

**HOUSE BILL No. 2028**

By Committee on Judiciary

Proposed Amendments to HB 2028 - date change  
House Judiciary Committee  
Prepared by the Office of Revisor of Statutes  
January 31, 2023

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sentencing; requiring automatic expungement of certain records;  
3 amending K.S.A. 2022 Supp. 21-6614 and repealing the existing  
4 section.  
5

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

7 New Section 1. (a) (1) (A) On and after July 1, ~~2023~~, notwithstanding  
8 the provisions of K.S.A. 2022 Supp. 21-6614, and amendments thereto,  
9 and except as provided in paragraph (3) and subsection (c)(3), if a court  
10 enters an order of acquittal of criminal charges against a person or enters  
11 an order dismissing, with or without prejudice, all criminal charges in a  
12 case against a person, the court shall order the record of such charges and  
13 related arrest records expunged 30 days after such order is entered unless  
14 the person objects to the expungement, an appeal is filed or the prosecutor  
15 files a written objection to the expungement.

16 (B) If an appeal is filed and the appellate court issues a mandate  
17 affirming the district court's dismissal, the district court shall order the  
18 records expunged 30 days after such mandate is filed.

19 (C) If the prosecutor files a written objection to the expungement, the  
20 court shall promptly hold a hearing on such objection. If the court finds  
21 expungement is appropriate, the court shall order the records expunged 30  
22 days after such hearing. If the court finds expungement is not appropriate,  
23 the court shall not order the records expunged.

24 (D) An order expunging records pursuant to this paragraph shall not  
25 require any action by the person.

26 (2) Notwithstanding the provisions of K.S.A. 2022 Supp. 21-6614,  
27 and amendments thereto, and except as provided in paragraph (3), a person  
28 who has been charged with a criminal offense and who has been acquitted  
29 of such charges or against whom charges have been dismissed, and whose  
30 records have not been expunged pursuant to paragraph (1), may petition  
31 the court in which the disposition of charges was made to expunge all  
32 charges and related arrest records. A petition for expungement brought  
33 under this paragraph shall be filed not sooner than 60 days after the order  
34 of acquittal or dismissal, with or without prejudice, is entered by the court.

35 (3) The provisions of paragraphs (1) and (2) do not apply to diversion  
36 agreements entered into in lieu of further criminal proceedings for a  
37 violation of driving under the influence, K.S.A. 8-1567, and amendments  
38 thereto, or to violations of a city ordinance or county resolution prohibiting  
39 the acts prohibited by K.S.A. 8-1567, and amendments thereto.

2024

1 (b) (1) After the filing of a petition pursuant to subsection (a)(2), the  
2 court shall notify the prosecutor and provide such prosecutor with the  
3 opportunity to respond to the petition. Such response shall be filed within  
4 30 days after the filing of the petition. The prosecutor shall notify the  
5 arresting law enforcement agency of such petition.

6 (2) (A) If a response objecting to the expungement is filed, the court  
7 shall set the matter for hearing. The prosecutor shall notify any victim of  
8 such hearing as required by K.S.A. 74-7335, and amendments thereto.

9 (B) If a response objecting to the expungement is not filed, the court  
10 shall order the expungement of such records 30 days after the filing of the  
11 petition pursuant to subparagraph (C).

12 (C) If the court finds that a petition filed pursuant to subsection (a)(2)  
13 is properly filed, the court shall grant the petition and order the court  
14 records and related arrest records expunged if such order is consistent with  
15 the public welfare.

16 (c) (1) An order of expungement pursuant to this section shall  
17 expunge all criminal records in the custody of the court and any criminal  
18 records in the custody of any other agency or official, including law  
19 enforcement records, related to the charges described in such order.

