

SENATE BILL No. 402

By Senators Journey, Apple, Barnett, Emler, Gilstrap, McGinn, Morris,
O'Connor, Ostmeyer, Palmer, Petersen, D. Schmidt, Schodorf, Stei-
neger, Taddiken, Umbarger and Wilson

1-19

11 AN ACT concerning cruelty to animals; amending K.S.A. 21-4317 and
12 47-1706 and K.S.A. 2005 Supp. 21-2511, 21-4310, 21-4311, 21-4704,
13 22-3717 and 22-4906 and repealing the existing sections; also repealing
14 K.S.A. 21-4314, 21-4315 and 21-4319 and K.S.A. 2005 Supp. 21-4316.
15

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

17 Section. 1. K.S.A. 2005 Supp. 21-2511 is hereby amended to read as
18 follows: 21-2511. (a) Any person convicted as an adult or adjudicated as
19 a juvenile offender because of the commission of any felony; a violation
20 of subsection (a)(1) of K.S.A. 21-3505; a violation of K.S.A. 21-3508; a
21 violation of *subsection (a) of* K.S.A. 21-4310; a violation of K.S.A. 21-
22 3424, and amendments thereto when the victim is less than 18 years of
23 age; a violation of K.S.A. 21-3507, and amendments thereto, when one
24 of the parties involved is less than 18 years of age; a violation of subsection
25 (b)(1) of K.S.A. 21-3513, and amendments thereto, when one of the par-
26 ties involved is less than 18 years of age; a violation of K.S.A. 21-3515,
27 and amendments thereto, when one of the parties involved is less than
28 18 years of age; or a violation of K.S.A. 21-3517, and amendments thereto;
29 including an attempt, conspiracy or criminal solicitation, as defined in
30 K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of any such
31 offenses provided in this subsection regardless of the sentence imposed,
32 shall be required to submit specimens of blood and saliva to the Kansas
33 bureau of investigation in accordance with the provisions of this act, if
34 such person is:

35 (1) Convicted as an adult or adjudicated as a juvenile offender be-
36 cause of the commission of a crime specified in subsection (a) on or after
37 the effective date of this act;

38 (2) ordered institutionalized as a result of being convicted as an adult
39 or adjudicated as a juvenile offender because of the commission of a crime
40 specified in subsection (a) on or after the effective date of this act; or

41 (3) convicted as an adult or adjudicated as a juvenile offender because
42 of the commission of a crime specified in this subsection before the ef-
43 fective date of this act and is presently confined as a result of such con-

1 viction or adjudication in any state correctional facility or county jail or is
2 presently serving a sentence under K.S.A. 21-4603, 21-4603d, 22-3717 or
3 38-1663, and amendments thereto.

4 (b) Notwithstanding any other provision of law, the Kansas bureau of
5 investigation is authorized to obtain fingerprints and other identifiers for
6 all persons, whether juveniles or adults, covered by this act.

7 (c) Any person required by paragraphs (a)(1) and (a)(2) to provide
8 specimens of blood and saliva shall be ordered by the court to have spec-
9 imens of blood and saliva collected within 10 days after sentencing or
10 adjudication:

11 (1) If placed directly on probation, that person must provide speci-
12 mens of blood and saliva, at a collection site designated by the Kansas
13 bureau of investigation. Collection of specimens shall be conducted by
14 qualified volunteers, contractual personnel or employees designated by
15 the Kansas bureau of investigation. Failure to cooperate with the collec-
16 tion of the specimens and any deliberate act by that person intended to
17 impede, delay or stop the collection of the specimens shall be punishable
18 as contempt of court and constitute grounds to revoke probation;

19 (2) if sentenced to the secretary of corrections, the specimens of
20 blood and saliva will be obtained as soon as practical upon arrival at the
21 correctional facility; or

22 (3) if a juvenile offender is placed in the custody of the commissioner
23 of juvenile justice, in a youth residential facility or in a juvenile correc-
24 tional facility, the specimens of blood and saliva will be obtained as soon
25 as practical upon arrival.

26 (d) Any person required by paragraph (a)(3) to provide specimens of
27 blood and saliva shall be required to provide such samples prior to final
28 discharge or conditional release at a collection site designated by the
29 Kansas bureau of investigation. Collection of specimens shall be con-
30 ducted by qualified volunteers, contractual personnel or employees des-
31 ignated by the Kansas bureau of investigation.

32 (e) The Kansas bureau of investigation shall provide all specimen vi-
33 als, mailing tubes, labels and instructions necessary for the collection of
34 blood and saliva samples. The collection of samples shall be performed
35 in a medically approved manner. No person authorized by this section to
36 withdraw blood and collect saliva, and no person assisting in the collection
37 of these samples shall be liable in any civil or criminal action when the
38 act is performed in a reasonable manner according to generally accepted
39 medical practices. The withdrawal of blood for purposes of this act may
40 be performed only by: (1) A person licensed to practice medicine and
41 surgery or a person acting under the supervision of any such licensed
42 person; (2) a registered nurse or a licensed practical nurse; or (3) any
43 qualified medical technician including, but not limited to, an emergency

1 medical technician-intermediate or mobile intensive care technician, as
2 those terms are defined in K.S.A. 65-6112, and amendments thereto, or
3 a phlebotomist. The samples shall thereafter be forwarded to the Kansas
4 bureau of investigation. The bureau shall analyze the samples to the ex-
5 tent allowed by funding available for this purpose.

6 (f) The DNA (deoxyribonucleic acid) records and DNA samples shall
7 be maintained by the Kansas bureau of investigation. The Kansas bureau
8 of investigation shall establish, implement and maintain a statewide au-
9 tomated DNA databank and DNA database capable of, but not limited to,
10 to, searching, matching and storing DNA records. The DNA database as
11 established by this act shall be compatible with the procedures specified
12 by the federal bureau of investigation's combined DNA index system
13 (CODIS). The Kansas bureau of investigation shall participate in the
14 CODIS program by sharing data and utilizing compatible test procedures,
15 laboratory equipment, supplies and computer software.

16 (g) The DNA records obtained pursuant to this act shall be confi-
17 dential and shall be released only to authorized criminal justice agencies.

18 (h) The Kansas bureau of investigation shall be the state central re-
19 pository for all DNA records and DNA samples obtained pursuant to this
20 act. The Kansas bureau of investigation shall promulgate rules and reg-
21 ulations for the form and manner of the collection, maintenance and
22 expungement of DNA samples and other procedures for the operation of
23 this act. These rules and regulations also shall require compliance with
24 national quality assurance standards to ensure that the DNA records sat-
25 isfy standards of acceptance of such records into the national DNA iden-
26 tification index. The provisions of the Kansas administrative procedure
27 act shall apply to all actions taken under the rules and regulations so
28 promulgated.

