

## SENATE BILL No. 116

By Committee on Federal and State Affairs

1-27

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9 AN ACT concerning private detectives; relating to permits to carry con-  
10 cealed firearms; amending K.S.A. 2008 Supp. 12-4516, 21-4619, 75-  
11 7b01 and 75-7b17 and repealing the existing sections.  
12

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

14 Section 1. K.S.A. 2008 Supp. 12-4516 is hereby amended to read as  
15 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any  
16 person who has been convicted of a violation of a city ordinance of this  
17 state may petition the convicting court for the expungement of such con-  
18 viction and related arrest records if three or more years have elapsed  
19 since the person:

- 20 (A) Satisfied the sentence imposed; or  
21 (B) was discharged from probation, parole or a suspended sentence.  
22 (2) Except as provided in subsection (b) or (c), any person who has  
23 fulfilled the terms of a diversion agreement based on a violation of a city  
24 ordinance of this state may petition the court for the expungement of  
25 such diversion agreement and related arrest records if three or more years  
26 have elapsed since the terms of the diversion agreement were fulfilled.  
27 (b) No person may petition for expungement until five or more years  
28 have elapsed since the person satisfied the sentence imposed or the terms  
29 of a diversion agreement or was discharged from probation, parole, con-  
30 ditional release or a suspended sentence, if such person was convicted of  
31 the violation of a city ordinance which would also constitute:
- 32 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-  
33 ments thereto;
  - 34 (2) driving while the privilege to operate a motor vehicle on the public  
35 highways of this state has been canceled, suspended or revoked, as pro-  
36 hibited by K.S.A. 8-262, and amendments thereto;
  - 37 (3) perjury resulting from a violation of K.S.A. 8-261a, and amend-  
38 ments thereto;
  - 39 (4) a violation of the provisions of the fifth clause of K.S.A. 8-142,  
40 and amendments thereto, relating to fraudulent applications;
  - 41 (5) any crime punishable as a felony wherein a motor vehicle was  
42 used in the perpetration of such crime;
  - 43 (6) failing to stop at the scene of an accident and perform the duties

1 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;  
2 (7) a violation of the provisions of K.S.A. 40-3104, and amendments  
3 thereto, relating to motor vehicle liability insurance coverage; or  
4 (8) a violation of K.S.A. 21-3405b, and amendments thereto.  
5 (c) There shall be no expungement of convictions or diversions for a  
6 violation of a city ordinance which would also constitute a violation of  
7 K.S.A. 8-1567 or 8-2,144, and amendments thereto.  
8 (d) When a petition for expungement is filed, the court shall set a  
9 date for a hearing of such petition and shall cause notice of such hearing  
10 to be given to the prosecuting attorney and the arresting law enforcement  
11 agency. The petition shall state: (1) The defendant's full name;  
12 (2) the full name of the defendant at the time of arrest, conviction or  
13 diversion, if different than the defendant's current name;  
14 (3) the defendant's sex, race and date of birth;  
15 (4) the crime for which the defendant was arrested, convicted or  
16 diverted;  
17 (5) the date of the defendant's arrest, conviction or diversion; and  
18 (6) the identity of the convicting court, arresting law enforcement  
19 agency or diverting authority. A municipal court may prescribe a fee to  
20 be charged as costs for a person petitioning for an order of expungement  
21 pursuant to this section. Any person who may have relevant information  
22 about the petitioner may testify at the hearing. The court may inquire  
23 into the background of the petitioner and shall have access to any reports  
24 or records relating to the petitioner that are on file with the secretary of  
25 corrections or the Kansas parole board.  
26 (e) At the hearing on the petition, the court shall order the peti-  
27 tioner's arrest record, conviction or diversion expunged if the court finds  
28 that:  
29 (1) The petitioner has not been convicted of a felony in the past two  
30 years and no proceeding involving any such crime is presently pending  
31 or being instituted against the petitioner;  
32 (2) the circumstances and behavior of the petitioner warrant the  
33 expungement; and  
34 (3) the expungement is consistent with the public welfare.  
35 (f) When the court has ordered an arrest record, conviction or diver-  
36 sion expunged, the order of expungement shall state the information re-  
37 quired to be contained in the petition. The clerk of the court shall send  
38 a certified copy of the order of expungement to the Kansas bureau of  
39 investigation which shall notify the federal bureau of investigation, the  
40 secretary of corrections and any other criminal justice agency which may  
41 have a record of the arrest, conviction or diversion. After the order of  
42 expungement is entered, the petitioner shall be treated as not having been  
43 arrested, convicted or diverted of the crime, except that:

- 1 (1) Upon conviction for any subsequent crime, the conviction that  
2 was expunged may be considered as a prior conviction in determining the  
3 sentence to be imposed;
- 4 (2) the petitioner shall disclose that the arrest, conviction or diversion  
5 occurred if asked about previous arrests, convictions or diversions:
- 6 (A) In any application for employment as a detective with a private  
7 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;  
8 as security personnel with a private patrol operator, as defined by K.S.A.  
9 75-7b01, and amendments thereto; or with an institution, as defined in  
10 K.S.A. 76-12a01, and amendments thereto, of the department of social  
11 and rehabilitation services;
- 12 (B) in any application for admission, or for an order of reinstatement,  
13 to the practice of law in this state;
- 14 (C) to aid in determining the petitioner's qualifications for employ-  
15 ment with the Kansas lottery or for work in sensitive areas within the  
16 Kansas lottery as deemed appropriate by the executive director of the  
17 Kansas lottery;
- 18 (D) to aid in determining the petitioner's qualifications for executive  
19 director of the Kansas racing and gaming commission, for employment  
20 with the commission or for work in sensitive areas in parimutuel racing  
21 as deemed appropriate by the executive director of the commission, or  
22 to aid in determining qualifications for licensure or renewal of licensure  
23 by the commission;
- 24 (E) to aid in determining the petitioner's qualifications for the fol-  
25 lowing under the Kansas expanded lottery act: (i) Lottery gaming facility  
26 manager or prospective manager, racetrack gaming facility manager or  
27 prospective manager, licensee or certificate holder; or (ii) an officer, di-  
28 rector, employee, owner, agent or contractor thereof;
- 29 (F) upon application for a commercial driver's license under K.S.A.  
30 8-2,125 through 8-2,142, and amendments thereto;
- 31 (G) to aid in determining the petitioner's qualifications to be an em-  
32 ployee of the state gaming agency;
- 33 (H) to aid in determining the petitioner's qualifications to be an em-  
34 ployee of a tribal gaming commission or to hold a license issued pursuant  
35 to a tribal-state gaming compact;
- 36 (I) in any application for registration as a broker-dealer, agent, in-  
37 vestment adviser or investment adviser representative all as defined in  
38 K.S.A. 17-12a102, and amendments thereto;
- 39 (J) in any application for employment as a law enforcement officer,  
40 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; ~~or~~
- 41 (K) for applications received on and after July 1, 2006, to aid in de-  
42 termining the petitioner's qualifications for a license to carry a concealed  
43 weapon pursuant to the personal and family protection act, K.S.A. 2008

- 1 Supp. 75-7c01 et seq., and amendments thereto; *or*  
2 (L) *in any initial or renewal application for a permit to carry a concealed*  
3 *firearm pursuant to K.S.A. 75-7b17, and amendments thereto;*  
4 (3) the court, in the order of expungement, may specify other cir-  
5 cumstances under which the arrest, conviction or diversion is to be dis-  
6 closed; and  
7 (4) the conviction may be disclosed in a subsequent prosecution for  
8 an offense which requires as an element of such offense a prior conviction  
9 of the type expunged.  
10 (g) Whenever a person is convicted of an ordinance violation, pleads  
11 guilty and pays a fine for such a violation, is placed on parole or probation  
12 or is granted a suspended sentence for such a violation, the person shall  
13 be informed of the ability to expunge the arrest records or conviction.  
14 Whenever a person enters into a diversion agreement, the person shall  
15 be informed of the ability to expunge the diversion.  
16 (h) Subject to the disclosures required pursuant to subsection (f), in  
17 any application for employment, license or other civil right or privilege,  
18 or any appearance as a witness, a person whose arrest records, conviction  
19 or diversion of an offense has been expunged under this statute may state  
20 that such person has never been arrested, convicted or diverted of such  
21 offense.  
22 (i) Whenever the record of any arrest, conviction or diversion has  
23 been expunged under the provisions of this section or under the provi-  
24 sions of any other existing or former statute, the custodian of the records  
25 of arrest, conviction, diversion and incarceration relating to that crime  
26 shall not disclose the existence of such records, except when requested  
27 by:  
28 (1) The person whose record was expunged;  
29 (2) a private detective agency or a private patrol operator, and the  
30 request is accompanied by a statement that the request is being made in  
31 conjunction with an application for employment with such agency or op-  
32 erator by the person whose record has been expunged;  
33 (3) a court, upon a showing of a subsequent conviction of the person  
34 whose record has been expunged;  
35 (4) the secretary of social and rehabilitation services, or a designee of  
36 the secretary, for the purpose of obtaining information relating to em-  
37 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-  
38 ments thereto, of the department of social and rehabilitation services of  
39 any person whose record has been expunged;  
40 (5) a person entitled to such information pursuant to the terms of the  
41 expungement order;  
42 (6) a prosecuting attorney, and such request is accompanied by a  
43 statement that the request is being made in conjunction with a prosecu-