20 (2) When a court has issued an order of expungement pursuant to this  
21 section, the clerk of the court shall send a certified copy of the order of  
22 expungement to the Kansas bureau of investigation. The Kansas bureau of  
23 investigation shall send a copy of such order to the federal bureau of  
24 investigation, the secretary of corrections, the appellate courts and any  
25 other criminal justice agency that may have a record of the arrest, charge,  
26 conviction, acquittal, dismissal or diversion. If the case was appealed from  
27 municipal court, the clerk of the district court shall send a certified copy of  
28 the order of expungement to the municipal court. The municipal court shall  
29 order the case expunged once the certified copy of the order of  
30 expungement is received. After the order of expungement is entered, the  
31 petitioner shall be treated as not having been arrested, charged, acquitted,  
32 dismissed or diverted of the crime, except that:

33 (A) Upon conviction for any subsequent crime, the diversion that was  
34 expunged may be considered as a prior conviction in determining the  
35 sentence to be imposed;

36 (B) the petitioner shall disclose that the arrest, acquittal, dismissal or  
37 diversion occurred if asked about previous arrests, convictions or  
38 diversions:

39 (i) In any application for licensure as a private detective, private  
40 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-  
41 7b21, and amendments thereto, or employment as a detective with a  
42 private detective agency, as defined by K.S.A. 75-7b01, and amendments  
43 thereto; as security personnel with a private patrol operator, as defined by

- 1 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined  
2 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department  
3 for aging and disability services;
- 4 (ii) in any application for admission, or for an order of reinstatement,  
5 to the practice of law in this state;
- 6 (iii) to aid in determining the petitioner's qualifications for  
7 employment with the Kansas lottery or for work in sensitive areas within  
8 the Kansas lottery as deemed appropriate by the executive director of the  
9 Kansas lottery;
- 10 (iv) to aid in determining the petitioner's qualifications for executive  
11 director of the Kansas racing and gaming commission, for employment  
12 with the commission or for work in sensitive areas in parimutuel racing as  
13 deemed appropriate by the executive director of the commission, or to aid  
14 in determining qualifications for licensure or renewal of licensure by the  
15 commission;
- 16 (v) to aid in determining the petitioner's qualifications for the  
17 following under the Kansas expanded lottery act:
- 18 (a) Lottery gaming facility manager or prospective manager,  
19 racetrack gaming facility manager or prospective manager, licensee or  
20 certificate holder; or
- 21 (b) an officer, director, employee, owner, agent or contractor thereof;
- 22 (vi) upon application for a commercial driver's license under K.S.A.  
23 8-2,125 through 8-2,142, and amendments thereto;
- 24 (vii) to aid in determining the petitioner's qualifications to be an  
25 employee of the state gaming agency;
- 26 (viii) to aid in determining the petitioner's qualifications to be an  
27 employee of a tribal gaming commission or to hold a license issued  
28 pursuant to a tribal-state gaming compact;
- 29 (ix) in any application for registration as a broker-dealer, agent,  
30 investment adviser or investment adviser representative, all as defined in  
31 K.S.A. 17-12a102, and amendments thereto;
- 32 (x) in any application for employment as a law enforcement officer as  
33 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or
- 34 (xi) to aid in determining the petitioner's qualifications for a license to  
35 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-  
36 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and  
37 amendments thereto;
- 38 (C) the court, in the order of expungement, may specify other  
39 circumstances under which the conviction is to be disclosed;
- 40 (D) the diversion may be disclosed in a subsequent prosecution for an  
41 offense that requires as an element of such offense a prior conviction of  
42 the type expunged; and
- 43 (E) upon commitment to the custody of the secretary of corrections,

1 any previously expunged record in the possession of the secretary of  
2 corrections may be reinstated and the expungement disregarded, and the  
3 record continued for the purpose of the new commitment.

4 (3) Upon a motion establishing good cause, the court may set aside  
5 the order expunging a record pursuant to this section.

6 (d) (1) Subject to the disclosures required pursuant to subsection (c),  
7 in any application for employment, license or other civil right or privilege,  
8 or any appearance as a witness, a person whose records of arrest, acquittal,  
9 dismissal or diversion related to a criminal charge have been expunged  
10 under this statute may state that such person has never been arrested,  
11 charged, acquitted, dismissed or diverted of the crime.

12 (2) A person whose arrest record, conviction or diversion of a crime  
13 that resulted in such person being prohibited by state or federal law from  
14 possessing a firearm has been expunged under this statute shall be deemed  
15 to have had such person's right to keep and bear arms fully restored. This  
16 restoration of rights shall include, but not be limited to, the right to use,  
17 transport, receive, purchase, transfer and possess firearms. The provisions  
18 of this paragraph shall apply to all orders of expungement pursuant to this  
19 section.