29 Sec. 2. K.S.A. 2005 Supp. 21-4310 is hereby amended to read as
30 follows: 21-4310. (a) Cruelty to animals is:

31 (1) *Intentional abuse, which includes:*

32 (A) *Intentionally and maliciously killing, injuring, maiming, torturing*
33 *or mutilating any animal;*

34 ~~(B)~~ (B) *intentionally abusing an animal for the purpose of self-grati-*
35 *fication or the gratification of another;*

36 (C) *intentionally abusing an animal for financial gain;*

37 (D) *causing for amusement or gain, any animal to fight with or injure*
38 *another animal;*

39 (E) *knowingly permitting such fighting or injuring on premises under*
40 *one's ownership, charge or control; or*

41 (F) *training, owning, keeping, transporting or selling any animal for*
42 *the purpose or with the intent of having it fight with or injure another*
43 *animal; or*

- 1 (2) *negligent abuse, which includes:*
2 (A) Abandoning or leaving any animal in any place without making
3 provisions for its proper care;
4 ~~(B)~~ (B) having physical custody of any animal and failing to provide
5 such food, potable water, protection from the elements, opportunity for
6 exercise and other care as is needed for the health or well-being of such
7 kind of animal; or
8 ~~(C)~~ (C) intentionally using a wire, pole, stick, rope or any other object
9 to cause an equine to lose its balance or fall, for the purpose of sport or
10 entertainment.
11 (b) The provisions of this section shall not apply to:
12 (1) Normal or accepted veterinary practices;
13 (2) bona fide experiments carried on by commonly recognized re-
14 search facilities;
15 (3) killing, attempting to kill, trapping, catching or taking of any an-
16 imal in accordance with the provisions of chapter 32 or chapter 47 of the
17 Kansas Statutes Annotated;
18 (4) rodeo practices accepted by the rodeo cowboys' association;
19 (5) the humane killing of an animal which is diseased or disabled
20 beyond recovery for any useful purpose, or the humane killing of animals
21 for population control, by the owner thereof or the agent of such owner
22 residing outside of a city or the owner thereof within a city if no animal
23 shelter, pound or licensed veterinarian is within the city, or by a licensed
24 veterinarian at the request of the owner thereof, or by any officer or agent
25 of an incorporated humane society, the operator of an animal shelter or
26 pound, a local or state health officer or a licensed veterinarian three busi-
27 ness days following the receipt of any such animal at such society, shelter
28 or pound;
29 (6) with respect to farm animals, normal or accepted practices of
30 animal husbandry, *including the slaughter of such animals for food or by-*
31 *products;*
32 (7) the killing of any animal by any person at any time which may be
33 found outside of the owned or rented property of the owner or custodian
34 of such animal and which is found injuring or posing a threat to any
35 person, farm animal or property;
36 (8) an animal control officer trained by a licensed veterinarian in the
37 use of a tranquilizer gun, using such gun with the appropriate dosage for
38 the size of the animal, when such animal is vicious or could not be cap-
39 tured after reasonable attempts using other methods; ~~or~~
40 (9) laying an equine down for medical or identification purposes; *or*
41 (10) *the killing of any animal by a law enforcement officer if such*
42 *animal is posing a threat to such officer while serving a warrant.*
43 (c) As used in this section, "equine" means a horse, pony, mule,

1 jenny, donkey or hinny.

2 (d) (1) (A) *The first conviction of cruelty to animals as defined in*
3 *subsection (a)(1) is a class A nonperson misdemeanor, and the offender*
4 *shall be sentenced to not less than 15 days imprisonment as a condition*
5 *of probation.*

6 (B) *A second or subsequent conviction of cruelty to animals as defined*
7 *in subsection (a)(1) is a severity level 8, nonperson felony, and the offender*
8 *shall be sentenced to not less than 60 days imprisonment as a condition*
9 *of probation.*

10 (2) (A) *The first conviction of cruelty to animals as defined in sub-*
11 *section (a)(2) is a class A nonperson misdemeanor.*

12 (B) *A second or subsequent conviction of cruelty to animals as defined*
13 *in subsection (a)(2) is a severity level 10, nonperson felony, and the of-*
14 *fender shall be sentenced to not less than five days imprisonment as a*
15 *condition of probation.*

16 (3) *The offender shall not be eligible for release on probation, suspen-*
17 *sion or reduction of sentence or parole until the offender has served the*
18 *mandatory sentence as provided herein.*

19 (4) *In addition to any of the above, for a violation of cruelty to animals*
20 *as defined in subsection (a)(1), the court shall require the offender to have*
21 *a psychological evaluation to be prepared and the recommended treat-*
22 *ment be completed by the offender.*

23 (e) *Attending an event where unlawful conduct as defined in subsec-*
24 *tion (a)(1)(D), (a)(1)(E) or (a)(1)(F) is occurring is a class A nonperson*
25 *misdemeanor.*

26 Sec. 3. K.S.A. 2005 Supp. 21-4311 is hereby amended to read as
27 follows: 21-4311. (a) Any public health officer, law enforcement officer,
28 licensed veterinarian or officer or agent of any incorporated humane so-
29 ciety, animal shelter or other appropriate facility may take into custody
30 any animal, upon either private or public property; (1) which clearly
31 shows evidence of cruelty to animals, as defined in K.S.A. 21-4310 and
32 amendments thereto; (2) where a violation of subsection (a)(1)(D),
33 (a)(1)(E) or (a)(1)(F) of K.S.A. 21-4310, and amendments thereto, is al-
34 leged to have occurred; or (3) kept on the premises of any person arrested
35 for a violation of subsection (a)(1)(D), (a)(1)(E), (a)(1)(F) or (e) of K.S.A.
36 21-4310, and amendments thereto. Such officer, agent or veterinarian may
37 inspect, care for or treat such animal or place such animal in the care of
38 a duly incorporated humane society or licensed veterinarian for treat-
39 ment, boarding or other care or, if an officer of such humane society or
40 such veterinarian determines that the animal appears to be diseased or
41 disabled beyond recovery for any useful purpose, for humane killing. *The*
42 *animal may be sedated, isolated or restrained if such officer, agent or*
43 *veterinarian determines it to be in the best interest of the animal, other*

1 *animals at the animal shelter or personnel of the animal shelter.* If the
2 animal is placed in the care of an animal shelter, the animal shelter shall
3 notify the owner or custodian, if known or reasonably ascertainable. If
4 the owner or custodian is charged with a violation of K.S.A. 21-4310, and
5 amendments thereto, the board of county commissioners in the county
6 where the animal was taken into custody shall establish and approve pro-
7 cedures whereby the animal shelter may petition the district court to be
8 allowed to place the animal for adoption or euthanize the animal at any
9 time after 20 days after the owner or custodian is notified or, if the owner
10 or custodian is not known or reasonably ascertainable after 20 days after
11 the animal is taken into custody, unless the owner or custodian of the
12 animal files a renewable cash or performance bond with the county clerk
13 of the county where the animal is being held, in an amount equal to not
14 less than the cost of care and treatment of the animal for 30 days. Upon
15 receiving such petition, the court shall determine whether the animal may
16 be placed for adoption or euthanized. The board of county commissioners
17 in the county where the animal was taken into custody shall review the
18 cost of care and treatment being charged by the animal shelter maintain-
19 ing the animal. *Except as provided in subsection (e), if it appears to the*
20 *licensed veterinarian by physical examination that the animal has not*
21 *been trained for aggressive conduct or is a type of animal that is not*
22 *commonly bred or trained for aggressive conduct, the district or county*
23 *attorney shall order that the animal be returned to its owner when the*
24 *animal is not needed as evidence in a case filed under K.S.A. 21-4310,*
25 *and amendments thereto.*

26 (b) The owner or custodian of an animal placed for adoption or killed
27 pursuant to subsection (a) shall not be entitled to recover damages for
28 the placement or killing of such animal unless the owner proves that such
29 placement or killing was unwarranted.

