

**Substitute for SENATE BILL No. 458**

By Committee on Federal and State Affairs

3-12

10 AN ACT enacting the Kansas *[illegal]* immigration enforcement and  
11 reform act; amending K.S.A. 21-3446, 21-3447, 21-4643, 22-4902 and  
12 22-4906 and K.S.A. 2007 Supp. 38-2361, 60-4104, 75-451, 75-452 and  
13 ~~75-453~~, **75-453 and 76-731a**] and repealing the existing sections.

14

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

16 New Section 1. As used in the Kansas *[illegal]* immigration enforce-  
17 ment and reform act:

18 (a) “Alien” means any person who is not a citizen or national of the  
19 United States, as described in Title 8, Section 1101 of the United States  
20 Code, et seq., and amendments thereto.

21 (b) “Business entity” means any person or group of persons perform-  
22 ing or engaging in any activity, enterprise, profession or occupation for  
23 gain, benefit, advantage or livelihood, whether for profit or not-for-profit.

24 “Business entity” shall not include an individual employing casual do-  
25 mestic labor.

26 (c) “Unauthorized alien” means an alien who is not authorized to  
27 work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

28 (d) “E-verify” means the electronic verification of employment au-  
29 thorization program of the illegal immigration reform and immigrant re-  
30 sponsibility act of 1996, P.L. 104-208, division C, section 403(a); 8 U.S.C.  
31 1324(a), and operated by the United States department of homeland se-  
32 curity, or its successor program.

33 ***[(e) “Person” means an individual.***

34 ***[(f) “Pattern or practice” means regular, repeated and inten-***  
35 ***tional acts or activities.***

36 ***[(“Pattern or practice” shall not mean isolated, sporadic or acci-***  
37 ***idental acts or activities.)***

38 New Sec. 2. (a) An alien who is not lawfully present in the United  
39 States shall not be eligible to receive any state or local public benefit from  
40 any state, county or local government entity in the state of Kansas, except  
41 for state or local public benefits that are required to be offered by federal  
42 law.

43 (b) For the purposes of this section, “public benefit” includes: Any

1 grant, contract, loan or license provided by an agency of state or local  
2 government; or any retirement, welfare, health, disability, housing, post-  
3 secondary education, food assistance or unemployment benefit under  
4 which payments, assistance, credits or reduced rates **[are provided or**  
5 **offered]**.

6 “Public benefit” shall not include reduced fees or tuition provided un-  
7 der K.S.A. 2007 Supp. 76-731a, and amendments thereto.

8 New Sec. 3. All state officials, agencies and personnel shall fully com-  
9 ply with, and, to the full extent permitted by law, support the enforcement  
10 of federal law prohibiting the entry into, presence or residence in the  
11 United States of aliens in violation of federal immigration law.

12 New Sec. 4. Sections 1 through ~~3~~ **[6] and 22**, and amendments  
13 thereto, shall be known and may be cited as the Kansas **[illegal]** immi-  
14 gration enforcement and reform act.

15 New Sec. 5. (a) In the state of Kansas, it shall be unlawful for a  
16 business entity to knowingly engage in a pattern or practice of hiring,  
17 recruiting or referring for a fee for employment an unauthorized alien.

18 (b) ~~Upon finding probable cause to believe a violation of this section~~  
19 ~~has occurred, the~~ **[The]** attorney general **[or a county or district at-**  
20 **torney]** may bring a civil suit in district court to enforce this section  
21 except that no such suit shall be filed against a business entity who par-  
22 ticipated in the federal e-verify system, if such business entity provides  
23 documentation that such system was used ~~prior to the hiring~~ **to verify**  
24 **the employment status** of the specific persons alleged to be unauthor-  
25 ized aliens and that such system did not raise concerns about such persons  
26 being unauthorized aliens.

27 (c) If the district court, after conducting a trial, finds a business entity  
28 to be in violation of this section, the court shall enter an injunction per-  
29 manently enjoining the business entity from further violation of this  
30 section.

31 (d) If a district court, after notice and hearing finds a business entity  
32 to be in violation of a permanent injunction issued pursuant to subsection  
33 (c), the court shall order the business entity to appear and show cause  
34 why such business entity should not be held in contempt.

35 (e) Any business entity named as a defendant in a suit brought under  
36 authority of this section may, as an affirmative defense to such charge,  
37 plead and prove that the business entity properly completed an I-9 form  
38 as required by federal law in regard to the hiring of the person or persons  
39 alleged to be unauthorized aliens.

40 **[(f) Any action brought pursuant to this section shall be com-**  
41 **menced within five years of the occurrence of the violation of this**  
42 **section.]**

43 New Sec. 6. (a) There is hereby established within the office of the

1 attorney general an illegal immigration enforcement division.

2 (b) The illegal immigration enforcement division shall be responsible  
3 for the investigation and enforcement of the criminal and civil prohibi-  
4 tions established under this act, the provisions of K.S.A. 21-3446, 21-3447  
5 ~~and 21-4409~~, **21-4409 and subsection (d) of K.S.A. 2007 Supp. 76-**  
6 **731a**], and amendments thereto, and sections 7 ~~and 8~~, **8 and 9**], and  
7 amendments thereto.

8 (c) The attorney general shall have authority [**concurrent with a**  
9 **county or district attorney**] to prosecute any civil or criminal violation  
10 under this act.

11 New Sec. 7. (a) Employment identity fraud is willfully presenting to  
12 an employer false or misleading identification documents for the purpose  
13 of obtaining employment in the state of Kansas.

14 (b) Employment identity fraud is a severity level 8, nonperson felony.

15 (c) This section shall be part of and supplemental to the Kansas crim-  
16 inal code.

17 New Sec. 8. (a) Coercing employment is labor or services that are  
18 performed or provided by another person and that are obtained or main-  
19 tained through any of the following:

20 (1) Causing or threatening to cause ~~serious~~ physical injury to any  
21 person;

22 (2) physically restraining or threatening to physically restrain another  
23 person;

24 (3) abusing or threatening to abuse the law or legal process;

25 (4) threatening to withhold food, lodging or clothing; or

26 (5) knowingly destroying, concealing, removing, confiscating or pos-  
27 sessed any actual or purported passport or other immigration document,  
28 or any other actual or purported government identification document, of  
29 another person.

30 (b) Coercing employment is a severity level 9, person felony[, **if the**  
31 **victim is 18 years of age or older. Coercing employment is a severity**  
32 **level 5, person felony, if the victim is less than 18 years of age**].

33 (c) This section shall be part of and supplemental to the Kansas crim-  
34 inal code.

35 [**New Sec. 9. Peonage is knowingly holding another person in**  
36 **a condition of involuntary servitude in satisfaction of a debt owed**  
37 **the person who is holding such other person.**

38 [(b) **“Involuntary servitude” means a condition of servitude in**  
39 **which the victim is forced to work for another person by the use or**  
40 **threat of physical restraint or physical injury, or by the use or**  
41 **threat of coercion through law or the legal process.**

42 [(c) **The provisions of this section shall not apply to the use of**  
43 **the labor of any person incarcerated in a state or county correc-**

1 **tional facility or city jail.**

2 **[(d) Peonage is a severity level 8, person felony.**

3 **[(e) This section shall be part of and supplemental to the Kansas**  
4 **criminal code.]**

5 New Sec. ~~9~~ **[10.]** (a) The sentence of any person who is convicted  
6 of violating any criminal statute in this state shall not be subject to stat-  
7 utory provisions for suspended sentence, conditional release, community  
8 service or probation, if such person's presence in the United States is in  
9 violation of federal immigration laws.

10 (b) The provisions of this section shall apply to crimes committed  
11 after July 1, 2008.

12 (c) This section shall be part of and supplemental to the Kansas crim-  
13 inal code.