1 tion of an offense that requires a prior conviction as one of the elements  
2 of such offense;

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

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

14 (9) the governor or the Kansas racing and gaming commission, or a  
15 designee of the commission, and the request is accompanied by a state-  
16 ment that the request is being made to aid in determining qualifications  
17 for executive director of the commission, for employment with the com-  
18 mission, for work in sensitive areas in parimutuel racing as deemed ap-  
19 propriate by the executive director of the commission or for licensure,  
20 renewal of licensure or continued licensure by the commission;

21 (10) the Kansas racing and gaming commission, or a designee of the  
22 commission, and the request is accompanied by a statement that the re-  
23 quest is being made to aid in determining qualifications of the following  
24 under the Kansas expanded lottery act: (A) Lottery gaming facility man-  
25 agers and prospective managers, racetrack gaming facility managers and  
26 prospective managers, licensees and certificate holders; and (B) their of-  
27 ficers, directors, employees, owners, agents and contractors;

28 (11) the state gaming agency, and the request is accompanied by a  
29 statement that the request is being made to aid in determining qualifi-  
30 cations: (A) To be an employee of the state gaming agency; or (B) to be  
31 an employee of a tribal gaming commission or to hold a license issued  
32 pursuant to a tribal-state gaming compact;

33 (12) the Kansas securities commissioner, or a designee of the com-  
34 missioner, and the request is accompanied by a statement that the request  
35 is being made in conjunction with an application for registration as a  
36 broker-dealer, agent, investment adviser or investment adviser represen-  
37 tative by such agency and the application was submitted by the person  
38 whose record has been expunged;

39 (13) the attorney general, and the request is accompanied by a state-  
40 ment that the request is being made to aid in determining qualifications  
41 for a license to carry a concealed weapon pursuant to the personal and  
42 family protection act or in determining qualifications for a permit to carry  
43 a concealed firearm pursuant to K.S.A. 75-7b17, and amendments thereto;

- 1 (14) the Kansas sentencing commission;
- 2 (15) the Kansas commission on peace officers' standards and training  
3 and the request is accompanied by a statement that the request is being  
4 made to aid in determining certification eligibility as a law enforcement  
5 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or
- 6 (16) a law enforcement agency and the request is accompanied by a  
7 statement that the request is being made to aid in determining eligibility  
8 for employment as a law enforcement officer as defined by K.S.A. 22-  
9 2202, and amendments thereto.
- 10 Sec. 2. K.S.A. 2008 Supp. 21-4619 is hereby amended to read as  
11 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),  
12 any person convicted in this state of a traffic infraction, cigarette or to-  
13 bacco infraction, misdemeanor or a class D or E felony, or for crimes  
14 committed on or after July 1, 1993, nondrug crimes ranked in severity  
15 levels 6 through 10 or any felony ranked in severity level 4 of the drug  
16 grid, may petition the convicting court for the expungement of such con-  
17 viction or related arrest records if three or more years have elapsed since  
18 the person: (A) Satisfied the sentence imposed; or (B) was discharged  
19 from probation, a community correctional services program, parole, post-  
20 release supervision, conditional release or a suspended sentence.
- 21 (2) Except as provided in subsections (b) and (c), any person who has  
22 fulfilled the terms of a diversion agreement may petition the district court  
23 for the expungement of such diversion agreement and related arrest re-  
24 cords if three or more years have elapsed since the terms of the diversion  
25 agreement were fulfilled.
- 26 (b) Except as provided in subsection (c), no person may petition for  
27 expungement until five or more years have elapsed since the person sat-  
28 isfied the sentence imposed, the terms of a diversion agreement or was  
29 discharged from probation, a community correctional services program,  
30 parole, postrelease supervision, conditional release or a suspended sen-  
31 tence, if such person was convicted of a class A, B or C felony, or for  
32 crimes committed on or after July 1, 1993, if convicted of an off-grid  
33 felony or any nondrug crime ranked in severity levels 1 through 5 or any  
34 felony ranked in severity levels 1 through 3 of the drug grid, or:
- 35 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-  
36 ments thereto, or as prohibited by any law of another state which is in  
37 substantial conformity with that statute;
- 38 (2) driving while the privilege to operate a motor vehicle on the public  
39 highways of this state has been canceled, suspended or revoked, as pro-  
40 hibited by K.S.A. 8-262, and amendments thereto, or as prohibited by  
41 any law of another state which is in substantial conformity with that  
42 statute;
- 43 (3) perjury resulting from a violation of K.S.A. 8-261a, and amend-

1 ments thereto, or resulting from the violation of a law of another state  
2 which is in substantial conformity with that statute;