30 (c) Expenses incurred for the care, treatment or boarding of any an-
31 imal, *and any damages caused by the animal* taken into custody pursuant
32 to subsection (a), pending prosecution of the owner or custodian of such
33 animal for the crime of cruelty to animals, as defined in K.S.A. 21-4310
34 and amendments thereto, shall be assessed to the owner or custodian as
35 a cost of the case if the owner or custodian is adjudicated guilty of such
36 crime.

37 (d) Upon the filing of a sworn complaint by any public health officer,
38 law enforcement officer, licensed veterinarian or officer or agent of any
39 incorporated humane society, animal shelter or other appropriate facility
40 alleging the commission of cruelty to animals, as defined in K.S.A. 21-
41 4310 and amendments thereto, the county or district attorney shall de-
42 termine the validity of the complaint and shall forthwith file charges for
43 the crime if the complaint appears to be valid.

1 (e) If a person is adjudicated guilty for a first conviction of the crime
2 of cruelty to animals, as defined in subsection (a)(1)(A), (a)(1)(B),
3 (a)(1)(C) or (a)(2) of K.S.A. 21-4310, and amendments thereto, and the
4 court having jurisdiction is satisfied that an animal owned or possessed
5 by such person would be in the future subjected to such crime, such
6 animal shall not be returned to or remain with such person. *If a person*
7 *is adjudicated guilty for a conviction of the crime of cruelty to animals,*
8 *as defined in subsection (a)(1)(D), (a)(1)(E), (a)(1)(F) or (e) of K.S.A. 21-*
9 *4310, and amendments thereto, or a second or subsequent conviction of*
10 *the crime of cruelty to animals, as defined in subsection (a)(1)(A),*
11 *(a)(1)(B), (a)(1)(C) or (a)(2) of K.S.A. 21-4310, and amendments thereto,*
12 *such animal shall not be returned to or remain with such person. Such*
13 *animal may* shall be turned over to a duly incorporated humane society
14 or licensed veterinarian for sale or other disposition. *If no conviction*
15 *results under an alleged violation of subsection (a)(1)(D), (a)(1)(E),*
16 *(a)(1)(F) or (e) of K.S.A. 21-4310, and amendments thereto, the animal*
17 *shall be returned to the owner or keeper and the court shall order the*
18 *county where the animal was taken into custody to pay to the animal*
19 *shelter all expenses incurred by the shelter for the care, treatment and*
20 *boarding of such animal, including any damages caused by such animal,*
21 *prior to its return.*

22 Sec. 4. K.S.A. 21-4317 is hereby amended to read as follows: 21-
23 4317. (a) Illegal ownership or keeping of a dog is owning or keeping on
24 one's premises a dog by a person convicted of unlawful conduct of ~~dog~~
25 ~~fighting under K.S.A. 21-4315~~ *cruelty to animals as defined in subsection*
26 *(a)(1)(D), (a)(1)(E) or (a)(1)(F) of K.S.A. 21-4310, and amendments*
27 *thereto, within five years of the date of such conviction.*

28 (b) Illegal ownership or keeping of a dog is a class B nonperson
29 misdemeanor.

30 Sec. 5. K.S.A. 2005 Supp. 21-4704 is hereby amended to read as
31 follows: 21-4704. (a) For purposes of sentencing, the following sentencing
32 guidelines grid for nondrug crimes shall be applied in felony cases for
33 crimes committed on or after July 1, 1993:

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SENTENCING RANGE - NONDRUG OFFENSES

| Category | A | B | C | D | E | F | G | H | I |
|----------------|---------------------|-------------------|---------------------------------|-------------------|------------------------|----------------------|--------------------|-------------------|-------------------------|
| Severity Level | 3 + Person Felonies | 2 Person Felonies | 1 Person & 1 Nonperson Felonies | 1 Person Felony | 3 + Nonperson Felonies | 2 Nonperson Felonies | 1 Nonperson Felony | 2 + Misdemeanors | 1 Misdemeanor No Record |
| I | 653 620 592 | 618 586 554 | 285 272 258 | 267 253 240 | 246 234 221 | 226 214 203 | 203 195 184 | 186 176 166 | 165 155 147 |
| II | 493 467 442 | 460 438 416 | 216 205 194 | 200 190 181 | 184 174 165 | 168 160 152 | 154 146 138 | 138 131 123 | 123 117 109 |
| III | 247 233 221 | 228 216 206 | 107 102 96 | 100 94 89 | 92 88 82 | 83 79 74 | 77 72 68 | 71 66 61 | 61 59 55 |
| IV | 172 162 154 | 162 154 144 | 75 71 68 | 69 66 62 | 64 60 57 | 59 56 52 | 52 50 47 | 48 45 42 | 43 41 38 |
| V | 136 130 122 | 128 120 114 | 60 57 53 | 55 52 50 | 51 49 46 | 47 44 41 | 43 41 38 | 39 35 34 | 34 32 31 |
| VI | 46 43 40 | 41 39 37 | 38 36 34 | 36 34 32 | 32 30 28 | 29 27 25 | 26 24 22 | 21 20 19 | 19 18 17 |
| VII | 34 32 30 | 31 29 27 | 29 27 25 | 26 24 22 | 23 21 19 | 19 18 17 | 17 16 15 | 14 13 12 | 13 12 11 |
| VIII | 23 21 19 | 20 19 18 | 19 18 17 | 17 16 15 | 15 14 13 | 13 12 11 | 11 10 9 | 11 10 9 | 9 8 7 |
| IX | 17 16 15 | 15 14 13 | 13 12 11 | 13 12 11 | 11 10 9 | 10 9 8 | 9 8 7 | 8 7 6 | 7 6 5 |
| X | 13 12 11 | 12 11 10 | 11 10 9 | 10 9 8 | 9 8 7 | 8 7 6 | 7 6 5 | 7 6 5 | 6 5 |

| LEGEND |
|--------------------------|
| Presumptive Probation |
| Death |
| Presumptive Imprisonment |

1 (b) The provisions of this section shall be applicable to the sentencing
2 guidelines grid for nondrug crimes. Sentences expressed in such grid
3 represent months of imprisonment.