20 (e) Whenever the records of arrest, acquittal, dismissal, conviction or  
21 diversion related to a criminal charge have been expunged under the  
22 provisions of this section or under the provisions of any other existing or  
23 former statute, the custodian of the records of arrest, acquittal, dismissal,  
24 conviction, diversion or incarceration relating to such criminal charge shall  
25 not disclose the existence of such records, except when requested by:

26 (1) The person whose record was expunged;

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

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

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

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

40 (6) a prosecutor, for the purpose of a potential prosecution;

41 (7) the supreme court, the clerk or disciplinary administrator thereof,  
42 the state board for admission of attorneys or the state board for discipline  
43 of attorneys, and the request is accompanied by a statement that the

1 request is being made in conjunction with an application for admission, or  
2 for an order of reinstatement, to the practice of law in this state by the  
3 person whose record has been expunged;

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

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

16 (10) the Kansas racing and gaming commission, or a designee of the  
17 commission, and the request is accompanied by a statement that the  
18 request is being made to aid in determining qualifications of the following  
19 under the Kansas expanded lottery act:

20 (A) Lottery gaming facility managers and prospective managers,  
21 racetrack gaming facility managers and prospective managers, licensees  
22 and certificate holders; and

23 (B) their officers, directors, employees, owners, agents and  
24 contractors;

25 (11) the Kansas sentencing commission;

26 (12) the state gaming agency, and the request is accompanied by a  
27 statement that the request is being made to aid in determining  
28 qualifications:

29 (A) To be an employee of the state gaming agency; or

30 (B) to be an employee of a tribal gaming commission or to hold a  
31 license issued pursuant to a tribal-gaming compact;

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

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

42 (15) a law enforcement agency for the purposes of a criminal  
43 investigation;

1 (16) (A) the attorney general and the request is accompanied by a  
2 statement that the request is being made to aid in determining  
3 qualifications for a license to act as a bail enforcement agent pursuant to  
4 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.  
5 2022 Supp. 50-6,141, and amendments thereto; or

6 (B) the attorney general for any other purpose authorized by law,  
7 except that an expungement record shall not be the basis for denial of a  
8 license to carry a concealed handgun under the personal and family  
9 protection act; or

10 (17) the Kansas bureau of investigation, for the purpose of  
11 completing a person's criminal history record information within the  
12 central repository, in accordance with K.S.A. 22-4701 et seq., and  
13 amendments thereto.

14 (f) As used in this section, "criminal charges" does not include a  
15 traffic infraction that is not classified as a misdemeanor.

16 (g) The provisions of this section, except for the provisions of  
17 subsection (a)(1), shall be construed and applied retroactively.

18 Sec. 2. K.S.A. 2022 Supp. 21-6614 is hereby amended to read as  
19 follows: 21-6614. (a)-(1) Except as provided in subsections (b), (c), (d), (e)  
20 and (f), any person convicted in this state of a traffic infraction, cigarette  
21 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes  
22 committed on or after July 1, 1993, any nongrid felony or felony ranked in  
23 severity levels 6 through 10 of the nondrug grid, or for crimes committed  
24 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in  
25 severity level 4 of the drug grid, or for crimes committed on or after July  
26 1, 2012, any felony ranked in severity level 5 of the drug grid may petition  
27 the convicting court for the expungement of such conviction or related  
28 arrest records if three or more years have elapsed since the person:

29 ~~(A)(1)~~ Satisfied the sentence imposed; or

30 ~~(B)(2)~~ was discharged from probation, a community correctional  
31 services program, parole, postrelease supervision, conditional release or a  
32 suspended sentence.