3 (4) violating the provisions of the fifth clause of K.S.A. 8-142, and  
4 amendments thereto, relating to fraudulent applications or violating the  
5 provisions of a law of another state which is in substantial conformity with  
6 that statute;

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

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

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

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

16 (c) There shall be no expungement of convictions for the following  
17 offenses or of convictions for an attempt to commit any of the following  
18 offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;  
19 (2) indecent liberties with a child as defined in K.S.A. 21-3503, and  
20 amendments thereto; (3) aggravated indecent liberties with a child as  
21 defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy  
22 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-  
23 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-  
24 3506, and amendments thereto; (6) indecent solicitation of a child as  
25 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-  
26 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-  
27 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-  
28 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.  
29 21-3603, and amendments thereto; (10) endangering a child as defined  
30 in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as  
31 defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder  
32 as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in  
33 the first degree as defined in K.S.A. 21-3401, and amendments thereto;  
34 (14) murder in the second degree as defined in K.S.A. 21-3402, and  
35 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.  
36 21-3403, and amendments thereto; (16) involuntary manslaughter as de-  
37 fined in K.S.A. 21-3404, and amendments thereto; (17) involuntary man-  
38 slaughter while driving under the influence of alcohol or drugs as defined  
39 in K.S.A. 21-3442, and amendments thereto; (18) sexual battery as de-  
40 fined in K.S.A. 21-3517, and amendments thereto, when the victim was  
41 less than 18 years of age at the time the crime was committed; (19) ag-  
42 gravated sexual battery as defined in K.S.A. 21-3518, and amendments  
43 thereto; (20) a violation of K.S.A. 8-1567, and amendments thereto, in-

1 cluding any diversion for such violation; (21) a violation of K.S.A. 8-2,144,  
2 and amendments thereto, including any diversion for such violation; or  
3 (22) any conviction for any offense in effect at any time prior to the  
4 effective date of this act, that is comparable to any offense as provided in  
5 this subsection.

6 (d) When a petition for expungement is filed, the court shall set a  
7 date for a hearing of such petition and shall cause notice of such hearing  
8 to be given to the prosecuting attorney and the arresting law enforcement  
9 agency. The petition shall state: (1) The defendant's full name;

10 (2) the full name of the defendant at the time of arrest, conviction or  
11 diversion, if different than the defendant's current name;

12 (3) the defendant's sex, race and date of birth;

13 (4) the crime for which the defendant was arrested, convicted or  
14 diverted;

15 (5) the date of the defendant's arrest, conviction or diversion; and

16 (6) the identity of the convicting court, arresting law enforcement  
17 authority or diverting authority. There shall be no docket fee for filing a  
18 petition pursuant to this section. All petitions for expungement shall be  
19 docketed in the original criminal action. Any person who may have rel-  
20 evant information about the petitioner may testify at the hearing. The  
21 court may inquire into the background of the petitioner and shall have  
22 access to any reports or records relating to the petitioner that are on file  
23 with the secretary of corrections or the Kansas parole board.

24 (e) At the hearing on the petition, the court shall order the peti-  
25 tioner's arrest record, conviction or diversion expunged if the court finds  
26 that:

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

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

32 (3) the expungement is consistent with the public welfare.

33 (f) When the court has ordered an arrest record, conviction or diver-  
34 sion expunged, the order of expungement shall state the information re-  
35 quired to be contained in the petition. The clerk of the court shall send  
36 a certified copy of the order of expungement to the Kansas bureau of  
37 investigation which shall notify the federal bureau of investigation, the  
38 secretary of corrections and any other criminal justice agency which may  
39 have a record of the arrest, conviction or diversion. After the order of  
40 expungement is entered, the petitioner shall be treated as not having been  
41 arrested, convicted or diverted of the crime, except that:

42 (1) Upon conviction for any subsequent crime, the conviction that  
43 was expunged may be considered as a prior conviction in determining the

1 sentence to be imposed;

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

4 (A) In any application for licensure as a private detective, private  
5 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-  
6 7b21, and amendments thereto, *in any initial or renewal application for*  
7 *a permit to carry a concealed firearm pursuant to K.S.A. 75-7b17, and*  
8 *amendments thereto*, or employment as a detective with a private detec-  
9 tive agency, as defined by K.S.A. 75-7b01, and amendments thereto; as  
10 security personnel with a private patrol operator, as defined by K.S.A. 75-  
11 7b01, and amendments thereto; or with an institution, as defined in K.S.A.  
12 76-12a01, and amendments thereto, of the department of social and re-  
13 habilitation services;

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

16 (C) to aid in determining the petitioner's qualifications for employ-  
17 ment with the Kansas lottery or for work in sensitive areas within the  
18 Kansas lottery as deemed appropriate by the executive director of the  
19 Kansas lottery;