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

9 (d) The sentencing guidelines grid for nondrug crimes as provided in
10 this section defines presumptive punishments for felony convictions, sub-
11 ject to judicial discretion to deviate for substantial and compelling reasons
12 and impose a different sentence in recognition of aggravating and miti-
13 gating factors as provided in this act. The appropriate punishment for a
14 felony conviction should depend on the severity of the crime of conviction
15 when compared to all other crimes and the offender's criminal history.

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

20 (2) In presumptive imprisonment cases, the sentencing court shall
21 pronounce the complete sentence which shall include the prison sen-
22 tence, the maximum potential reduction to such sentence as a result of
23 good time and the period of postrelease supervision at the sentencing
24 hearing. Failure to pronounce the period of postrelease supervision shall
25 not negate the existence of such period of postrelease supervision.

26 (3) In presumptive nonprison cases, the sentencing court shall pro-
27 nounce the prison sentence as well as the duration of the nonprison sanc-
28 tion at the sentencing hearing.

29 (f) Each grid block states the presumptive sentencing range for an
30 offender whose crime of conviction and criminal history place such of-
31 fender in that grid block. If an offense is classified in a grid block below
32 the dispositional line, the presumptive disposition shall be nonimprison-
33 ment. If an offense is classified in a grid block above the dispositional
34 line, the presumptive disposition shall be imprisonment. If an offense is
35 classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional
36 nonprison sentence upon making the following findings on the record:

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

40 (2) the recommended treatment program is available and the of-
41 fender can be admitted to such program within a reasonable period of
42 time; or

43 (3) the nonprison sanction will serve community safety interests by

1 promoting offender reformation.

2 Any decision made by the court regarding the imposition of an optional
3 nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or
4 6-G shall not be considered a departure and shall not be subject to appeal.

5 (g) The sentence for the violation of K.S.A. 21-3411, and amend-
6 ments thereto, aggravated assault against a law enforcement officer or
7 K.S.A. 21-3415, and amendments thereto, aggravated battery against a
8 law enforcement officer and amendments thereto which places the de-
9 fendant's sentence in grid block 6-H or 6-I shall be presumed impris-
10 onment. The court may impose an optional nonprison sentence upon
11 making a finding on the record that the nonprison sanction will serve
12 community safety interests by promoting offender reformation. Any de-
13 cision made by the court regarding the imposition of the optional non-
14 prison sentence, if the offense is classified in grid block 6-H or 6-I, shall
15 not be considered departure and shall not be subject to appeal.

16 (h) When a firearm is used to commit any person felony, the of-
17 fender's sentence shall be presumed imprisonment. The court may im-
18 pose an optional nonprison sentence upon making a finding on the record
19 that the nonprison sanction will serve community safety interests by pro-
20 moting offender reformation. Any decision made by the court regarding
21 the imposition of the optional nonprison sentence shall not be considered
22 a departure and shall not be subject to appeal.

23 (i) The sentence for the violation of the felony provision of K.S.A. 8-
24 1567 ~~and~~, subsection (b)(3) of K.S.A. 21-3412a, *subsections (d)(1)(B) and*
25 *(d)(2)(B) of K.S.A. 21-4310*, and subsections (b)(3) and (b)(4) of K.S.A.
26 21-3710, and amendments thereto, shall be as provided by the specific
27 mandatory sentencing requirements of that section and shall not be sub-
28 ject to the provisions of this section or K.S.A. 21-4707 and amendments
29 thereto. If because of the offender's criminal history classification the
30 offender is subject to presumptive imprisonment or if the judge departs
31 from a presumptive probation sentence and the offender is subject to
32 imprisonment, the provisions of this section and K.S.A. 21-4707, and
33 amendments thereto, shall apply and the offender shall not be subject to
34 the mandatory sentence as provided in K.S.A. 21-3710 *or 21-4310*, and
35 amendments thereto. Notwithstanding the provisions of any other sec-
36 tion, the term of imprisonment imposed for the violation of the felony
37 provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, *subsec-*
38 *tions (d)(1)(B) and (d)(2)(B) of K.S.A. 21-4310*, and subsections (b)(3)
39 and (b)(4) of K.S.A. 21-3710, and amendments thereto shall not be served
40 in a state facility in the custody of the secretary of corrections.

41 (j) (1) The sentence for any persistent sex offender whose current
42 convicted crime carries a presumptive term of imprisonment shall be
43 double the maximum duration of the presumptive imprisonment term.

1 The sentence for any persistent sex offender whose current conviction
2 carries a presumptive nonprison term shall be presumed imprisonment
3 and shall be double the maximum duration of the presumptive impris-
4 onment term.

5 (2) Except as otherwise provided in this subsection, as used in this
6 subsection, “persistent sex offender” means a person who: (A) (i) Has
7 been convicted in this state of a sexually violent crime, as defined in K.S.A.
8 22-3717 and amendments thereto; and (ii) at the time of the conviction
9 under paragraph (A) (i) has at least one conviction for a sexually violent
10 crime, as defined in K.S.A. 22-3717 and amendments thereto in this state
11 or comparable felony under the laws of another state, the federal gov-
12 ernment or a foreign government; or (B) (i) has been convicted of rape,
13 K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the
14 conviction under paragraph (B) (i) has at least one conviction for rape in
15 this state or comparable felony under the laws of another state, the federal
16 government or a foreign government.

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

20 (k) If it is shown at sentencing that the offender committed any felony
21 violation for the benefit of, at the direction of, or in association with any
22 criminal street gang, with the specific intent to promote, further or assist
23 in any criminal conduct by gang members, the offender’s sentence shall
24 be presumed imprisonment. Any decision made by the court regarding
25 the imposition of the optional nonprison sentence shall not be considered
26 a departure and shall not be subject to appeal. As used in this subsection,
27 “criminal street gang” means any organization, association or group of
28 three or more persons, whether formal or informal, having as one of its
29 primary activities the commission of one or more person felonies or felony
30 violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*,
31 and amendments thereto, which has a common name or common iden-
32 tifying sign or symbol, whose members, individually or collectively engage
33 in or have engaged in the commission, attempted commission, conspiracy
34 to commit or solicitation of two or more person felonies or felony viola-
35 tions of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and
36 amendments thereto, or any substantially similar offense from another
37 jurisdiction.

38 (l) The sentence for a violation of subsection (a) of K.S.A. 21-3715
39 and amendments thereto when such person being sentenced has a prior
40 conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-
41 3716 and amendments thereto shall be presumed imprisonment.

42 Sec. 6. K.S.A. 2005 Supp. 22-3717 is hereby amended to read as
43 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.