33 ~~(2) Except as provided in subsections (b), (c), (d), (e) and (f), any~~  
34 ~~person who has fulfilled the terms of a diversion agreement may petition~~  
35 ~~the district court for the expungement of such diversion agreement and~~  
36 ~~related arrest records if three or more years have elapsed since the terms of~~  
37 ~~the diversion agreement were fulfilled.~~

38 (b) Any person convicted of prostitution, as defined in K.S.A. 21-  
39 3512, prior to its repeal, convicted of a violation of K.S.A. 2022 Supp. 21-  
40 6419, and amendments thereto, ~~or who entered into a diversion agreement~~  
41 ~~in lieu of further criminal proceedings for such violation,~~ may petition the  
42 convicting court for the expungement of such conviction ~~or diversion~~  
43 ~~agreement~~ and related arrest records if:

1 (1) One or more years have elapsed since the person satisfied the  
2 sentence imposed ~~or the terms of a diversion agreement~~ or was discharged  
3 from probation, a community correctional services program, parole,  
4 postrelease supervision, conditional release or a suspended sentence; and

5 (2) such person can prove they were acting under coercion caused by  
6 the act of another. For purposes of this subsection, "coercion" means:  
7 Threats of harm or physical restraint against any person; a scheme, plan or  
8 pattern intended to cause a person to believe that failure to perform an act  
9 would result in bodily harm or physical restraint against any person; or the  
10 abuse or threatened abuse of the legal process.

11 (c) Except as provided in subsections (e) and (f), no person may  
12 petition for expungement until five or more years have elapsed since the  
13 person satisfied the sentence imposed ~~or the terms of a diversion~~  
14 ~~agreement~~ or was discharged from probation, a community correctional  
15 services program, parole, postrelease supervision, conditional release or a  
16 suspended sentence, if such person was convicted of a class A, B or C  
17 felony, or for crimes committed on or after July 1, 1993, if convicted of an  
18 off-grid felony or any felony ranked in severity levels 1 through 5 of the  
19 nondrug grid, or for crimes committed on or after July 1, 1993, but prior to  
20 July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug  
21 grid, or for crimes committed on or after July 1, 2012, any felony ranked  
22 in severity levels 1 through 4 of the drug grid, or:

23 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its  
24 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto, or as  
25 prohibited by any law of another state that is in substantial conformity  
26 with that statute;

27 (2) driving while the privilege to operate a motor vehicle on the  
28 public highways of this state has been canceled, suspended or revoked, as  
29 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by  
30 any law of another state that is in substantial conformity with that statute;

31 (3) perjury resulting from a violation of K.S.A. 8-261a, and  
32 amendments thereto, or resulting from the violation of a law of another  
33 state that is in substantial conformity with that statute;

34 (4) violating the provisions of K.S.A. 8-142 *Fifth*, and amendments  
35 thereto, relating to fraudulent applications or violating the provisions of a  
36 law of another state that is in substantial conformity with that statute;

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

39 (6) failing to stop at the scene of an accident and perform the duties  
40 required by K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602 or 8-1604,  
41 and amendments thereto, or required by a law of another state that is in  
42 substantial conformity with those statutes;

43 (7) violating the provisions of K.S.A. 40-3104, and amendments

- 1 thereto, relating to motor vehicle liability insurance coverage; or  
2 (8) a violation of K.S.A. 21-3405b, prior to its repeal.
- 3 (d) (1) No person may petition for expungement until five or more  
4 years have elapsed since the person satisfied the sentence imposed or the  
5 terms of a diversion agreement or was discharged from probation, a  
6 community correctional services program, parole, postrelease supervision,  
7 conditional release or a suspended sentence, if such person was convicted  
8 of a first violation of K.S.A. 8-1567, and amendments thereto, including  
9 any diversion for such violation.
- 10 (2) No person may petition for expungement until 10 or more years  
11 have elapsed since the person satisfied the sentence imposed or was  
12 discharged from probation, a community correctional services program,  
13 parole, postrelease supervision, conditional release or a suspended  
14 sentence, if such person was convicted of a second or subsequent violation  
15 of K.S.A. 8-1567, and amendments thereto.
- 16 (3) Except as provided further, the provisions of this subsection shall  
17 apply to all violations committed on or after July 1, 2006. The provisions  
18 of subsection (d)(2) shall not apply to violations committed on or after  
19 July 1, 2014, but prior to July 1, 2015.
- 20 (e) There shall be no expungement of convictions for the following  
21 offenses or of convictions for an attempt to commit any of the following  
22 offenses:
- 23 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
24 2022 Supp. 21-5503, and amendments thereto;
- 25 (2) indecent liberties with a child or aggravated indecent liberties  
26 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,  
27 or K.S.A. 2022 Supp. 21-5506, and amendments thereto;
- 28 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
29 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and  
30 amendments thereto;
- 31 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
32 to its repeal, or K.S.A. 2022 Supp. 21-5504, and amendments thereto;
- 33 (5) indecent solicitation of a child or aggravated indecent solicitation  
34 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,  
35 or K.S.A. 2022 Supp. 21-5508, and amendments thereto;
- 36 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
37 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;
- 38 (7) internet trading in child pornography or aggravated internet  
39 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,  
40 and amendments thereto;
- 41 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
42 repeal, or K.S.A. 2022 Supp. 21-5604, and amendments thereto;
- 43 (9) endangering a child or aggravated endangering a child, as defined