14 Sec. ~~10~~ **[11.]** K.S.A. 21-3446 is hereby amended to read as follows:  
15 21-3446. (a) *Human trafficking is:*

16 (1) ~~Recruiting, harboring, transporting, providing or obtaining, by any~~  
17 ~~means, another person knowing that force, fraud, threat or coercion will~~  
18 ~~be used to cause the person to engage in forced labor or involuntary~~  
19 ~~servitude, or~~ *The recruitment, harboring, transportation, provision or ob-*  
20 *taining of a person for labor or services, through the use of force, fraud*  
21 *or coercion for the purpose of subjecting the person to involuntary ser-*  
22 *vitute or forced labor;*

23 (2) *benefitting financially or by receiving anything of value from par-*  
24 *ticipation in a venture that has engaged in acts set forth in subsection (a)*  
25 *paragraph (1); or (3); or*

26 (3) *knowingly transporting or assisting in the transporting of any*  
27 *person into this state who is not lawfully present in the United States.*

28 **[(4) knowing or in reckless disregard of the fact that an alien**  
29 **has come to, entered or remains in the United States in violation of**  
30 **law, conceals, harbors or shields from detection, or attempts to con-**  
31 **ceal, harbor or shield from detection, such alien in any place, in-**  
32 **cluding any building or any means of transportation and who does**  
33 **so for the purpose of commercial advantage or private financial**  
34 **gain. It is not a violation of this paragraph:**

35 **[(A) For a religious denomination having a bona fide nonprofit,**  
36 **religious organization in the United States, or the agents or officers**  
37 **of such denomination or organization, to encourage, invite, call,**  
38 **allow or enable an alien who is present in the United States to per-**  
39 **form the vocation of a minister or missionary for the denomination**  
40 **or organization in the United States as a volunteer who is not com-**  
41 **pensated as an employee, notwithstanding the provision of room,**  
42 **board, travel, medical assistance and other basic living expenses,**  
43 **provided the minister or missionary has been a member of the de-**

1 *nomination for at least one year; or*  
2 *[(B) if the state is prohibited by federal law from pursuing a*  
3 *prosecution under this provision.]*

4 (b) *Human trafficking is a severity level 2, person felony.*

5 *[(c) In addition to the penalty under subsection (b), if a person*  
6 *is found guilty of violating subsection (a)(3) or (a)(4), the sentence*  
7 *otherwise provided for may be increased by up to 10 years if the*  
8 *offense was part of an ongoing commercial or criminal organization*  
9 *or enterprise and:*

10 *[(1) aliens were transported in a manner that endangered their*  
11 *lives; or*

12 *[(2) the aliens presented a life-threatening health risk to people*  
13 *in Kansas.]*

14 ~~(c)~~ *[(d) This section shall be part of and supplemental to the Kansas*  
15 *criminal code.*

16 Sec. ~~11~~ **[12.]** K.S.A. 21-3447 is hereby amended to read as follows:  
17 21-3447. (a) Aggravated *human trafficking* is:

18 (1) *Human trafficking*, as defined in K.S.A. 21-3446, and amend-  
19 ments thereto:

20 (A) Involving the commission or attempted commission of kidnap-  
21 ping, as defined in K.S.A. 21-3420, and amendments thereto;

22 (B) committed in whole or in part for the purpose of the sexual grat-  
23 ification of the defendant or another; or

24 (C) resulting in a death; or

25 (2) recruiting, harboring, transporting, providing or obtaining, by any  
26 means, a person under 18 years of age knowing that the person, with or  
27 without force, fraud, threat or coercion, will be used to engage in forced  
28 labor, involuntary servitude or sexual gratification of the defendant or  
29 another.

30 (b) Except as provided further, aggravated *human trafficking* is a se-  
31 verity level 1, person felony. When the offender is 18 years of age or  
32 older, aggravated *human trafficking*, if the victim is less than 14 years of  
33 age, is an off-grid person felony.

34 (c) This section shall be part of and supplemental to the Kansas crim-  
35 inal code.

36 Sec. ~~12~~ **[13.]** K.S.A. 21-4643 is hereby amended to read as follows:  
37 21-4643. (a) (1) Except as provided in subsection (b) or (d), a defendant

38 who is 18 years of age or older and is convicted of the following crimes  
39 committed on or after July 1, 2006, shall be sentenced to a term of im-  
40 prisonment for life with a mandatory minimum term of imprisonment of  
41 not less than 25 years unless the court determines that the defendant  
42 should be sentenced as determined in paragraph (2):

43 (A) Aggravated *human trafficking*, as defined in K.S.A. 21-3447, and

- 1 amendments thereto, if the victim is less than 14 years of age;
- 2 (B) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and  
3 amendments thereto;
- 4 (C) aggravated indecent liberties with a child, as defined in subsec-  
5 tion (a)(3) of K.S.A. 21-3504, and amendments thereto;
- 6 (D) aggravated criminal sodomy, as defined in subsection (a)(1) or  
7 (a)(2) of K.S.A. 21-3506, and amendments thereto;
- 8 (E) promoting prostitution, as defined in K.S.A. 21-3513, and amend-  
9 ments thereto, if the prostitute is less than 14 years of age;
- 10 (F) sexual exploitation of a child, as defined in subsection (a)(5) or  
11 (a)(6) of K.S.A. 21-3516, and amendments thereto; and
- 12 (G) an attempt, conspiracy or criminal solicitation, as defined in  
13 K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an of-  
14 fense defined in paragraphs (A) through (F).
- 15 (2) The provision of paragraph (1) requiring a mandatory minimum  
16 term of imprisonment of not less than 25 years shall not apply if the court  
17 finds:
- 18 (A) The defendant is an aggravated habitual sex offender and sen-  
19 tenced pursuant to K.S.A. 21-4642, and amendments thereto; or
- 20 (B) the defendant, because of the defendant's criminal history clas-  
21 sification, is subject to presumptive imprisonment pursuant to the sen-  
22 tencing guidelines grid for nondrug crimes and the sentencing range ex-  
23 ceeds 300 months. In such case, the defendant is required to serve a  
24 mandatory minimum term equal to the sentence established pursuant to  
25 the sentencing range.
- 26 (b) (1) On and after July 1, 2006, if a defendant who is 18 years of  
27 age or older is convicted of a crime listed in subsection (a)(1) and such  
28 defendant has previously been convicted of a crime listed in subsection  
29 (a)(1), a crime in effect at any time prior to the effective date of this act  
30 which is substantially the same as a crime listed in subsection (a)(1) or a  
31 crime under a law of another jurisdiction which is substantially the same  
32 as a crime listed in subsection (a)(1), the court shall sentence the de-  
33 fendant to a term of imprisonment for life with a mandatory minimum  
34 term of imprisonment of not less than 40 years. The provisions of this  
35 paragraph shall not apply to a crime committed under K.S.A. 21-3522,  
36 and amendments thereto, or a crime under a law of another jurisdiction  
37 which is substantially the same as K.S.A. 21-3522, and amendments  
38 thereto.
- 39 (2) The provision of paragraph (1) requiring a mandatory minimum  
40 term of imprisonment of not less than 40 years shall not apply if the court  
41 finds:
- 42 (A) The defendant is an aggravated habitual sex offender and sen-  
43 tenced pursuant to K.S.A. 21-4642, and amendments thereto; or

1 (B) the defendant, because of the defendant's criminal history clas-  
2 sification, is subject to presumptive imprisonment pursuant to the sen-  
3 tencing guidelines grid for nondrug crimes and the sentencing range ex-  
4 ceeds 480 months. In such case, the defendant is required to serve a  
5 mandatory minimum term equal to the sentence established pursuant to  
6 the sentencing range.