20 (D) to aid in determining the petitioner's qualifications for executive  
21 director of the Kansas racing and gaming commission, for employment  
22 with the commission or for work in sensitive areas in parimutuel racing  
23 as deemed appropriate by the executive director of the commission, or  
24 to aid in determining qualifications for licensure or renewal of licensure  
25 by the commission;

26 (E) to aid in determining the petitioner's qualifications for the fol-  
27 lowing under the Kansas expanded lottery act: (i) Lottery gaming facility  
28 manager or prospective manager, racetrack gaming facility manager or  
29 prospective manager, licensee or certificate holder; or (ii) an officer, di-  
30 rector, employee, owner, agent or contractor thereof;

31 (F) upon application for a commercial driver's license under K.S.A.  
32 8-2,125 through 8-2,142, and amendments thereto;

33 (G) to aid in determining the petitioner's qualifications to be an em-  
34 ployee of the state gaming agency;

35 (H) to aid in determining the petitioner's qualifications to be an em-  
36 ployee of a tribal gaming commission or to hold a license issued pursuant  
37 to a tribal-state gaming compact;

38 (I) in any application for registration as a broker-dealer, agent, in-  
39 vestment adviser or investment adviser representative all as defined in  
40 K.S.A. 17-12a102, and amendments thereto;

41 (J) in any application for employment as a law enforcement officer as  
42 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

43 (K) for applications received on and after July 1, 2006, to aid in de-

- 1 terminating the petitioner's qualifications for a license to carry a concealed  
2 weapon pursuant to the personal and family protection act, K.S.A. 2008  
3 Supp. 75-7c01 et seq., and amendments thereto;
- 4 (3) the court, in the order of expungement, may specify other cir-  
5 cumstances under which the conviction is to be disclosed;
- 6 (4) the conviction may be disclosed in a subsequent prosecution for  
7 an offense which requires as an element of such offense a prior conviction  
8 of the type expunged; and
- 9 (5) upon commitment to the custody of the secretary of corrections,  
10 any previously expunged record in the possession of the secretary of cor-  
11 rections may be reinstated and the expungement disregarded, and the  
12 record continued for the purpose of the new commitment.
- 13 (g) Whenever a person is convicted of a crime, pleads guilty and pays  
14 a fine for a crime, is placed on parole, postrelease supervision or proba-  
15 tion, is assigned to a community correctional services program, is granted  
16 a suspended sentence or is released on conditional release, the person  
17 shall be informed of the ability to expunge the arrest records or convic-  
18 tion. Whenever a person enters into a diversion agreement, the person  
19 shall be informed of the ability to expunge the diversion.
- 20 (h) Subject to the disclosures required pursuant to subsection (f), in  
21 any application for employment, license or other civil right or privilege,  
22 or any appearance as a witness, a person whose arrest records, conviction  
23 or diversion of a crime has been expunged under this statute may state  
24 that such person has never been arrested, convicted or diverted of such  
25 crime, but the expungement of a felony conviction does not relieve an  
26 individual of complying with any state or federal law relating to the use  
27 or possession of firearms by persons convicted of a felony.
- 28 (i) Whenever the record of any arrest, conviction or diversion has  
29 been expunged under the provisions of this section or under the provi-  
30 sions of any other existing or former statute, the custodian of the records  
31 of arrest, conviction, diversion and incarceration relating to that crime  
32 shall not disclose the existence of such records, except when requested  
33 by:
- 34 (1) The person whose record was expunged;
- 35 (2) a private detective agency or a private patrol operator, and the  
36 request is accompanied by a statement that the request is being made in  
37 conjunction with an application for employment with such agency or op-  
38 erator by the person whose record has been expunged;
- 39 (3) a court, upon a showing of a subsequent conviction of the person  
40 whose record has been expunged;
- 41 (4) the secretary of social and rehabilitation services, or a designee of  
42 the secretary, for the purpose of obtaining information relating to em-  
43 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-

1 ments thereto, of the department of social and rehabilitation services of  
2 any person whose record has been expunged;

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

5 (6) a prosecuting attorney, and such request is accompanied by a  
6 statement that the request is being made in conjunction with a prosecu-  
7 tion of an offense that requires a prior conviction as one of the elements  
8 of such offense;

9 (7) the supreme court, the clerk or disciplinary administrator thereof,  
10 the state board for admission of attorneys or the state board for discipline  
11 of attorneys, and the request is accompanied by a statement that the  
12 request is being made in conjunction with an application for admission,  
13 or for an order of reinstatement, to the practice of law in this state by the  
14 person whose record has been expunged;

