpose of the new commitment.~~
41 ~~—(g) Whenever a person is convicted of a crime, pleads guilty and pays~~
42 ~~a fine for a crime, is placed on parole, postrelease supervision or proba-~~
43 ~~tion, is assigned to a community correctional services program, is granted~~

1 ~~a suspended sentence or is released on conditional release, the person~~
2 ~~shall be informed of the ability to expunge the arrest records or conviction.~~
3 ~~Whenever a person enters into a diversion agreement, the person~~
4 ~~shall be informed of the ability to expunge the diversion.~~
5 ~~—(h)— Subject to the disclosures required pursuant to subsection (f), in~~
6 ~~any application for employment, license or other civil right or privilege,~~
7 ~~or any appearance as a witness, a person whose arrest records, conviction~~
8 ~~or diversion of a crime has been expunged under this statute may state~~
9 ~~that such person has never been arrested, convicted or diverted of such~~
10 ~~crime, but the expungement of a felony conviction does not relieve an~~
11 ~~individual of complying with any state or federal law relating to the use~~
12 ~~or possession of firearms by persons convicted of a felony.~~
13 ~~—(i)— Whenever the record of any arrest, conviction or diversion has~~
14 ~~been expunged under the provisions of this section or under the provisions~~
15 ~~of any other existing or former statute, the custodian of the records~~
16 ~~of arrest, conviction, diversion and incarceration relating to that crime~~
17 ~~shall not disclose the existence of such records, except when requested~~
18 ~~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 operator~~
23 ~~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 of social and rehabilitation services, or a designee of~~
27 ~~the 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, of the~~
29 ~~department of social and rehabilitation services of any person whose record~~
30 ~~has been expunged;~~
31 ~~—(5)— a person entitled to such information pursuant to the terms of the~~
32 ~~expungement order;~~
33 ~~—(6)— a prosecuting attorney, and such request is accompanied by a~~
34 ~~statement that the request is being made in conjunction with a prosecution~~
35 ~~of an offense that requires a prior conviction as one of the elements~~
36 ~~of such offense;~~
37 ~~—(7)— the supreme court, the clerk or disciplinary administrator thereof,~~
38 ~~the state board for admission of attorneys or the state board for discipline~~
39 ~~of attorneys, and the request is accompanied by a statement that the~~
40 ~~request is being made in conjunction with an application for admission,~~
41 ~~or for an order of reinstatement, to the practice of law in this state by the~~
42 ~~person whose record has been expunged;~~
43 ~~—(8)— the Kansas lottery, and the request is accompanied by a statement~~

1 that the request is being made to aid in determining qualifications for
2 employment with the Kansas lottery or for work in sensitive areas within
3 the Kansas lottery as deemed appropriate by the executive director of the
4 Kansas lottery;

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

12 ~~—(10) the Kansas sentencing commission;~~

13 ~~—(11) the state gaming agency, and the request is accompanied by a~~
14 ~~statement that the request is being made to aid in determining quali-~~
15 ~~fications: (A) To be an employee of the state gaming agency, or (B) to be~~
16 ~~an employee of a tribal gaming commission or to hold a license issued~~
17 ~~pursuant to a tribal gaming compact;~~

18 ~~—(12) the Kansas securities commissioner or a designee of the com-~~
19 ~~missioner, and the request is accompanied by a statement that the request~~
20 ~~is being made in conjunction with an application for registration as a~~
21 ~~broker-dealer, agent, investment adviser or investment adviser represen-~~
22 ~~tative by such agency and the application was submitted by the person~~
23 ~~whose record has been expunged;~~

24 ~~—(13) the department of wildlife and parks and the request is accom-~~
25 ~~panied by a statement that the request is being made to aid in determining~~
26 ~~qualifications for a permit as a commercial guide or associate guide under~~
27 ~~K.S.A. 32-964, and amendments thereto;~~

28 ~~—(14) the Kansas law enforcement training commission and the re-~~
29 ~~quest is accompanied by a statement that the request is being made to~~
30 ~~aid in determining certification eligibility as a law enforcement officer~~
31 ~~pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or~~

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

36 ~~—Sec. 4. K.S.A. 2003 Supp. 21-4619, as amended by section 59 of~~
37 ~~chapter 154 of the 2004 Session Laws of Kansas, and K.S.A. 2004 Supp.~~
38 ~~12-4516 and 21-4619 are hereby repealed.~~

39 **Sec. 5-2.** This act shall take effect and be in force from and after its
40 publication in the statute book.