1 1993 Supp. 21-4628 prior to its repeal; K.S.A. 21-4635 through 21-4638
2 and amendments thereto; K.S.A. 8-1567, and amendments thereto; and
3 K.S.A. 21-4624, and amendments thereto, an inmate, including an inmate
4 sentenced pursuant to K.S.A. 21-4618 and amendments thereto, shall be
5 eligible for parole after serving the entire minimum sentence imposed by
6 the court, less good time credits.

7 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638 and
8 amendments thereto, an inmate sentenced to imprisonment for the crime
9 of capital murder, or an inmate sentenced for the crime of murder in the
10 first degree based upon a finding of premeditated murder, committed on
11 or after July 1, 1994, shall be eligible for parole after serving 25 years of
12 confinement, without deduction of any good time credits.

13 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
14 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638,
15 and amendments thereto, an inmate sentenced to imprisonment for an
16 off-grid offense committed on or after July 1, 1993, but prior to July 1,
17 1999, shall be eligible for parole after serving 15 years of confinement,
18 without deduction of any good time credits and an inmate sentenced to
19 imprisonment for an off-grid offense committed on or after July 1, 1999,
20 shall be eligible for parole after serving 20 years of confinement without
21 deduction of any good time credits.

22 (3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its
23 repeal, an inmate sentenced for a class A felony committed before July
24 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618 and
25 amendments thereto, shall be eligible for parole after serving 15 years of
26 confinement, without deduction of any good time credits.

27 (4) An inmate sentenced to imprisonment for a violation of subsec-
28 tion (a) of K.S.A. 21-3402 and amendments thereto committed on or after
29 July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after
30 serving 10 years of confinement without deduction of any good time
31 credits.

32 (c) Except as provided in subsection (e), if an inmate is sentenced to
33 imprisonment for more than one crime and the sentences run consecu-
34 tively, the inmate shall be eligible for parole after serving the total of:

35 (1) The aggregate minimum sentences, as determined pursuant to
36 K.S.A. 21-4608 and amendments thereto, less good time credits for those
37 crimes which are not class A felonies; and

38 (2) an additional 15 years, without deduction of good time credits,
39 for each crime which is a class A felony.

40 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
41 committed on or after July 1, 1993, will not be eligible for parole, but will
42 be released to a mandatory period of postrelease supervision upon com-
43 pletion of the prison portion of their sentence as follows:

- 1 (A) Except as provided in subparagraphs (D) and (E), persons sen-
2 tenced for nondrug severity level 1 through 4 crimes and drug severity
3 levels 1 and 2 crimes must serve 36 months, plus the amount of good
4 time earned and retained pursuant to K.S.A. 21-4722 and amendments
5 thereto, on postrelease supervision.
- 6 (B) Except as provided in subparagraphs (D) and (E), persons sen-
7 tenced for nondrug severity levels 5 and 6 crimes and drug severity level
8 3 crimes must serve 24 months, plus the amount of good time earned
9 and retained pursuant to K.S.A. 21-4722, and amendments thereto, on
10 postrelease supervision.
- 11 (C) Except as provided in subparagraphs (D) ~~and~~, (E) *and* (G), per-
12 sons sentenced for nondrug severity level 7 through 10 crimes and drug
13 severity level 4 crimes must serve 12 months, plus the amount of good
14 time earned and retained pursuant to K.S.A. 21-4722 and amendments
15 thereto, on postrelease supervision.
- 16 (D) (i) The sentencing judge shall impose the postrelease supervi-
17 sion period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C),
18 unless the judge finds substantial and compelling reasons to impose a
19 departure based upon a finding that the current crime of conviction was
20 sexually violent or sexually motivated. In that event, departure may be
21 imposed to extend the postrelease supervision to a period of up to 60
22 months.
- 23 (ii) If the sentencing judge departs from the presumptive postrelease
24 supervision period, the judge shall state on the record at the time of
25 sentencing the substantial and compelling reasons for the departure. De-
26 partures in this section are subject to appeal pursuant to K.S.A. 21-4721
27 and amendments thereto.
- 28 (iii) In determining whether substantial and compelling reasons exist,
29 the court shall consider:
- 30 (a) Written briefs or oral arguments submitted by either the defend-
31 ant or the state;
- 32 (b) any evidence received during the proceeding;
- 33 (c) the presentence report, the victim's impact statement and any
34 psychological evaluation as ordered by the court pursuant to subsection
35 (e) of K.S.A. 21-4714 and amendments thereto; and
- 36 (d) any other evidence the court finds trustworthy and reliable.
- 37 (iv) The sentencing judge may order that a psychological evaluation
38 be prepared and the recommended programming be completed by the
39 offender. The department of corrections or the parole board shall ensure
40 that court ordered sex offender treatment be carried out.
- 41 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
42 shall refer to K.S.A. 21-4718 and amendments thereto.
- 43 (vi) Upon petition, the parole board may provide for early discharge

1 from the postrelease supervision period upon completion of court or-
2 dered programs and completion of the presumptive postrelease super-
3 vision period, as determined by the crime of conviction, pursuant to sub-
4 paragraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
5 postrelease supervision is at the discretion of the parole board.

6 (vii) Persons convicted of crimes deemed sexually violent or sexually
7 motivated, shall be registered according to the habitual sex offender reg-
8 istration act, K.S.A. 22-4901 through 22-4910 and amendments thereto.

9 (E) The period of postrelease supervision provided in subparagraphs
10 (A) and (B) may be reduced by up to 12 months and the period of post-
11 release supervision provided in subparagraph (C) may be reduced by up
12 to six months based on the offender's compliance with conditions of su-
13 pervision and overall performance while on postrelease supervision. The
14 reduction in the supervision period shall be on an earned basis pursuant
15 to rules and regulations adopted by the secretary of corrections.

16 (F) In cases where sentences for crimes from more than one severity
17 level have been imposed, the offender shall serve the longest period of
18 postrelease supervision as provided by this section available for any crime
19 upon which sentence was imposed irrespective of the severity level of the
20 crime. Supervision periods will not aggregate.

21 (G) *Persons sentenced for a second or subsequent violation of subsec-*
22 *tion (a)(1) of K.S.A. 21-4310, and amendments thereto, must serve 36*
23 *months.*

24 (2) As used in this section, "sexually violent crime" means:

25 (A) Rape, K.S.A. 21-3502, and amendments thereto;

26 (B) indecent liberties with a child, K.S.A. 21-3503, and amendments
27 thereto;

28 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, and
29 amendments thereto;

30 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505
31 and amendments thereto;

32 (E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments
33 thereto;

34 (F) indecent solicitation of a child, K.S.A. 21-3510, and amendments
35 thereto;

36 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and
37 amendments thereto;

38 (H) sexual exploitation of a child, K.S.A. 21-3516, and amendments
39 thereto;

40 (I) aggravated sexual battery, K.S.A. 21-3518, and amendments
41 thereto;

42 (J) any conviction for a felony offense in effect at any time prior to
43 the effective date of this act, that is comparable to a sexually violent crime

1 as defined in subparagraphs (A) through (I), or any federal or other state
2 conviction for a felony offense that under the laws of this state would be
3 a sexually violent crime as defined in this section;

4 (K) an attempt, conspiracy or criminal solicitation, as defined in
5 K.S.A. 21-3301, 21-3302, 21-3303, and amendments thereto, of a sexually
6 violent crime as defined in this section; or

7 (L) any act which at the time of sentencing for the offense has been
8 determined beyond a reasonable doubt to have been sexually motivated.
9 As used in this subparagraph, “sexually motivated” means that one of the
10 purposes for which the defendant committed the crime was for the pur-
11 pose of the defendant’s sexual gratification.