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

20 (9) the governor or the Kansas racing and gaming commission, or a  
21 designee of the commission, and the request is accompanied by a state-  
22 ment that the request is being made to aid in determining qualifications  
23 for executive director of the commission, for employment with the com-  
24 mission, for work in sensitive areas in parimutuel racing as deemed ap-  
25 propriate by the executive director of the commission or for licensure,  
26 renewal of licensure or continued licensure by the commission;

27 (10) the Kansas racing and gaming commission, or a designee of the  
28 commission, and the request is accompanied by a statement that the re-  
29 quest is being made to aid in determining qualifications of the following  
30 under the Kansas expanded lottery act: (A) Lottery gaming facility man-  
31 agers and prospective managers, racetrack gaming facility managers and  
32 prospective managers, licensees and certificate holders; and (B) their of-  
33 ficers, directors, employees, owners, agents and contractors;

34 (11) the Kansas sentencing commission;

35 (12) the state gaming agency, and the request is accompanied by a  
36 statement that the request is being made to aid in determining qualifi-  
37 cations: (A) To be an employee of the state gaming agency; or (B) to be  
38 an employee of a tribal gaming commission or to hold a license issued  
39 pursuant to a tribal-gaming compact;

40 (13) the Kansas securities commissioner or a designee of the com-  
41 missioner, and the request is accompanied by a statement that the request  
42 is being made in conjunction with an application for registration as a  
43 broker-dealer, agent, investment adviser or investment adviser represen-

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

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

7 (15) a law enforcement agency and the request is accompanied by a  
8 statement that the request is being made to aid in determining eligibility  
9 for employment as a law enforcement officer as defined by K.S.A. 22-  
10 2202, and amendments thereto; or

11 (16) the attorney general and the request is accompanied by a state-  
12 ment that the request is being made to aid in determining qualifications  
13 for a license to carry a concealed weapon pursuant to the personal and  
14 family protection act, *a private detective license pursuant to K.S.A. 75-*  
15 *7b04, and amendments thereto, a permit to carry a concealed firearm*  
16 *pursuant to K.S.A. 75-7b17, and amendments thereto, and a certification*  
17 *as a firearms trainer pursuant to K.S.A. 75-7b21, and amendments*  
18 *thereto.*

19 Sec. 3. K.S.A. 2008 Supp. 75-7b01 is hereby amended to read as  
20 follows: 75-7b01. As used in this act:

21 (a) "Detective business" means the furnishing of, making of or agree-  
22 ing to make any investigation for the purpose of obtaining information  
23 with reference to:

24 (1) Crime or wrongs done or threatened against the United States or  
25 any state or territory of the United States, or any political subdivision  
26 thereof when furnished or made by persons other than law enforcement  
27 officers;

28 (2) the identity, habits, conduct, business, occupation, honesty, in-  
29 tegrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity,  
30 movement, whereabouts, affiliations, associations, transactions, acts, rep-  
31 utation or character of any person, *including the attempt to locate any*  
32 *person who has been released on bail, commonly referred to as bounty*  
33 *hunting;*

34 (3) the location, disposition or recovery of lost or stolen property;

35 (4) the cause or responsibility for fires, libels, losses, frauds, accidents  
36 or damage or injury to persons or to property; or

37 (5) securing evidence to be used before any court, board, officer or  
38 investigating committee.

39 (b) "Private detective" means any person who, for any consideration  
40 whatsoever, engages in detective business.

41 (c) "Private detective agency" means a person who regularly employs  
42 any other person, other than an organization, to engage in detective  
43 business.