7 (c) When a person is sentenced pursuant to subsection (a) or (b),  
8 such person shall be sentenced to a mandatory minimum term of im-  
9 prisonment of not less than 25 years, 40 years or be sentenced as deter-  
10 mined in subsection (a)(2) or subsection (b)(2), whichever is applicable,  
11 and shall not be eligible for probation or suspension, modification or  
12 reduction of sentence. In addition, a person sentenced pursuant to this  
13 section shall not be eligible for parole prior to serving such mandatory  
14 term of imprisonment, and such imprisonment shall not be reduced by  
15 the application of good time credits.

16 (d) On or after July 1, 2006, for a first time conviction of an offense  
17 listed in paragraph (a)(1), the sentencing judge shall impose the manda-  
18 tory minimum term of imprisonment provided by subsection (a), unless  
19 the judge finds substantial and compelling reasons, following a review of  
20 mitigating circumstances, to impose a departure. If the sentencing judge  
21 departs from such mandatory minimum term of imprisonment, the judge  
22 shall state on the record at the time of sentencing the substantial and  
23 compelling reasons for the departure. The departure sentence shall be  
24 the sentence pursuant to the sentencing guidelines act, K. S. A. 21-4701  
25 et seq., and amendments thereto, and no sentence of a mandatory min-  
26 imum term of imprisonment shall be imposed hereunder. as used in this  
27 subsection, mitigating circumstances shall include, but are not limited to,  
28 the following:

29 (1) The defendant has no significant history of prior criminal activity.

30 (2) The crime was committed while the defendant was under the  
31 influence of extreme mental or emotional disturbances.

32 (3) The victim was an accomplice in the crime committed by another  
33 person, and the defendant's participation was relatively minor.

34 (4) The defendant acted under extreme distress or under the sub-  
35 stantial domination of another person.

36 (5) The capacity of the defendant to appreciate the criminality of the  
37 defendant's conduct or to conform the defendant's conduct to the  
38 requirements of law was substantially impaired.

39 (6) The age of the defendant at the time of the crime.

40 ~~Sec. 13.~~ **[14.]** K.S.A. 22-4902 is hereby amended to read as follows:  
41 22-4902. As used in this act, unless the context otherwise requires:

42 (a) "Offender" means: (1) A sex offender as defined in subsection (b);

43 (2) a violent offender as defined in subsection (d);

- 1 (3) a sexually violent predator as defined in subsection (f);
- 2 (4) any person who, on and after the effective date of this act, is
- 3 convicted of any of the following crimes when the victim is less than 18
- 4 years of age:
  - 5 (A) Kidnapping as defined in K.S.A. 21-3420 and amendments
  - 6 thereto, except by a parent;
  - 7 (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amend-
  - 8 ments thereto; or
  - 9 (C) criminal restraint as defined in K.S.A. 21-3424 and amendments
  - 10 thereto, except by a parent;
  - 11 (5) any person convicted of any of the following criminal sexual con-
  - 12 duct if one of the parties involved is less than 18 years of age:
    - 13 (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;
    - 14 (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-
    - 15 3505, and amendments thereto;
    - 16 (C) promoting prostitution as defined by K.S.A. 21-3513, and amend-
    - 17 ments thereto;
    - 18 (D) patronizing a prostitute as defined by K.S.A. 21-3515, and
    - 19 amendments thereto;
    - 20 (E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and
    - 21 amendments thereto; or
    - 22 (F) unlawful sexual relations as defined by K.S.A. 21-3520, and
    - 23 amendments thereto;
    - 24 (6) any person who has been required to register under any federal,
    - 25 military or other state's law or is otherwise required to be registered;
    - 26 (7) any person who, on or after July 1, 2006, is convicted of any person
    - 27 felony and the court makes a finding on the record that a deadly weapon
    - 28 was used in the commission of such person felony;
    - 29 (8) any person who has been convicted of an offense in effect at any
    - 30 time prior to the effective date of this act, that is comparable to any crime
    - 31 defined in subsection (4), (5), (7) or (11), or any federal, military or other
    - 32 state conviction for an offense that under the laws of this state would be
    - 33 an offense defined in subsection (4), (5), (7) or (11);
    - 34 (9) any person who has been convicted of an attempt, conspiracy or
    - 35 criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303
    - 36 and amendments thereto, of an offense defined in subsection (4), (5), (7)
    - 37 or (10);
    - 38 (10) any person who has been convicted of aggravated *human* traf-
    - 39 ficking as defined in K.S.A. 21-3447, and amendments thereto; or
    - 40 (11) any person who has been convicted of: (A) Unlawful manufac-
    - 41 ture or attempting such of any controlled substance as defined by K.S.A.
    - 42 65-4159, and amendments thereto, unless the court makes a finding on
    - 43 the record that the manufacturing or attempting to manufacture such

1 controlled substance was for such person’s personal use;

2 (B) possession of ephedrine, pseudoephedrine, red phosphorus, lith-  
3 ium metal, sodium metal, iodine, anhydrous ammonia, pressurized am-  
4 monia or phenylpropanolamine, or their salts, isomers or salts of isomers  
5 with intent to use the product to manufacture a controlled substance as  
6 defined by K.S.A. 65-7006, and amendments thereto, unless the court  
7 makes a finding on the record that the possession of such product was  
8 intended to be used to manufacture a controlled substance for such per-  
9 son’s personal use; or

10 (C) K.S.A. 65-4161, and amendments thereto.

11 Convictions which result from or are connected with the same act, or  
12 result from crimes committed at the same time, shall be counted for the  
13 purpose of this section as one conviction. Any conviction set aside pur-  
14 suant to law is not a conviction for purposes of this section. A conviction  
15 from another state shall constitute a conviction for purposes of this  
16 section.

17 (b) “Sex offender” includes any person who, after the effective date  
18 of this act, is convicted of any sexually violent crime set forth in subsection  
19 (c) or is adjudicated as a juvenile offender for an act which if committed  
20 by an adult would constitute the commission of a sexually violent crime  
21 set forth in subsection (c).

22 (c) “Sexually violent crime” means:

23 (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

24 (2) indecent liberties with a child as defined in K.S.A. 21-3503 and  
25 amendments thereto;

26 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-  
27 3504 and amendments thereto;

28 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of  
29 K.S.A. 21-3505 and amendments thereto;

30 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and  
31 amendments thereto;

32 (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and  
33 amendments thereto;

34 (7) aggravated indecent solicitation of a child as defined by K.S.A.  
35 21-3511 and amendments thereto;

36 (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and  
37 amendments thereto;

38 (9) sexual battery as defined by K.S.A. 21-3517 and amendments  
39 thereto;

40 (10) aggravated sexual battery as defined by K.S.A. 21-3518 and  
41 amendments thereto;

42 (11) aggravated incest as defined by K.S.A. 21-3603 and amendments  
43 thereto; or