12 (e) If an inmate is sentenced to imprisonment for a crime committed
13 while on parole or conditional release, the inmate shall be eligible for
14 parole as provided by subsection (c), except that the Kansas parole board
15 may postpone the inmate’s parole eligibility date by assessing a penalty
16 not exceeding the period of time which could have been assessed if the
17 inmate’s parole or conditional release had been violated for reasons other
18 than conviction of a crime.

19 (f) If a person is sentenced to prison for a crime committed on or
20 after July 1, 1993, while on probation, parole, conditional release or in a
21 community corrections program, for a crime committed prior to July 1,
22 1993, and the person is not eligible for retroactive application of the
23 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
24 4724 and amendments thereto, the new sentence shall not be aggregated
25 with the old sentence, but shall begin when the person is paroled or
26 reaches the conditional release date on the old sentence. If the offender
27 was past the offender’s conditional release date at the time the new of-
28 fense was committed, the new sentence shall not be aggregated with the
29 old sentence but shall begin when the person is ordered released by the
30 Kansas parole board or reaches the maximum sentence expiration date
31 on the old sentence, whichever is earlier. The new sentence shall then
32 be served as otherwise provided by law. The period of postrelease su-
33 pervision shall be based on the new sentence, except that those offenders
34 whose old sentence is a term of imprisonment for life, imposed pursuant
35 to K.S.A. 1993 Supp. 21-4628 prior to its repeal, or an indeterminate
36 sentence with a maximum term of life imprisonment, for which there is
37 no conditional release or maximum sentence expiration date, shall remain
38 on postrelease supervision for life or until discharged from supervision
39 by the Kansas parole board.

40 (g) Subject to the provisions of this section, the Kansas parole board
41 may release on parole those persons confined in institutions who are el-
42 igible for parole when: (1) The board believes that the inmate should be
43 released for hospitalization, for deportation or to answer the warrant or

1 other process of a court and is of the opinion that there is reasonable
2 probability that the inmate can be released without detriment to the com-
3 munity or to the inmate; or (2) the secretary of corrections has reported
4 to the board in writing that the inmate has satisfactorily completed the
5 programs required by any agreement entered under K.S.A. 75-5210a and
6 amendments thereto, or any revision of such agreement, and the board
7 believes that the inmate is able and willing to fulfill the obligations of a
8 law abiding citizen and is of the opinion that there is reasonable proba-
9 bility that the inmate can be released without detriment to the community
10 or to the inmate. Parole shall not be granted as an award of clemency and
11 shall not be considered a reduction of sentence or a pardon.

12 (h) The Kansas parole board shall hold a parole hearing at least the
13 month prior to the month an inmate will be eligible for parole under
14 subsections (a), (b) and (c). At least the month preceding the parole hear-
15 ing, the county or district attorney of the county where the inmate was
16 convicted shall give written notice of the time and place of the public
17 comment sessions for the inmate to any victim of the inmate's crime who
18 is alive and whose address is known to the county or district attorney or,
19 if the victim is deceased, to the victim's family if the family's address is
20 known to the county or district attorney. Except as otherwise provided,
21 failure to notify pursuant to this section shall not be a reason to postpone
22 a parole hearing. In the case of any inmate convicted of an off-grid felony
23 or a class A felony the secretary of corrections shall give written notice
24 of the time and place of the public comment session for such inmate at
25 least one month preceding the public comment session to any victim of
26 such inmate's crime or the victim's family pursuant to K.S.A. 74-7338 and
27 amendments thereto. If notification is not given to such victim or such
28 victim's family in the case of any inmate convicted of an off-grid felony
29 or a class A felony, the board shall postpone a decision on parole of the
30 inmate to a time at least 30 days after notification is given as provided in
31 this section. Nothing in this section shall create a cause of action against
32 the state or an employee of the state acting within the scope of the em-
33 ployee's employment as a result of the failure to notify pursuant to this
34 section. If granted parole, the inmate may be released on parole on the
35 date specified by the board, but not earlier than the date the inmate is
36 eligible for parole under subsections (a), (b) and (c). At each parole hear-
37 ing and, if parole is not granted, at such intervals thereafter as it deter-
38 mines appropriate, the Kansas parole board shall consider: (1) Whether
39 the inmate has satisfactorily completed the programs required by any
40 agreement entered under K.S.A. 75-5210a and amendments thereto, or
41 any revision of such agreement; and (2) all pertinent information regard-
42 ing such inmate, including, but not limited to, the circumstances of the
43 offense of the inmate; the presentence report; the previous social history

1 and criminal record of the inmate; the conduct, employment, and attitude
2 of the inmate in prison; the reports of such physical and mental exami-
3 nations as have been made; comments of the victim and the victim's
4 family including in person comments, contemporaneous comments and
5 prerecorded comments made by any technological means; comments of
6 the public; official comments; and capacity of state correctional
7 institutions.

8 (i) In those cases involving inmates sentenced for a crime committed
9 after July 1, 1993, the parole board will review the inmates proposed
10 release plan. The board may schedule a hearing if they desire. The board
11 may impose any condition they deem necessary to insure public safety,
12 aid in the reintegration of the inmate into the community, or items not
13 completed under the agreement entered into under K.S.A. 75-5210a and
14 amendments thereto. The board may not advance or delay an inmate's
15 release date. Every inmate while on postrelease supervision shall remain
16 in the legal custody of the secretary of corrections and is subject to the
17 orders of the secretary.