- 1 (d) "Private patrol operator" means a person who, for any consider-  
2 ation whatsoever, agrees to furnish or furnishes a watchman, guard, pa-  
3 trolman or other person to protect persons or property or to prevent the  
4 theft, unlawful taking, loss, embezzlement, misappropriation or conceal-  
5 ment of any goods, wares, merchandise, money, bonds, stocks, notes,  
6 documents, papers or property of any kind, or performs the service of  
7 such watchman, guard, patrolman or other person for any such purposes.
- 8 (e) "Law enforcement officer" means a law enforcement officer as  
9 defined by K.S.A. 21-3110, and amendments thereto.
- 10 (f) "Organization" means a corporation, trust, estate, partnership, co-  
11 operative or association.
- 12 (g) "Person" means an individual or organization.
- 13 (h) "Firearm permit" means a permit for the limited authority to  
14 carry a firearm concealed on or about the person by one licensed as a  
15 private detective.
- 16 (i) "Firearm" means:
- 17 (1) A pistol or revolver which is designed to be fired by the use of a  
18 single hand and which is designed to fire or capable of firing fixed car-  
19 tridge ammunition; or
- 20 (2) any other weapon which will or is designed to expel a projectile  
21 by the action of an explosive and which is designed to be fired by the use  
22 of a single hand.
- 23 (j) "Client" means any person who engages the services of a private  
24 detective.
- 25 (k) "Dishonesty or fraud" means, in addition to other acts not spec-  
26 ifically enumerated herein:
- 27 (1) Knowingly making a false statement relating to evidence or in-  
28 formation obtained in the course of employment, or knowingly publishing  
29 a slander or a libel in the course of business;
- 30 (2) using illegal means in the collection or attempted collection of a  
31 debt or obligation;
- 32 (3) manufacturing or producing any false evidence; and
- 33 (4) acceptance of employment adverse to a client or former client  
34 relating to a matter with respect to which the licensee has obtained con-  
35 fidential information by reason of or in the course of the licensee's em-  
36 ployment by such client or former client.
- 37 Sec. 4. K.S.A. 2008 Supp. 75-7b17 is hereby amended to read as  
38 follows: 75-7b17. (a) No licensee may carry a firearm concealed on or  
39 about the licensee's person unless the licensee obtains a permit therefor,  
40 upon application to the attorney general. No permit shall be issued to any  
41 licensee unless such licensee:
- 42 (1) Demonstrates to the attorney general the need to carry a firearm  
43 in order to protect the licensee's life or property or to protect the life or

1 property of a client of licensee and submits such proof as required by the  
2 attorney general to establish the necessity for the issuance of a firearm  
3 permit; ~~and~~  
4 (2) *meets all of the eligibility requirements to carry a concealed*  
5 *weapon specified in subsection (a) of K.S.A. 2008 Supp. 75-7c04, and*  
6 *amendments thereto, except for subsections (a)(1), (a)(9), (a)(10) and*  
7 *(a)(13) of K.S.A. 2008 Supp. 75-7c04, and amendments thereto; and*  
8 ~~(2)~~ (3) (A) within 24 months before the date of submission of the  
9 original application for a firearm permit, has successfully completed the  
10 law enforcement training requirements of subsection (a) of K.S.A. 74-  
11 5607a, and amendments thereto, or, within 12 months before the date of  
12 submission of the original application for a firearm permit, has success-  
13 fully completed the law enforcement training requirements of subsection  
14 (b) of K.S.A. 74-5607a, and amendments thereto, and submits such proof  
15 as required by the attorney general to show satisfactory completion of  
16 such training; or (B) within six months before the date of submission of  
17 the original application for a firearm permit, has received training in the  
18 handling of firearms and the lawful use of force from a trainer certified  
19 pursuant to K.S.A. 75-7b21, and amendments thereto, and submits such  
20 proof as required by the attorney general to show satisfactory completion  
21 of such training.  
22 (b) An application for a firearm permit by a licensee shall be made  
23 in the manner and form prescribed by the attorney general and shall be  
24 accompanied by a fee in an amount fixed by the attorney general pursuant  
25 to K.S.A. 2008 Supp. 75-7b22, and amendments thereto. Such application  
26 shall be made a part of and supplemental to such licensee's application  
27 for a license under this act. The application shall contain:  
28 (1) The applicant's name and business and residence addresses;  
29 (2) the make or manufacturer's name, model, serial number, caliber,  
30 gauge and any other identifying information concerning the firearm or  
31 firearms to be carried by the applicant;  
32 (3) a full set of the applicant's fingerprints;  
33 (4) a color photograph of the applicant taken within 30 days prior to  
34 date of application and suitable for identification purposes;  
35 (5) such other information as deemed necessary by the attorney  
36 general.  
37 (c) *Each applicant shall be subject to a state and national criminal*  
38 *history records check which conforms to applicable federal standards for*  
39 *the purpose of verifying the identity of the applicant and whether the*  
40 *applicant has been convicted of any crime that would disqualify the ap-*  
41 *applicant from holding a license under K.S.A. 75-7b01 et seq., and amend-*  
42 *ments thereto. The attorney general is authorized to use the information*  
43 *obtained from the national criminal history record check to determine the*

1 *applicant's eligibility for such license.*

2 ~~(c)~~ (d) (1) If the attorney general is satisfied that it is necessary for  
3 an applicant under this section to carry a firearm, the attorney general  
4 shall issue to such licensee a firearm permit identification card, the form  
5 of which shall be approved by the attorney general. Such card shall bear  
6 the licensee's color photograph, thumb prints and signature and a de-  
7 scription of the firearm or firearms to be carried. The licensee shall have  
8 such permit in the licensee's possession when carrying a firearm. Ident-  
9 tification cards and firearm permits shall be numbered consecutively, and  
10 the attorney general shall maintain a current file of all valid firearm  
11 permits.