- 1 (12) any conviction for an offense in effect at any time prior to the  
2 effective date of this act, that is comparable to a sexually violent crime as  
3 defined in subparagraphs (1) through (11), or any federal, military or  
4 other state conviction for an offense that under the laws of this state would  
5 be a sexually violent crime as defined in this section;
- 6 (13) an attempt, conspiracy or criminal solicitation, as defined in  
7 K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sex-  
8 ually violent crime, as defined in this section; or
- 9 (14) any act which at the time of sentencing for the offense has been  
10 determined beyond a reasonable doubt to have been sexually motivated.  
11 As used in this subparagraph, “sexually motivated” means that one of the  
12 purposes for which the defendant committed the crime was for the pur-  
13 pose of the defendant’s sexual gratification.
- 14 (d) “Violent offender” includes any person who, after the effective  
15 date of this act, is convicted of any of the following crimes:
- 16 (1) Capital murder as defined by K.S.A. 21-3439 and amendments  
17 thereto;
- 18 (2) murder in the first degree as defined by K.S.A. 21-3401 and  
19 amendments thereto;
- 20 (3) murder in the second degree as defined by K.S.A. 21-3402 and  
21 amendments thereto;
- 22 (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amend-  
23 ments thereto;
- 24 (5) involuntary manslaughter as defined by K.S.A. 21-3404 and  
25 amendments thereto; or
- 26 (6) any conviction for an offense in effect at any time prior to the  
27 effective date of this act, that is comparable to any crime defined in this  
28 subsection, or any federal, military or other state conviction for an offense  
29 that under the laws of this state would be an offense defined in this  
30 subsection; or
- 31 (7) an attempt, conspiracy or criminal solicitation, as defined in  
32 K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an of-  
33 fense defined in this subsection.
- 34 (e) “Law enforcement agency having jurisdiction” means the sheriff  
35 of the county in which the offender expects to reside upon the offender’s  
36 discharge, parole or release.
- 37 (f) “Sexually violent predator” means any person who, on or after July  
38 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-  
39 29a01 et seq. and amendments thereto.
- 40 (g) “Nonresident student or worker” includes any offender who  
41 crosses into the state or county for more than 14 days, or for an aggregate  
42 period exceeding 30 days in a calendar year, for the purposes of employ-  
43 ment, with or without compensation, or to attend school as a student.

- 1 (h) “Aggravated offenses” means engaging in sexual acts involving  
2 penetration with victims of any age through the use of force or the threat  
3 of serious violence, or engaging in sexual acts involving penetration with  
4 victims less than 14 years of age, and includes the following offenses:
- 5 (1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of  
6 K.S.A. 21-3502, and amendments thereto;
- 7 (2) aggravated criminal sodomy as defined in subsection (a)(1) and  
8 subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and
- 9 (3) any attempt, conspiracy or criminal solicitation, as defined in  
10 K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an of-  
11 fense defined in this subsection.
- 12 (i) “Institution of higher education” means any post-secondary school  
13 under the supervision of the Kansas board of regents.
- 14 ~~Sec. 14.~~ **[15.]** K.S.A. 22-4906 is hereby amended to read as follows:  
15 22-4906. (a) Except as provided in subsection (d), any person required to  
16 register as provided in this act shall be required to register: (1) Upon the  
17 first conviction of a sexually violent crime as defined in subsection (c) of  
18 K.S.A. 22-4902, and amendments thereto, any offense as defined in sub-  
19 section (a) of K.S.A. 22-4902, and amendments thereto, or any offense as  
20 defined in subsection (d) of K.S.A. 22-4902, and amendments thereto, if  
21 not confined, for a period of 10 years after conviction, or, if confined, for  
22 a period of 10 years after paroled, discharged or released, whichever date  
23 is most recent. The ten-year period shall not apply to any person while  
24 the person is incarcerated in any jail or correctional facility. The ten-year  
25 registration requirement does not include any time period when any per-  
26 son who is required to register under this act knowingly or willfully fails  
27 to comply with the registration requirement; or (2) upon a second or  
28 subsequent conviction for such person’s lifetime.
- 29 (b) Upon the first conviction, liability for registration terminates, if  
30 not confined, at the expiration of 10 years from the date of conviction,  
31 or, if confined, at the expiration of 10 years from the date of parole,  
32 discharge or release, whichever date is most recent. The ten-year period  
33 shall not apply to any person while the person is incarcerated in any jail  
34 or correctional facility. The ten-year registration requirement does not  
35 include any time period when any person who is required to register  
36 under this act knowingly or willfully fails to comply with the registration  
37 requirement. Liability for registration does not terminate if the convicted  
38 offender again becomes liable to register as provided by this act during  
39 that period.
- 40 (c) Any person who has been convicted of an aggravated offense shall  
41 be required to register for such person’s lifetime.
- 42 (d) Any person who has been convicted of any of the following of-  
43 fenses shall be required to register for such person’s lifetime:

- 1 (1) Aggravated *human* trafficking, as defined in K.S.A. 21-3447, and  
2 amendments thereto, if the victim is less than 14 years of age;
- 3 (2) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and  
4 amendments thereto;
- 5 (3) aggravated indecent liberties with a child, as defined in subsection  
6 (a)(3) of K.S.A. 21-3504, and amendments thereto;
- 7 (4) aggravated criminal sodomy, as defined in subsection (a)(1) or  
8 (a)(2) of K.S.A. 21-3506, and amendments thereto;
- 9 (5) promoting prostitution, as defined in K.S.A. 21-3513, and amend-  
10 ments thereto, if the prostitute is less than 14 years of age; or
- 11 (6) sexual exploitation of a child, as defined in subsection (a)(5) or  
12 (a)(6) of K.S.A. 21-3516, and amendments thereto.
- 13 (e) Any person who has been declared a sexually violent predator  
14 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall reg-  
15 ister for such person's lifetime.
- 16 (f) Any nonresident worker shall register for the duration of such  
17 person's employment. The provisions of this subsection are in addition to  
18 subsections (a) and (b).
- 19 (g) Any nonresident student shall register for the duration of such  
20 person's attendance at a school or educational institution as provided in  
21 this act. The provisions of this subsection are in addition to subsections  
22 (a) and (b).
- 23 (h) (1) Notwithstanding any other provisions of this section, a person  
24 who is adjudicated as a juvenile offender for an act which if committed  
25 by an adult would constitute the commission of a sexually violent crime  
26 set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto,  
27 and such crime is an off-grid felony or a felony ranked in severity level 1  
28 of the nondrug grid as provided in K.S.A. 21-4704, and amendments  
29 thereto, shall be required to register until such person reaches 18 years  
30 of age, at the expiration of five years from the date of adjudication or, if  
31 confined, from release from confinement, whichever date occurs later.  
32 The five-year period shall not apply to any person while that person is  
33 incarcerated in any jail, juvenile facility or correctional facility. The five-  
34 year registration requirement does not include any time period when any  
35 person who is required to register under this act knowingly or willfully  
36 fails to comply with the registration requirement.
- 37 (2) (A) A person who is adjudicated as a juvenile offender for an act  
38 which if committed by an adult would constitute the commission of a  
39 sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and  
40 amendments thereto, and such crime is not an off-grid felony or a felony  
41 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-  
42 4704, and amendments thereto, may, by the court:
- 43 (i) Be required to register pursuant to the provisions of paragraph