- 1 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2022 Supp.  
2 21-5601, and amendments thereto;
- 3 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,  
4 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;
- 5 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
6 or K.S.A. 2022 Supp. 21-5401, and amendments thereto;
- 7 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
8 its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;
- 9 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior  
10 to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;
- 11 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to  
12 its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;
- 13 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
14 its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments thereto;
- 15 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,  
16 or K.S.A. 2022 Supp. 21-5505, and amendments thereto, when the victim  
17 was less than 18 years of age at the time the crime was committed;
- 18 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
19 its repeal, or K.S.A. 2022 Supp. 21-5505, and amendments thereto;
- 20 (18) a violation of K.S.A. 8-2,144, and amendments thereto,  
21 including any diversion for such violation; or
- 22 (19) any conviction for any offense in effect at any time prior to July  
23 1, 2011, that is comparable to any offense as provided in this subsection.
- 24 (f) Except as provided in K.S.A. 22-4908, and amendments thereto,  
25 for any offender who is required to register as provided in the Kansas  
26 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,  
27 there shall be no expungement of any conviction or any part of the  
28 offender's criminal record while the offender is required to register as  
29 provided in the Kansas offender registration act.
- 30 (g) (1) When a petition for expungement is filed, the court shall set a  
31 date for a hearing of such petition and shall cause notice of such hearing to  
32 be given to the prosecutor and the arresting law enforcement agency. The  
33 petition shall state the:
- 34 (A) Defendant's full name;
- 35 (B) full name of the defendant at the time of arrest, conviction or  
36 diversion, if different than the defendant's current name;
- 37 (C) defendant's sex, race and date of birth;
- 38 (D) crime for which the defendant was arrested, convicted or  
39 diverted;
- 40 (E) date of the defendant's arrest, conviction or diversion; and
- 41 (F) identity of the convicting court, arresting law enforcement  
42 authority or diverting authority.
- 43 (2) Except as otherwise provided by law, a petition for expungement

1 shall be accompanied by a docket fee in the amount of \$176. On and after  
2 July 1, 2019, through June 30, 2025, the supreme court may impose a  
3 charge, not to exceed \$19 per case, to fund the costs of non-judicial  
4 personnel. The charge established in this section shall be the only fee  
5 collected or moneys in the nature of a fee collected for the case. Such  
6 charge shall only be established by an act of the legislature and no other  
7 authority is established by law or otherwise to collect a fee.

8 (3) All petitions for expungement shall be docketed in the original  
9 criminal action. Any person who may have relevant information about the  
10 petitioner may testify at the hearing. The court may inquire into the  
11 background of the petitioner and shall have access to any reports or  
12 records relating to the petitioner that are on file with the secretary of  
13 corrections or the prisoner review board.

14 (h) At the hearing on the petition, the court shall order the petitioner's  
15 arrest record, conviction or diversion expunged if the court finds that:

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

19 (2) the circumstances and behavior of the petitioner warrant the  
20 expungement;

21 (3) the expungement is consistent with the public welfare; and

22 (4) with respect to petitions seeking expungement of a felony  
23 conviction, possession of a firearm by the petitioner is not likely to pose a  
24 threat to the safety of the public.