12 (2) For the purpose of safety and emergency identification, licensees  
13 issued a firearm permit under this act to carry a concealed firearm may  
14 carry a firearm permit badge. The badge shall be carried in such a manner  
15 that at all times when the badge is visible the private detective's firearm  
16 permit identification card issued pursuant to paragraph (1) of this sub-  
17 section also shall be visible. The attorney general shall determine the size,  
18 design and other specifications of the badge. The words "licensed private  
19 detective" shall be stated clearly on the face of the badge. The cost of  
20 the badge shall be borne by the licensee. Whenever any licensee termi-  
21 nates such licensee's activities as a private detective, or such licensee's  
22 license has been suspended or revoked, such badge shall be surrendered  
23 within five days following such termination, suspension or revocation to  
24 the attorney general for cancellation. Every licensee possessing a valid  
25 firearm permit badge shall report to the attorney general any loss of the  
26 badge within 72 hours of the discovery of the loss.

27 ~~(d)~~ (e) Any licensee granted a firearm permit shall present the permit  
28 identification card and firearm permit badge upon request by a law en-  
29 forcement officer acting within the officer's jurisdictional authority, or by  
30 a private person upon private property if the person owns or has legal  
31 control of the private property, to demonstrate the licensee's permit to  
32 carry a firearm. Every licensee possessing a valid firearm permit shall  
33 report to the attorney general any change of employment status, change  
34 of firearm or firearms to be carried, loss of identification card or change  
35 of personal or business address. Every licensee who discharges a firearm  
36 for any reason other than test firing, firearm training or target practice  
37 shall report the discharge to the attorney general within 24 hours, to-  
38 gether with a written report giving full particulars and reason for such  
39 discharge.

40 ~~(e)~~—The (f) *In accordance with the Kansas administrative procedure*  
41 *act, the attorney general shall suspend or revoke any a firearm permit if*  
42 *the licensee's private detective license has been suspended or revoked.*  
43 *The attorney general may suspend or revoke any firearm permit if the*

1 licensee has used a firearm in a manner inconsistent with the lawful use  
 2 of force or if the licensee can no longer demonstrate a need to carry a  
 3 firearm, pursuant to subsection (a)(1). An order of suspension or revo-  
 4 cation, and hearing thereon, shall be subject to the provisions of the Kan-  
 5 sas administrative procedure act. The attorney general shall recall any  
 6 suspended or revoked firearm permit identification card. *under any of*  
 7 *the following circumstances:*

8 (1) *The permit holder's private detective license has been suspended*  
 9 *or revoked;*

10 (2) *the permit holder does not meet the eligibility requirements in*  
 11 *subsection (a); or*

12 (3) *the permit holder has used a firearm in a manner inconsistent*  
 13 *with the lawful use of force.*

14 ~~(f)~~ (g) A licensee to whom a firearm permit is granted under this  
 15 section shall be deemed to have no greater justification in the use of force  
 16 than a private person as prescribed by the Kansas criminal code. Nothing  
 17 in ~~this act~~ K.S.A. 75-7b01 *et seq.*, and amendments thereto, shall be con-  
 18 strued as limiting the civil liability of any such licensee with respect to  
 19 the use of force.

20 ~~(g) No firearm permit shall be issued to any:~~

21 ~~—(1) Organization;~~

22 ~~—(2) individual who has been declared, by any court of competent ju-~~  
 23 ~~isdiction, to be incapacitated or mentally ill and has not been restored~~  
 24 ~~to capacity or mental health; or~~

25 ~~—(3) individual who suffers from alcohol or narcotics addiction or de-~~  
 26 ~~pendence.~~

27 (h) ~~A firearm permit issued under this act shall expire on December~~  
 28 ~~31 of the year of its issuance, except that on and after July 1, 2004, a~~ A  
 29 ~~firearm permit issued under this act~~ K.S.A. 75-7b01 *et seq.*, and amend-  
 30 ~~ments thereto,~~ shall expire on the date of expiration of the licensee's pri-  
 31 ~~private detective license. Renewal of any such firearm permit shall be made~~  
 32 ~~in a form and manner prescribed by the attorney general and subject to~~  
 33 ~~such conditions as required by rules and regulations adopted by the at-~~  
 34 ~~torney general. Renewal of a firearm permit shall be based on a dem-~~  
 35 ~~onstrated continuing need to carry a firearm in accordance with subsec-~~  
 36 ~~tion (a)(1) meeting the eligibility requirements in subsection (a).~~

37 Sec. 5. K.S.A. 2008 Supp. 12-4516, 21-4619, 75-7b01 and 75-7b17  
 38 are hereby repealed.

39 Sec. 6. This act shall take effect and be in force from and after its  
 40 publication in the statute book.