- 1 (1);
- 2 (ii) not be required to register if the judge, on the record, finds sub-
- 3 stantial and compelling reasons therefor; or
- 4 (iii) be required to register with the sheriff pursuant to K.S.A. 22-
- 5 4904, and amendments thereto, but such registration information shall
- 6 not be open to inspection by the public or posted on any internet website,
- 7 as provided in K.S.A. 22-4909, and amendments thereto. If the court
- 8 requires the juvenile to register but such registration is not open to the
- 9 public, the juvenile shall provide a copy of such court order to the sheriff
- 10 at the time of registration. The sheriff shall forward a copy of such court
- 11 order to the Kansas bureau of investigation.
- 12 (B) If such juvenile offender violates a condition of release during
- 13 the term of the conditional release, the judge may require the juvenile
- 14 offender to register pursuant to paragraph (1).
- 15 (3) Liability for registration does not terminate if the adjudicated of-
- 16 fender again becomes liable to register as provided by this act during the
- 17 required period.
- 18 (4) The provisions of paragraph (2)(A)(ii) shall apply to adjudications
- 19 on and after the effective date of this act and retroactively to adjudications
- 20 prior to July 1, 2007.
- 21 (i) Any person moving to the state of Kansas who has been convicted
- 22 in another state, and who was required to register under that state's laws,
- 23 shall register for the same length of time required by that state or Kansas,
- 24 whichever length of time is longer. The provisions of this subsection shall
- 25 apply to convictions prior to June 1, 2006 and to persons who moved to
- 26 Kansas prior to June 1, 2006.
- 27 ~~Sec. 15.~~ **[16.]** K.S.A. 2007 Supp. 38-2361 is hereby amended to read
- 28 as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant
- 29 to K.S.A. 2007 Supp. 38-2356, and amendments thereto, modification of
- 30 sentence pursuant to K.S.A. 2007 Supp. 38-2367, and amendments
- 31 thereto, or violation of a condition of sentence pursuant to K.S.A. 2007
- 32 Supp. 38-2368, and amendments thereto, and subject to subsection (a)
- 33 of K.S.A. 2007 Supp. 38-2365, and amendments thereto, the court may
- 34 impose one or more of the following sentencing alternatives. In the event
- 35 that any sentencing alternative chosen constitutes an order authorizing or
- 36 requiring removal of the juvenile from the juvenile's home and such find-
- 37 ings either have not previously been made or the findings are not or may
- 38 no longer be current, the court shall make determinations as required by
- 39 K.S.A. 2007 Supp. 38-2334 and 38-2335, and amendments thereto.
- 40 (1) Place the juvenile on probation through court services or com-
- 41 munity corrections for a fixed period, subject to terms and conditions the
- 42 court deems appropriate consistent with juvenile justice programs in the
- 43 community.

- 1       (2) Order the juvenile to participate in a community based program  
2 available in such judicial district subject to the terms and conditions the  
3 court deems appropriate. This alternative shall not be ordered with the  
4 alternative in paragraph (12) and when ordered with the alternative in  
5 paragraph (10) shall constitute a recommendation. Requirements per-  
6 taining to child support may apply if custody is vested with other than a  
7 parent.
- 8       (3) Place the juvenile in the custody of a parent or other suitable  
9 person, subject to terms and conditions consistent with juvenile justice  
10 programs in the community. This alternative shall not be ordered with  
11 the alternative in paragraph (10) or (12). Requirements pertaining to child  
12 support may apply if custody is vested with other than a parent.
- 13       (4) Order the juvenile to attend counseling, educational, mediation  
14 or other sessions, or to undergo a drug evaluation pursuant to subsection  
15 (b).
- 16       (5) Suspend or restrict the juvenile's driver's license or privilege to  
17 operate a motor vehicle on the streets and highways of this state pursuant  
18 to subsection (c).
- 19       (6) Order the juvenile to perform charitable or community service  
20 work.
- 21       (7) Order the juvenile to make appropriate reparation or restitution  
22 pursuant to subsection (d).
- 23       (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to  
24 subsection (e).
- 25       (9) Place the juvenile under a house arrest program administered by  
26 the court pursuant to K.S.A. 21-4603b, and amendments thereto.
- 27       (10) Place the juvenile in the custody of the commissioner as provided  
28 in K.S.A. 2007 Supp. 38-2365, and amendments thereto. This alternative  
29 shall not be ordered with the alternative in paragraph (3) or (12). Except  
30 for a mandatory drug and alcohol evaluation, when this alternative is or-  
31 dered with alternatives in paragraphs (2), (4) and (9), such orders shall  
32 constitute a recommendation by the court. Requirements pertaining to  
33 child support shall apply under this alternative.
- 34       (11) Commit the juvenile to a sanctions house for a period no longer  
35 than 28 days subject to the provisions of subsection (f).
- 36       (12) Commit the juvenile directly to the custody of the commissioner  
37 for a period of confinement in a juvenile correctional facility and a period  
38 of aftercare pursuant to K.S.A. 2007 Supp. 38-2369, and amendments  
39 thereto. The provisions of K.S.A. 2007 Supp. 38-2365, and amendments  
40 thereto, shall not apply to juveniles committed pursuant to this provision.  
41 This alternative may be ordered with the alternative in paragraph (7).  
42 Requirements pertaining to child support shall apply under this  
43 alternative.

1 (b) If the court orders the juvenile to attend counseling, educational,  
2 mediation or other sessions, or to undergo a drug and alcohol evaluation  
3 pursuant to subsection (a)(4), the following provisions apply:

4 (1) The court may order the juvenile offender to participate in coun-  
5 seling or mediation sessions or a program of education, including place-  
6 ment in an alternative educational program approved by a local school  
7 board. The costs of any counseling or mediation may be assessed as ex-  
8 penses in the case. No mental health center shall charge a fee for court-  
9 ordered counseling greater than what the center would have charged the  
10 person receiving the counseling if the person had requested counseling  
11 on the person's own initiative. No mediator shall charge a fee for court-  
12 ordered mediation greater than what the mediator would have charged  
13 the person participating in the mediation if the person had requested  
14 mediation on the person's own initiative. Mediation may include the vic-  
15 tim but shall not be mandatory for the victim; and

16 (2) if the juvenile has been adjudicated to be a juvenile by reason of  
17 a violation of a statute that makes such a requirement, the court shall  
18 order and, if adjudicated for any other offense, the court may order the  
19 juvenile to submit to and complete a drug and alcohol evaluation by a  
20 community-based drug and alcohol safety action program certified pur-  
21 suant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to  
22 exceed the fee established by that statute for such evaluation. The court  
23 may waive the mandatory evaluation if the court finds that the juvenile  
24 completed a drug and alcohol evaluation, approved by the community-  
25 based alcohol and drug safety action program, within 12 months before  
26 sentencing. If the evaluation occurred more than 12 months before sen-  
27 tencing, the court shall order the juvenile to resubmit to and complete  
28 the evaluation and program as provided herein. If the court finds that the  
29 juvenile and those legally liable for the juvenile's support are indigent,  
30 the court may waive the fee. In no event shall the fee be assessed against  
31 the commissioner or the juvenile justice authority nor shall the fee be  
32 assessed against the secretary of social and rehabilitation services or the  
33 department of social and rehabilitation services if the juvenile is in the  
34 secretary's care, custody and control.

35 (c) If the court orders suspension or restriction of a juvenile of-  
36 fender's driver's license or privilege to operate a motor vehicle on the  
37 streets and highways of this state pursuant to subsection (a)(5), the fol-  
38 lowing provisions apply:

39 (1) The duration of the suspension ordered by the court shall be for  
40 a definite time period to be determined by the court. Upon suspension  
41 of a license pursuant to this subsection, the court shall require the juvenile  
42 offender to surrender the license to the court. The court shall transmit  
43 the license to the division of motor vehicles of the department of revenue,

1 to be retained until the period of suspension expires. At that time, the  
2 licensee may apply to the division for return of the license. If the license  
3 has expired, the juvenile offender may apply for a new license, which shall  
4 be issued promptly upon payment of the proper fee and satisfaction of  
5 other conditions established by law for obtaining a license unless another  
6 suspension or revocation of the juvenile offender's privilege to operate a  
7 motor vehicle is in effect. As used in this subsection, "highway" and  
8 "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and  
9 amendments thereto. Any juvenile offender who does not have a driver's  
10 license may have driving privileges revoked. No Kansas driver's license  
11 shall be issued to a juvenile offender whose driving privileges have been  
12 revoked pursuant to this section for a definite time period to be deter-  
13 mined by the court; and