18 (j) Before ordering the parole of any inmate, the Kansas parole board
19 shall have the inmate appear before either in person or via a video con-
20 ferencing format and shall interview the inmate unless impractical be-
21 cause of the inmate's physical or mental condition or absence from the
22 institution. Every inmate while on parole shall remain in the legal custody
23 of the secretary of corrections and is subject to the orders of the secretary.
24 Whenever the Kansas parole board formally considers placing an inmate
25 on parole and no agreement has been entered into with the inmate under
26 K.S.A. 75-5210a and amendments thereto, the board shall notify the in-
27 mate in writing of the reasons for not granting parole. If an agreement
28 has been entered under K.S.A. 75-5210a and amendments thereto and
29 the inmate has not satisfactorily completed the programs specified in the
30 agreement, or any revision of such agreement, the board shall notify the
31 inmate in writing of the specific programs the inmate must satisfactorily
32 complete before parole will be granted. If parole is not granted only
33 because of a failure to satisfactorily complete such programs, the board
34 shall grant parole upon the secretary's certification that the inmate has
35 successfully completed such programs. If an agreement has been entered
36 under K.S.A. 75-5210a and amendments thereto and the secretary of
37 corrections has reported to the board in writing that the inmate has sat-
38 isfactorily completed the programs required by such agreement, or any
39 revision thereof, the board shall not require further program participa-
40 tion. However, if the board determines that other pertinent information
41 regarding the inmate warrants the inmate's not being released on parole,
42 the board shall state in writing the reasons for not granting the parole. If
43 parole is denied for an inmate sentenced for a crime other than a class A

1 or class B felony or an off-grid felony, the board shall hold another parole
2 hearing for the inmate not later than one year after the denial unless the
3 parole board finds that it is not reasonable to expect that parole would
4 be granted at a hearing if held in the next three years or during the interim
5 period of a deferral. In such case, the parole board may defer subsequent
6 parole hearings for up to three years but any such deferral by the board
7 shall require the board to state the basis for its findings. If parole is denied
8 for an inmate sentenced for a class A or class B felony or an off-grid
9 felony, the board shall hold another parole hearing for the inmate not
10 later than three years after the denial unless the parole board finds that
11 it is not reasonable to expect that parole would be granted at a hearing if
12 held in the next 10 years or during the interim period of a deferral. In
13 such case, the parole board may defer subsequent parole hearings for up
14 to 10 years but any such deferral shall require the board to state the basis
15 for its findings.

16 (k) Parolees and persons on postrelease supervision shall be assigned,
17 upon release, to the appropriate level of supervision pursuant to the cri-
18 teria established by the secretary of corrections.

19 (l) The Kansas parole board shall adopt rules and regulations in ac-
20 cordance with K.S.A. 77-415 *et seq.*, and amendments thereto, not in-
21 consistent with the law and as it may deem proper or necessary, with
22 respect to the conduct of parole hearings, postrelease supervision reviews,
23 revocation hearings, orders of restitution, reimbursement of expenditures
24 by the state board of indigents' defense services and other conditions to
25 be imposed upon parolees or releasees. Whenever an order for parole or
26 postrelease supervision is issued it shall recite the conditions thereof.

27 (m) Whenever the Kansas parole board orders the parole of an in-
28 mate or establishes conditions for an inmate placed on postrelease su-
29 pervision, the board:

30 (1) Unless it finds compelling circumstances which would render a
31 plan of payment unworkable, shall order as a condition of parole or post-
32 release supervision that the parolee or the person on postrelease super-
33 vision pay any transportation expenses resulting from returning the pa-
34 rolee or the person on postrelease supervision to this state to answer
35 criminal charges or a warrant for a violation of a condition of probation,
36 assignment to a community correctional services program, parole, con-
37 ditional release or postrelease supervision;

38 (2) to the extent practicable, shall order as a condition of parole or
39 postrelease supervision that the parolee or the person on postrelease su-
40 pervision make progress towards or successfully complete the equivalent
41 of a secondary education if the inmate has not previously completed such
42 educational equivalent and is capable of doing so;

43 (3) may order that the parolee or person on postrelease supervision

1 perform community or public service work for local governmental agen-
2 cies, private corporations organized not-for-profit or charitable or social
3 service organizations performing services for the community;

4 (4) may order the parolee or person on postrelease supervision to pay
5 the administrative fee imposed pursuant to K.S.A. 2004 Supp. 22-4529,
6 and amendments thereto, unless the board finds compelling circum-
7 stances which would render payment unworkable; and

8 (5) unless it finds compelling circumstances which would render a
9 plan of payment unworkable, shall order that the parolee or person on
10 postrelease supervision reimburse the state for all or part of the expend-
11 itures by the state board of indigents' defense services to provide counsel
12 and other defense services to the person. In determining the amount and
13 method of payment of such sum, the parole board shall take account of
14 the financial resources of the person and the nature of the burden that
15 the payment of such sum will impose. Such amount shall not exceed the
16 amount claimed by appointed counsel on the payment voucher for indi-
17 gents' defense services or the amount prescribed by the board of indi-
18 gents' defense services reimbursement tables as provided in K.S.A. 22-
19 4522 and amendments thereto, whichever is less, minus any previous
20 payments for such services.

21 (n) If the court which sentenced an inmate specified at the time of
22 sentencing the amount and the recipient of any restitution ordered as a
23 condition of parole or postrelease supervision, the Kansas parole board
24 shall order as a condition of parole or postrelease supervision that the
25 inmate pay restitution in the amount and manner provided in the journal
26 entry unless the board finds compelling circumstances which would ren-
27 der a plan of restitution unworkable.

28 (o) Whenever the Kansas parole board grants the parole of an inmate,
29 the board, within 10 days of the date of the decision to grant parole, shall
30 give written notice of the decision to the county or district attorney of the
31 county where the inmate was sentenced.

32 (p) When an inmate is to be released on postrelease supervision, the
33 secretary, within 30 days prior to release, shall provide the county or
34 district attorney of the county where the inmate was sentenced written
35 notice of the release date.

36 (q) Inmates shall be released on postrelease supervision upon the
37 termination of the prison portion of their sentence. Time served while
38 on postrelease supervision will vest.

39 (r) An inmate who is allocated regular good time credits as provided
40 in K.S.A. 22-3725 and amendments thereto may receive meritorious good
41 time credits in increments of not more than 90 days per meritorious act.
42 These credits may be awarded by the secretary of corrections when an
43 inmate has acted in a heroic or outstanding manner in coming to the

1 assistance of another person in a life threatening situation, preventing
2 injury or death to a person, preventing the destruction of property or
3 taking actions which result in a financial savings to the state.

4 (s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and
5 (d)(1)(E) shall be applied retroactively as provided in subsection (t).

6 (t) For offenders sentenced prior to the effective date of this act who
7 are eligible for modification of their postrelease supervision obligation,
8 the department of corrections shall modify the period of postrelease su-
9 pervision as provided for by this section for offenders convicted of severity
10 level 9 and 10 crimes on the sentencing guidelines grid for nondrug
11 crimes and severity level 4 crimes on the sentencing guidelines grid for
12 drug crimes on or before September 1, 2000; for offenders convicted of
13 severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug
14 crimes on or before November 1, 2000; and for offenders convicted of
15 severity level 5 and 6 crimes on the sentencing guidelines grid for nondrug
16 crimes and severity level 3 crimes on the sentencing guidelines grid for
17 drug crimes on or before January 1, 2001.