25 (i) When the court has ordered an arrest record, conviction or  
26 diversion expunged, the order of expungement shall state the information  
27 required to be contained in the petition. The clerk of the court shall send a  
28 certified copy of the order of expungement to the Kansas bureau of  
29 investigation that shall notify the federal bureau of investigation, the  
30 secretary of corrections and any other criminal justice agency that may  
31 have a record of the arrest, conviction or diversion. If the case was  
32 appealed from municipal court, the clerk of the district court shall send a  
33 certified copy of the order of expungement to the municipal court. The  
34 municipal court shall order the case expunged once the certified copy of  
35 the order of expungement is received. After the order of expungement is  
36 entered, the petitioner shall be treated as not having been arrested,  
37 convicted or diverted of the crime, except that:

38 (1) Upon conviction for any subsequent crime, the conviction that  
39 was expunged may be considered as a prior conviction in determining the  
40 sentence to be imposed;

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

43 (A) In any application for licensure as a private detective, private

1 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-  
2 7b21, and amendments thereto, or employment as a detective with a  
3 private detective agency, as defined by K.S.A. 75-7b01, and amendments  
4 thereto; as security personnel with a private patrol operator, as defined by  
5 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined  
6 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department  
7 for aging and disability services;

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

10 (C) to aid in determining the petitioner's 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 (D) to aid in determining the petitioner's qualifications for executive  
15 director of the Kansas racing and gaming commission, for employment  
16 with the commission or for work in sensitive areas in parimutuel racing as  
17 deemed appropriate by the executive director of the commission, or to aid  
18 in determining qualifications for licensure or renewal of licensure by the  
19 commission;

20 (E) to aid in determining the petitioner's qualifications for the  
21 following under the Kansas expanded lottery act: (i) Lottery gaming  
22 facility manager or prospective manager, racetrack gaming facility  
23 manager or prospective manager, licensee or certificate holder; or (ii) an  
24 officer, director, employee, owner, agent or contractor thereof;

25 (F) upon application for a commercial driver's license under K.S.A.  
26 8-2,125 through 8-2,142, and amendments thereto;

27 (G) to aid in determining the petitioner's qualifications to be an  
28 employee of the state gaming agency;

29 (H) to aid in determining the petitioner's qualifications to be an  
30 employee of a tribal gaming commission or to hold a license issued  
31 pursuant to a tribal-state gaming compact;

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

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

37 (K) to aid in determining the petitioner's qualifications for a license to  
38 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-  
39 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and  
40 amendments thereto;

41 (3) the court, in the order of expungement, may specify other  
42 circumstances under which the conviction is to be disclosed;

43 (4) the conviction may be disclosed in a subsequent prosecution for

1 an offense that requires as an element of such offense a prior conviction of  
2 the type expunged; and

3 (5) upon commitment to the custody of the secretary of corrections,  
4 any previously expunged record in the possession of the secretary of  
5 corrections may be reinstated and the expungement disregarded, and the  
6 record continued for the purpose of the new commitment.

7 (j) Whenever a person is convicted of a crime, pleads guilty and pays  
8 a fine for a crime, is placed on parole, postrelease supervision or  
9 probation, is assigned to a community correctional services program, is  
10 granted a suspended sentence or is released on conditional release, the  
11 person shall be informed of the ability to expunge the arrest records or  
12 conviction. Whenever a person enters into a diversion agreement, the  
13 person shall be informed of the ability to expunge the diversion.

14 (k) (1) Subject to the disclosures required pursuant to subsection (i),  
15 in any application for employment, license or other civil right or privilege,  
16 or any appearance as a witness, a person whose arrest records, conviction  
17 or diversion of a crime has been expunged under this statute may state that  
18 such person has never been arrested, convicted or diverted of such crime.

19 (2) A person whose arrest record, conviction or diversion of a crime  
20 that resulted in such person being prohibited by state or federal law from  
21 possessing a firearm has been expunged under this statute shall be deemed  
22 to have had such person's right to keep and bear arms fully restored. This  
23 restoration of rights shall include, but not be limited to, the right to use,  
24 transport, receive, purchase, transfer and possess firearms. The provisions  
25 of this paragraph shall apply to all orders of expungement, including any  
26 orders issued prior to July 1, 2021.