14 (2) in lieu of suspending a juvenile offender's driver's license or priv-  
15 ilege to operate a motor vehicle on the highways of this state, the court  
16 may enter an order which places conditions on the juvenile offender's  
17 privilege of operating a motor vehicle on the streets and highways of this  
18 state, a certified copy of which the juvenile offender shall be required to  
19 carry any time the juvenile offender is operating a motor vehicle on the  
20 streets and highways of this state. The order shall prescribe a definite  
21 time period for the conditions imposed. Upon entering an order restrict-  
22 ing a juvenile offender's license, the court shall require the juvenile of-  
23 fender to surrender such juvenile offender's license to the court. The  
24 court shall transmit the license to the division of vehicles, together with  
25 a copy of the order. Upon receipt thereof, the division of vehicles shall  
26 issue without charge a driver's license which shall indicate on its face that  
27 conditions have been imposed on the juvenile offender's privilege of op-  
28 erating a motor vehicle and that a certified copy of the order imposing  
29 the conditions is required to be carried by the juvenile offender when  
30 operating a motor vehicle on the streets and highways of this state. If the  
31 juvenile offender is a nonresident, the court shall cause a copy of the  
32 order to be transmitted to the division and the division shall forward a  
33 copy of it to the motor vehicle administrator of the juvenile offender's  
34 state of issuance. The court shall furnish to any juvenile offender whose  
35 driver's license has had conditions imposed on it under this section a copy  
36 of the order, which shall be recognized as a valid Kansas driver's license  
37 until the division issues the restricted license provided for in this subsec-  
38 tion. Upon expiration of the period of time for which conditions are im-  
39 posed pursuant to this subsection, the juvenile offender may apply to the  
40 division for the return of the license previously surrendered by the ju-  
41 venile offender. In the event the license has expired, the juvenile offender  
42 may apply to the division for a new license, which shall be issued im-  
43 mediately by the division upon payment of the proper fee and satisfaction

1 of the other conditions established by law unless such juvenile offender's  
2 privilege to operate a motor vehicle on the streets and highways of this  
3 state has been suspended or revoked prior thereto. If any juvenile of-  
4 fender violates any of the conditions imposed under this subsection, the  
5 juvenile offender's driver's license or privilege to operate a motor vehicle  
6 on the streets and highways of this state shall be revoked for a period as  
7 determined by the court in which the juvenile offender is convicted of  
8 violating such conditions.

9 (d) The following provisions apply to the court's determination of  
10 whether to order reparation or restitution pursuant to subsection (a)(7):

11 (1) The court shall order the juvenile to make reparation or restituti-  
12 on to the aggrieved party for the damage or loss caused by the juvenile  
13 offender's offense unless it finds compelling circumstances that would  
14 render a plan of reparation or restitution unworkable. If the court finds  
15 compelling circumstances that would render a plan of reparation or res-  
16 titution unworkable, the court shall enter such findings with particularity  
17 on the record. In lieu of reparation or restitution, the court may order  
18 the juvenile to perform charitable or social service for organizations per-  
19 forming services for the community; and

20 (2) restitution may include, but shall not be limited to, the amount  
21 of damage or loss caused by the juvenile's offense. Restitution may be  
22 made by payment of an amount fixed by the court or by working for the  
23 parties sustaining loss in the manner ordered by the court. An order of  
24 monetary restitution shall be a judgment against the juvenile that may be  
25 collected by the court by garnishment or other execution as on judgments  
26 in civil cases. Such judgment shall not be affected by the termination of  
27 the court's jurisdiction over the juvenile offender.

28 (e) If the court imposes a fine pursuant to subsection (a)(8), the fol-  
29 lowing provisions apply:

30 (1) The amount of the fine may not exceed \$1,000 for each offense.  
31 The amount of the fine should be related to the seriousness of the offense  
32 and the juvenile's ability to pay. Payment of a fine may be required in a  
33 lump sum or installments;

34 (2) in determining whether to impose a fine and the amount to be  
35 imposed, the court shall consider that imposition of a fine is most appro-  
36 priate in cases where the juvenile has derived pecuniary gain from the  
37 offense and that imposition of a restitution order is preferable to impo-  
38 sition of a fine; and

39 (3) any fine imposed by court shall be a judgment against the juvenile  
40 that may be collected by the court by garnishment or other execution as  
41 on judgments in civil cases. Such judgment shall not be affected by the  
42 termination of the court's jurisdiction over the juvenile.

43 (f) If the court commits the juvenile to a sanctions house pursuant to

1 subsection (a)(11), the following provisions shall apply:

2 (1) The court may order commitment for up to 28 days for the same  
3 offense or violation of sentencing condition. The court shall review the  
4 commitment every seven days and, may shorten the initial commitment  
5 or, if the initial term is less than 28 days, may extend the commitment;

6 (2) if, in the sentencing order, the court orders a sanctions house  
7 placement for a verifiable probation violation and such probation violation  
8 occurs, the juvenile may immediately be taken to a sanctions house and  
9 detained for no more than 48 hours, excluding Saturdays, Sundays and  
10 holidays, prior to court review of the placement. The court and all parties  
11 shall be notified of the sanctions house placement; and

12 (3) a juvenile over 18 years of age and less than 23 years of age at  
13 sentencing shall be committed to a county jail, in lieu of a sanctions house,  
14 under the same time restrictions imposed by paragraph (1), but shall not  
15 be committed to or confined in a juvenile detention facility.

16 (g) Any order issued by the judge pursuant to this section shall be in  
17 effect immediately upon entry into the court's minutes.

18 (h) In addition to the requirements of K.S.A. 2007 Supp. 38-2373,  
19 and amendments thereto, if a person is under 18 years of age and con-  
20 victed of a felony or adjudicated as a juvenile offender for an offense if  
21 committed by an adult would constitute the commission of a felony, the  
22 court shall forward a signed copy of the journal entry to the commissioner  
23 within 30 days of final disposition.

24 (i) Except as further provided, if a juvenile has been adjudged to be  
25 a juvenile offender for an offense that if committed by an adult would  
26 constitute the commission of: (1) Aggravated *human* trafficking, as de-  
27 fined in K.S.A. 2007 Supp. 21-3447, and amendments thereto, if the vic-  
28 tim is less than 14 years of age; (2) rape, as defined in subsection (a)(2)  
29 of K.S.A. 21-3502, and amendments thereto; (3) aggravated indecent lib-  
30 erties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and  
31 amendments thereto; (4) aggravated criminal sodomy, as defined in sub-  
32 section (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto; (5)  
33 promoting prostitution, as defined in K.S.A. 21-3513, and amendments  
34 thereto, if the prostitute is less than 14 years of age; (6) sexual exploitation  
35 of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and  
36 amendments thereto; or (7) an attempt, conspiracy or criminal sollicita-  
37 tion, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments  
38 thereto, of an offense defined in parts (1) through (6); the court shall  
39 issue an order prohibiting the juvenile from attending the attendance  
40 center that the victim of the offense attends. If only one attendance center  
41 exists, for which the victim and juvenile are eligible to attend, in the school  
42 district where the victim and the juvenile reside, the court shall hear  
43 testimony and take evidence from the victim, the juvenile, their families