18 Sec. 7. K.S.A. 2005 Supp. 22-4906 is hereby amended to read as
19 follows: 22-4906. (a) Any person required to register as provided in this
20 act shall be required to register: (1) Upon the first conviction of a sexually
21 violent crime as defined in subsection (c) of K.S.A. 22-4902, and amend-
22 ments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902,
23 and amendments thereto, or any offense as defined in subsection (d) of
24 K.S.A. 22-4902, and amendments thereto, if not confined, for a period of
25 10 years after conviction, or, if confined, for a period of 10 years after
26 paroled, discharged or released, whichever date is most recent. The ten-
27 year period shall not apply to any person while the person is incarcerated
28 in any jail or correctional facility. The ten-year registration requirement
29 does not include any time period when any person who is required to
30 register under this act knowingly or willfully fails to comply with the
31 registration requirement; or (2) upon a second or subsequent conviction
32 for such person's lifetime.

33 (b) Upon the first conviction, liability for registration terminates, if
34 not confined, at the expiration of 10 years from the date of conviction,
35 or, if confined, at the expiration of 10 years from the date of parole,
36 discharge or release, whichever date is most recent. The ten-year period
37 shall not apply to any person while the person is incarcerated in any jail
38 or correctional facility. The ten-year registration requirement does not
39 include any time period when any person who is required to register
40 under this act knowingly or willfully fails to comply with the registration
41 requirement. Liability for registration does not terminate if the convicted
42 offender again becomes liable to register as provided by this act during
43 that period.

1 (c) Any person who has been convicted of an aggravated offense shall
2 be required to register for such person's lifetime. The provisions of this
3 subsection shall expire on June 30, 2009.

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

7 (e) *Any person who has been convicted of subsection (a)(1) of K.S.A.*
8 *21-4310, and amendment thereto:*

9 (1) *Upon the first conviction, shall register for three years from the*
10 *date of parole, discharge or release. The three-year period shall not apply*
11 *to any person while the person is incarcerated in any jail or correctional*
12 *facility. The three-year registration requirement does not include any time*
13 *period when any person who is required to register under this act know-*
14 *ingly or willfully fails to comply with the registration requirement. Lia-*
15 *bility for registration does not terminate if the convicted offender again*
16 *becomes liable to register as provided by this act during that period.*

17 (2) *Upon a second or subsequent conviction shall be required to reg-*
18 *ister for such person's lifetime.*

19 (f) Any nonresident worker shall register for the duration of such
20 person's employment. The provisions of this subsection are in addition to
21 subsections (a) and (b).

22 ~~(g)~~ (g) Any nonresident student shall register for the duration of such
23 person's attendance at a school or educational institution as provided in
24 this act. The provisions of this subsection are in addition to subsections
25 (a) and (b).

26 ~~(g)~~ (h) Notwithstanding any other provisions of this section, a person
27 who is adjudicated as a juvenile offender for an act which if committed
28 by an adult would constitute the commission of a sexually violent crime
29 set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto,
30 shall be required to register until such person reaches 18 years of age, at
31 the expiration of five years from the date of adjudication or, if confined,
32 from release from confinement, whichever date occurs later. The five-
33 year period shall not apply to any person while that person is incarcerated
34 in any jail, juvenile facility or correctional facility. The five-year registra-
35 tion requirement does not include any time period when any person who
36 is required to register under this act knowingly or willfully fails to comply
37 with the registration requirement. Liability for registration does not ter-
38minate if the adjudicated offender again becomes liable to register as
39 provided by this act during the required period.

40 Sec. 8. K.S.A. 47-1706 is hereby amended to read as follows: 47-
41 1706. (a) The commissioner may refuse to issue or renew or may suspend
42 or revoke any license or permit required under K.S.A. 47-1701 et seq.,
43 *and amendments thereto*, for any one or more of the following reasons:

- 1 (1) Material misstatement in the application for the original license
2 or permit, or in the application for any renewal of a license or permit;
- 3 (2) willful disregard of any provision of the Kansas pet animal act or
4 any rule and regulation adopted hereunder, or any willful aiding or abet-
5 ting of another in the violation of any provision of the Kansas pet animal
6 act or any rule and regulation adopted hereunder;
- 7 (3) permitting any license or permit issued hereunder to be used by
8 an unlicensed or unpermitted person or transferred to unlicensed or un-
9 permitted premises;
- 10 (4) the conviction of any crime relating to the theft of *animals* or a
11 *first conviction of cruelty* to animals;
- 12 (5) substantial misrepresentation;
- 13 (6) misrepresentation or false promise, made through advertising, sa-
14 lespersons, agents or otherwise, in connection with the operation of busi-
15 ness of the licensee or permittee;
- 16 (7) fraudulent bill of sale;
- 17 (8) the housing facility or the primary enclosure is inadequate; or
- 18 (9) the feeding, watering, sanitizing and housing practices at the li-
19 censee's or permittee's premises are not consistent with the Kansas pet
20 animal act or the rules and regulations adopted hereunder.
- 21 (b) *The commissioner shall refuse to issue or renew and shall suspend*
22 *or revoke any license or permit required under K.S.A. 47-1701 et. seq.,*
23 *and amendments thereto, for the second or subsequent conviction of cru-*
24 *elty to animals, K.S.A. 21-4310, and amendments thereto.*
- 25 ~~(b)~~ (c) Any refusal to issue or renew a license or permit, and any
26 suspension or revocation of a license or permit, under this section shall
27 be in accordance with the provisions of the Kansas administrative pro-
28 cedure act and shall be subject to review in accordance with the act for
29 judicial review and civil enforcement of agency actions.
- 30 ~~(c)~~ (d) Whenever the commissioner denies, suspends or revokes a
31 license or permit under this section, the commissioner or the commis-
32 sioner's authorized, trained representatives shall seize and impound any
33 animals in the possession, custody or care of the person whose license or
34 permit is denied, suspended or revoked if there are reasonable grounds
35 to believe that the animals' health, safety or welfare is endangered. Except
36 as provided by K.S.A. 21-4311, and amendments thereto, such animals
37 may be returned to the person owning them if there is satisfactory evi-
38 dence that the animals will receive adequate care by that person or such
39 animals may be sold, placed or euthanized, at the discretion of the com-
40 missioner. Costs of care and services for such animals while seized and
41 impounded shall be paid by the person from whom the animals were
42 seized and impounded, if that person's license or permit is denied, sus-
43 pended or revoked. Such funds shall be paid to the commissioner for

1 reimbursement of care and services provided during seizure and im-
2 poundment. If such person's license or permit is not denied, suspended
3 or revoked, the commissioner shall pay the costs of care and services
4 provided during seizure and impoundment.

5 Sec. 9. K.S.A. 21-4314, 21-4315, 21-4317, 21-4319 and 47-1706 and
6 K.S.A. 2005 Supp. 21-2511, 21-4310, 21-4311, 21-4316, 21-4704, 22-3717
7 and 22-4906 are hereby repealed.

8 Sec. 10. This act shall take effect and be in force from and after its
9 publication in the statute book.

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