27 (l) Whenever the record of any arrest, conviction or diversion has  
28 been expunged under the provisions of this section or under the provisions  
29 of any other existing or former statute, the custodian of the records of  
30 arrest, conviction, diversion and incarceration relating to that crime shall  
31 not disclose the existence of such records, except when requested by:

32 (1) The person whose record was expunged;

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

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

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

- 1 (5) a person entitled to such information pursuant to the terms of the  
2 expungement order;
- 3 (6) a prosecutor, and such request is accompanied by a statement that  
4 the request is being made in conjunction with a prosecution of an offense  
5 that requires a prior conviction as one of the elements of such offense;
- 6 (7) the supreme court, the clerk or disciplinary administrator thereof,  
7 the state board for admission of attorneys or the state board for discipline  
8 of attorneys, and the request is accompanied by a statement that the  
9 request is being made in conjunction with an application for admission, or  
10 for an order of reinstatement, to the practice of law in this state by the  
11 person whose record has been expunged;
- 12 (8) the Kansas lottery, and the request is accompanied by a statement  
13 that the request is being made to aid in determining qualifications for  
14 employment with the Kansas lottery or for work in sensitive areas within  
15 the Kansas lottery as deemed appropriate by the executive director of the  
16 Kansas lottery;
- 17 (9) the governor or the Kansas racing and gaming commission, or a  
18 designee of the commission, and the request is accompanied by a  
19 statement that the request is being made to aid in determining  
20 qualifications for executive director of the commission, for employment  
21 with the commission, for work in sensitive areas in parimutuel racing as  
22 deemed appropriate by the executive director of the commission or for  
23 licensure, renewal of licensure or continued licensure by the commission;
- 24 (10) the Kansas racing and gaming commission, or a designee of the  
25 commission, and the request is accompanied by a statement that the  
26 request is being made to aid in determining qualifications of the following  
27 under the Kansas expanded lottery act: (A) Lottery gaming facility  
28 managers and prospective managers, racetrack gaming facility managers  
29 and prospective managers, licensees and certificate holders; and (B) their  
30 officers, directors, employees, owners, agents and contractors;
- 31 (11) the Kansas sentencing commission;
- 32 (12) the state gaming agency, and the request is accompanied by a  
33 statement that the request is being made to aid in determining  
34 qualifications: (A) To be an employee of the state gaming agency; or (B)  
35 to be an employee of a tribal gaming commission or to hold a license  
36 issued pursuant to a tribal-gaming compact;
- 37 (13) the Kansas securities commissioner or a designee of the  
38 commissioner, and the request is accompanied by a statement that the  
39 request is being made in conjunction with an application for registration as  
40 a broker-dealer, agent, investment adviser or investment adviser  
41 representative by such agency and the application was submitted by the  
42 person whose record has been expunged;
- 43 (14) the Kansas commission on peace officers' standards and training

1 and the request is accompanied by a statement that the request is being  
2 made to aid in determining certification eligibility as a law enforcement  
3 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

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

8 (16) (A) the attorney general and the request is accompanied by a  
9 statement that the request is being made to aid in determining  
10 qualifications for a license to act as a bail enforcement agent pursuant to  
11 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.  
12 2022 Supp. 50-6,141, and amendments thereto; or

13 (B) the attorney general for any other purpose authorized by law,  
14 except that an expungement record shall not be the basis for denial of a  
15 license to carry a concealed handgun under the personal and family  
16 protection act; or

17 (17) the Kansas bureau of investigation, for the purpose of  
18 completing a person's criminal history record information within the  
19 central repository, in accordance with K.S.A. 22-4701 et seq., and  
20 amendments thereto.

21 (m) (1) The provisions of subsection (l)(17) shall apply to records  
22 created prior to, on and after July 1, 2011.

23 (2) Upon the issuance of an order of expungement that resulted in the  
24 restoration of a person's right to keep and bear arms, the Kansas bureau of  
25 investigation shall report to the federal bureau of investigation that such  
26 expunged record be withdrawn from the national instant criminal  
27 background check system. The Kansas bureau of investigation shall  
28 include such order of expungement in the person's criminal history record  
29 for purposes of documenting the restoration of such person's right to keep  
30 and bear arms.

31 Sec. 3. K.S.A. 2022 Supp. 21-6614 is hereby repealed.

32 Sec. 4. This act shall take effect and be in force from and after its  
33 publication in the statute book.

July 1, 2024, and