- 1 and a representative of the school district as to why the juvenile should  
2 or should not be allowed to remain at the attendance center attended by  
3 the victim. After such hearing, the court may issue an order prohibiting  
4 the juvenile from attending the attendance center that the victim of the  
5 offense attends.
- 6 (j) The sentencing hearing shall be open to the public as provided in  
7 K.S.A. 2007 Supp. 38-2353, and amendments thereto.
- 8 ~~Sec. 16. 17.~~ K.S.A. 2007 Supp. 60-4104 is hereby amended to read  
9 as follows: 60-4104. Conduct and offenses giving rise to forfeiture under  
10 this act, whether or not there is a prosecution or conviction related to the  
11 offense, are:
- 12 (a) All offenses which statutorily and specifically authorize forfeiture;  
13 (b) violations of the uniform controlled substances act, K.S.A. 65-  
14 4101 et seq., and amendments thereto;
- 15 (c) theft which is classified as a felony violation pursuant to K.S.A.  
16 21-3701, and amendments thereto, in which the property taken was  
17 livestock;
- 18 (d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments  
19 thereto;
- 20 (e) money laundering, *as described in* K.S.A. 65-4142, and amend-  
21 ments thereto;
- 22 (f) gambling, *as described in* K.S.A. 21-4303, and amendments  
23 thereto, and commercial gambling, *as described in* K.S.A. 21-4304, and  
24 amendments thereto;
- 25 (g) counterfeiting, *as described in* K.S.A. ~~2007 Supp.~~ 21-3763, and  
26 amendments thereto;
- 27 (h) violations of K.S.A. ~~2007 Supp.~~ 21-4019, and amendments  
28 thereto;
- 29 (i) medicaid fraud, *as described in* K.S.A. 21-3844 et seq., and amend-  
30 ments thereto;
- 31 (j) an act or omission occurring outside this state, which would be a  
32 violation in the place of occurrence and would be described in this section  
33 if the act occurred in this state, whether or not it is prosecuted in any  
34 state;
- 35 (k) an act or omission committed in furtherance of any act or omission  
36 described in this section including any inchoate or preparatory offense,  
37 whether or not there is a prosecution or conviction related to the act or  
38 omission;
- 39 (l) any solicitation or conspiracy to commit any act or omission de-  
40 scribed in this section, whether or not there is a prosecution or conviction  
41 related to the act or omission;
- 42 (m) furtherance of terrorism or illegal use of weapons of mass de-  
43 struction, K.S.A. ~~2007 Supp.~~ 21-3451, and amendments thereto;

1 (n) *the commission of any felony by a person whose presence in the*  
2 *United States is in violation of federal immigration laws; ~~and~~*

3 (o) *human trafficking as described in K.S.A. 21-3446 or 21-3447, and*  
4 *amendments thereto-~~;~~ **and***

5 **(p) *peonage as described in section 9, and amendments thereto.***]

6 Sec. ~~17.~~ **[18.]** K.S.A. 2007 Supp. 75-451 is hereby amended to read  
7 as follows: 75-451. The legislature finds that persons attempting to escape  
8 from actual or threatened domestic violence, sexual assault, *human traf-*  
9 *ficking or stalking* frequently establish new addresses in order to prevent  
10 their assailants or probable assailants from finding them. The purpose of  
11 K.S.A. 2007 Supp. 75-451 to 75-458, inclusive, and amendments thereto,  
12 is to enable state and local agencies to respond to requests for public  
13 records without disclosing the location of a victim of domestic violence,  
14 sexual assault, *human trafficking or stalking*, to enable interagency co-  
15 operation with the secretary of state in providing address confidentiality  
16 for victims of domestic violence, sexual assault, *human trafficking or stalk-*  
17 *ing*, and to enable state and local agencies to accept a program partici-  
18 pant's use of an address designated by the secretary of state as a substitute  
19 mailing address.

20 Sec. ~~18.~~ **[19.]** K.S.A. 2007 Supp. 75-452 is hereby amended to read  
21 as follows: 75-452. The following words and phrases when used in K.S.A.  
22 2007 Supp. 75-451 to 75-458, inclusive, and amendments thereto, shall  
23 have the meanings respectively ascribed to them herein, unless the con-  
24 text clearly requires otherwise:

25 (a) "Abuse" means:

- 26 (1) Causing or attempting to cause physical harm;
- 27 (2) placing another person in fear of imminent physical harm;
- 28 (3) causing another person to engage involuntarily in sexual relations  
29 by force, threats or duress, or threatening to do so;
- 30 (4) engaging in mental abuse, which includes threats, intimidation  
31 and acts designed to induce terror;
- 32 (5) depriving another person of necessary health care, housing or  
33 food; or
- 34 (6) unreasonably and forcibly restraining the physical movement of  
35 another.

36 (b) "Confidential address" means a residential street address, school  
37 street address or work street address of an individual, as specified on the  
38 individual's application to be a program participant under K.S.A. 2007  
39 Supp. 75-451 to 75-458, inclusive, and amendments thereto.

40 (c) "Confidential mailing address" means an address that is recog-  
41 nized for delivery by the United States postal service.

42 (d) "Domestic violence" means abuse committed against a victim or  
43 the victim's spouse or dependent child by:

- 1 (1) A current or former spouse of the victim;
- 2 (2) a person with whom the victim shares parentage of a child in  
3 common;
- 4 (3) a person who is cohabitating with, or has cohabitated with, the  
5 victim;
- 6 (4) a person who is related by blood or marriage; or
- 7 (5) a person with whom the victim has or had a dating or engagement  
8 relationship.
- 9 (e) “Program participant” means a person certified as a program par-  
10 ticipant under K.S.A. 2007 Supp. 75-453, and amendments thereto.
- 11 (f) “Enrolling agent” means state and local agencies, law enforcement  
12 offices, nonprofit agencies and any others designated by the secretary of  
13 state that provide counseling and shelter services to victims of domestic  
14 violence, sexual assault, *human* trafficking or stalking.
- 15 (g) “Sexual assault” means an act which if committed in this state  
16 would constitute any crime defined in article 35 of chapter 21 of the  
17 Kansas Statutes Annotated.
- 18 (h) “Stalking” means an act which if committed in this state would  
19 constitute “stalking” as defined by K.S.A. 60-31a01, and amendments  
20 thereto.
- 21 (i) “*Human* trafficking” means an act which if committed in this state  
22 would constitute the crime of *human* trafficking as defined by K.S.A. 21-  
23 3446, and amendments thereto.
- 24 ~~Sec. 19.~~ **[20.]** K.S.A. 2007 Supp. 75-453 is hereby amended to read  
25 as follows: 75-453. (a) An adult person, an adult family member residing  
26 with the victim, a parent or guardian acting on behalf of a minor, or a  
27 guardian acting on behalf of an incapacitated person, may apply by and  
28 through an enrolling agent to have an address designated by the secretary  
29 of state serve as the person’s address or the address of the minor or  
30 incapacitated person. Program participants shall not apply directly to the  
31 secretary of state. The secretary of state shall approve an application if it  
32 is filed in the manner and on the form prescribed by the secretary of  
33 state signed by the applicant and enrolling agent under penalty of perjury  
34 and providing:
- 35 (1) A statement by the applicant that the applicant has good reason  
36 to believe that the applicant, or the minor or incapacitated person on  
37 whose behalf the application is made, is a victim of domestic violence,  
38 sexual assault, *human* trafficking or stalking and:
- 39 (i) That the applicant fears for the applicant’s safety or the applicant’s  
40 children’s safety or the safety of the minor or incapacitated person on  
41 whose behalf the application is made; or
- 42 (ii) that by virtue of living with an enrolled program participant, the  
43 applicant fears that the knowledge or publication of the applicants’ where-

- 1 abouts will put the enrolled participant in danger.
- 2 (2) A designation of the secretary of state as agent for purposes of  
3 service of process and for the purpose of receipt of mail.
- 4 (3) The confidential mailing address where the applicant can be con-  
5 tacted by the secretary of state, and the phone number or numbers where  
6 the applicant can be called by the secretary of state.
- 7 (4) The confidential address or addresses that the applicant requests  
8 not be disclosed for the reason that disclosure will increase the risk of  
9 domestic violence, sexual assault, *human* trafficking or stalking.
- 10 (5) Evidence that the applicant or the minor or incapacitated person  
11 on whose behalf the application is made, is a victim of domestic violence,  
12 sexual assault, *human* trafficking or stalking, or is an adult family member  
13 residing with the victim. This evidence may include any of the following:
- 14 (A) Law enforcement, court or other federal, state or local govern-  
15 ment records or files.
- 16 (B) Documentation from a public or private entity that provides as-  
17 sistance to victims of domestic violence, sexual assault, *human* trafficking  
18 or stalking.
- 19 (C) Documentation from a religious, medical or other professional  
20 from whom the applicant has sought assistance in dealing with the alleged  
21 domestic violence, sexual assault, *human* trafficking or stalking.
- 22 (D) Other forms of evidence as determined by the secretary of state.
- 23 (6) A statement of whether there are any existing court orders in-  
24 volving the applicant for child support, child custody or child visitation  
25 and whether there are any active court actions involving the applicant for  
26 child support, child custody or child visitation, the name and address of  
27 legal counsel of record and the last known address of the other parent or  
28 parents involved in those court orders or court actions.
- 29 (7) The signature of the applicant and of any individual or represen-  
30 tative of any enrolling agent who assisted in the preparation of the appli-  
31 cation, and the date on which the applicant signed the application.
- 32 (b) Applications shall be filed in accordance with procedures pre-  
33 scribed by the secretary of state.
- 34 (c) Upon filing a properly completed application, the secretary of  
35 state shall certify the applicant as a program participant. Applicants shall  
36 be certified for four years following the date of filing unless the certifi-  
37 cation is withdrawn or invalidated before that date. The secretary of state  
38 shall by rule and regulation establish a renewal procedure.
- 39 (d) Upon certification in the program, in any case where there are  
40 court orders or court actions identified in subsection (a)(6), the secretary  
41 of state shall, within 10 days, notify the other parent or parents of the  
42 address designated by the secretary of state for the program participant  
43 and the designation of the secretary of state as agent for purpose of service

1 of process. The notice shall be given by mail, return receipt requested,  
2 postage prepaid, to the last known address of the other parent to be  
3 notified. A copy shall also be sent to that parent's counsel of record.

4 (e) A person who falsely attests in an application that disclosure of  
5 the applicant's address would endanger the applicant's safety or the safety  
6 of the applicant's children or the minor or incapacitated person on whose  
7 behalf the application is made, or who knowingly provides false or incor-  
8 rect information upon making an application, shall be punishable under  
9 K.S.A. 21-3711, and amendments thereto, or other applicable statutes.

10 ***[New Sec. 21. (a) Any person who has not been lawfully ad-***  
11 ***mitted into the United States in violation of federal immigration***  
12 ***laws and is arrested for:***

13 ***[(1) An off-grid felony, no bail;***

14 ***[(2) a severity level 1, 2 or 3 person felony or a severity level 1***  
15 ***or 2 drug felony, bail shall be at least \$250,000 cash or surety;***

16 ***[(3) a person felony, except for felonies provided in paragraphs***  
17 ***(1) and (2), bail shall be at least \$50,000 cash or surety;***

18 ***[(4) a nonperson felony, bail shall be at least \$25,000 cash or***  
19 ***surety; and***

20 ***[(5) or class A misdemeanor, bail shall be at least \$10,000 cash***  
21 ***or surety;***

22 ***[(b) The bail under subsection (a), shall be required unless the***  
23 ***court determines on the record that the defendant is not likely to***  
24 ***reoffend, an appropriate intensive pre-trial supervision program is***  
25 ***available and the defendant agrees to comply with the mandate of***  
26 ***such pre-trial supervision and can show by clear and convincing***  
27 ***evidence that the defendant will remain in the jurisdiction.***

28 ***[(c) The provisions of this section shall be part of and supple-***  
29 ***mental to the Kansas criminal code.]***

30 ***[New Sec. 22. (a) It shall be unlawful in the state of Kansas for***  
31 ***any labor union or employee organization to knowingly impose or***  
32 ***collect union dues from any alien who is not lawfully present in the***  
33 ***United States.***

34 ***[(b) The attorney general may initiate a civil action in district***  
35 ***court to enforce the provisions of this section. Any labor union or***  
36 ***employee organization violating subsection (a) shall be subject to***  
37 ***a civil fine in an amount not to exceed \$2,000 for the first violation,***  
38 ***\$5,000 for the second violation and \$10,000 for the third violation***  
39 ***and for each subsequent violation. All fines assessed and collected***  
40 ***under this section shall be remitted to the state treasurer in accord-***  
41 ***ance with the provisions of K.S.A. 75-4215, and amendments***  
42 ***thereto. Upon receipt of each such remittance, the state treasurer***  
43 ***shall deposit the entire amount in the state treasury to the credit of***

1 *the state general fund.]*

2 *[Sec. 23. K.S.A. 2007 Supp. 76-731a is hereby amended to read*  
3 *as follows: 76-731a. (a) Any individual who is enrolled or has been*  
4 *accepted for admission at a postsecondary educational institution*  
5 *as a postsecondary student shall be deemed to be a resident of Kan-*  
6 *sas for the purpose of tuition and fees for attendance at such pos-*  
7 *secondary educational institution.*

8 *[(b) As used in this section:*

9 *[(1) “Postsecondary educational institution” has the meaning as-*  
10 *cribed thereto in K.S.A. 74-3201b, and amendments thereto; and*

11 *[(2) “individual” means a person who (A) has attended an ac-*  
12 *credited Kansas high school for three or more years, (B) has either*  
13 *graduated from an accredited Kansas high school or has earned a*  
14 *general educational development (GED) certificate issued within*  
15 *Kansas, regardless of whether the person is or is not a citizen of the*  
16 *United States of America; and (C) in the case of a person without*  
17 *lawful immigration status, has filed with the postsecondary educa-*  
18 *tional institution and with the illegal immigration enforcement division*  
19 *of the office of attorney general an affidavit stating that the person or*  
20 *the person’s parents have filed an application to legalize such per-*  
21 *son’s immigration status, or such person will file such an application*  
22 *as soon as such person is eligible to do so or, in the case of a person*  
23 *with a legal, nonpermanent immigration status, has filed with the*  
24 *postsecondary educational institution an affidavit stating that such*  
25 *person has filed an application to begin the process for citizenship*  
26 *of the United States or will file such application as soon as such*  
27 *person is eligible to do so.*

28 *[(c) The provisions of this section shall not apply to any individ-*  
29 *ual who:*

30 *[(1) Has a valid student visa; or*

31 *[(2) at the time of enrollment, is eligible to enroll in a public*  
32 *postsecondary educational institution located in another state upon*  
33 *payment of fees and tuition required of residents of such state.*

34 *[(d) Any individual who: (1) Files an affidavit which contains*  
35 *false information; (2) fails to file an application to legalize such*  
36 *person’s immigration status within one year of becoming eligible;*  
37 *(3) fails to begin the process for citizenship within one year of be-*  
38 *coming eligible; or (4) fails to maintain an active application for*  
39 *citizenship after filing therefor shall not be deemed a resident of the*  
40 *state of Kansas for the purpose of tuition and fees. In addition, such*  
41 *individual shall be required to repay the difference between the*  
42 *amount of fees and tuition actually paid and the amount such per-*  
43 *son would have paid as a nonresident of the state of Kansas, plus*

1 ***interest at a rate not to exceed the maximum under K.S.A. 16-201,***  
2 ***and amendments thereto, for the time such individual was enrolled***  
3 ***as a resident pursuant to this section.]***

4 New Sec. ~~20~~ **[24.]** If any provisions of this act or the application  
5 thereof to any person or circumstances is held invalid, the invalidity shall  
6 not affect other provisions or applications of the act which can be given  
7 effect without the invalid provisions or application, and to this end the  
8 provisions of this act are severable.

9 Sec. ~~21~~ **[25.]** K.S.A. 21-3446, 21-3447, 21-4643, 22-4902 and 22-  
10 4906 and K.S.A. 2007 Supp. 38-2361, 60-4104, 75-451, 75-452 ~~and 75-~~  
11 ~~453~~, **75-453 and 76-731a** are hereby repealed.

12 Sec. ~~22~~ **[26.]** This act shall take effect and be in force from and  
13 after its publication in the statute book.