

KANSAS SENATE  
JUDICIARY COMMITTEE

SEN. KELLIE WARREN  
CHAIRWOMAN  
(785) 296-7646  
Kellie.Warren@Senate.KS.Gov  
Kansas Capitol, Room 419-E



BARBARA MOORE  
COMMITTEE ASSISTANT  
(785) 296-6817  
Barbara.Moore@Senate.KS.Gov  
Kansas Capitol, Room 419-E

CONFEREES TRANSMITTAL FORM

Please provide 18 hard copies of testimony along with a PDF to Barbara Moore in room 419-E.  
Please submit all testimony **no later than 10:00 AM the day before the scheduled meeting.**

Bill # SB 246  
Please note nomenclature (HB, SB, SCR, etc.)

Date of Testimony 01/20/2016  
(MM/DD/YY)

Category:

Please select one

- Proponent  
 Opponent  
 Neutral

Delivery:

Please select one

- In-person  
(Speaking w/18 hard copies & a PDF)  
 Oral via WebEx  
(Speaking w/18 hard copies & a PDF)  
 Written only  
(18 hard copies & a PDF)

Conferee

BOB STUART  
First name Last Name

KBI  
Organization represented and title, if any

785 207 0538  
Phone number

Robert.Stuart@KBI.KS.GOV  
Email address

Contact (If different than above)

\_\_\_\_\_  
First name Last Name

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Email address



**Tony Mattivi**  
Director

**KANSAS BUREAU OF**  
**INVESTIGATION**  
DEDICATION | SERVICE | INTEGRITY

**Kris W. Kobach**  
Attorney General

Before the  
Senate Committee on Judiciary  
Regarding SB 246 (Proponent)  
Bob Stuart, Executive Officer  
January 20, 2026

Chairwoman Warren and Members of the Committee:

Thank you for the opportunity to provide written testimony on the continuing effort to update Kansas Statutes regarding fingerprint based criminal history checks. While there are numerous agencies, job titles within those agencies or occupations that require state certification that are already required to conduct fingerprint based criminal history checks the KBI believes there are gaps in that coverage. The KBI is particularly concerned about protecting our most vulnerable populations of children, the elderly and the disabled. There are jobs in the public and private sector where there is often the opportunity to have one on one contact between the employee/provider and the child, elder or disabled person. This places that person at a heightened risk of physical, sexual and/or financial risk. Extending the requirement of a fingerprint based criminal history check mitigates that risk.

Background:

In 1978, the KBI was statutorily required the responsibility of maintaining the state's criminal history records through K.S.A. 22-4705. Per K.S.A. 21-2501, fingerprint and palm prints are to be taken by local law enforcement agencies if a person is wanted for the commission of a felony or a class A or B misdemeanor or assault as defined in K.S.A. 21-3408. Those fingerprint and palm prints are to be provided to and maintained by the KBI. The KBI shall forward one set of the fingerprints to the Federal Bureau of Investigation (FBI).

The KBI offers criminal history record checks to both criminal justice and non-criminal justice entities. Presently, there are fifty-five (55) state statutes that authorize fingerprint based criminal history record checks for non-criminal justice entities. There are four (4) state statutes that authorize fingerprint based criminal history record checks for criminal justice entities. There are eighteen (18) state statutes that authorize name based criminal history record checks for noncriminal justice entities. Some examples of non-criminal justice entities who are authorized to receive fingerprint based criminal history record checks are: State Bank Commissioner, Kansas Department of Aging and Disability Services (KDADS), Kansas Real Estate Commission, State Board of Nursing, Department of Education, Kansas Department of Health and Environment, and Kansas Department of Children and Families (DCF). Many of these entities request criminal history record checks on applicants, employees, and

volunteers who work in positions of trust and those working with vulnerable populations such as children, the elderly, and disabled individuals.

When a criminal history record check is requested the KBI searches not only the state criminal history record repository, but also the national criminal history repository, which is maintained by the FBI. The national repository includes arrests and convictions of crimes committed in Kansas as well as all other states and US territories.

#### Current Issue:

Senate Bill 246 proposes several key reforms that will strengthen our ability to safeguard Kansas communities. Notably, it mandates state and national criminal history record checks for all school employees, contractors and volunteers with recurring checks every five years. This provision ensures ongoing vigilance in educational settings, where children spend significant portions of their time.

From the KBI's perspective, these expansions are essential for protecting our most vulnerable populations: children, the elderly, and individuals with disabilities. In schools, regular background checks will help prevent individuals with disqualifying offenses (such as violent crimes, sexual exploitation, or child abuse) from gaining or maintaining access to students. This proactive approach closes potential gaps in current systems, reducing risks to children's safety and well-being. The need for such measures is underscored by the Kansas Medicaid Inspector General's report from November 2023<sup>1</sup>, which warned that some school employees may lack proper background checks, potentially allowing individuals convicted of serious crimes to have unsupervised access to children. The report specifically recommended that Kansas school districts conduct fingerprint-based criminal history investigations on all school employees on a documented cycle every five years.

Furthermore, a subsequent performance audit by the Inspector General, released in April 2025, examined reimbursements for school-based Medicaid services and revealed significant vulnerabilities. Of the 231 providers audited, only 72 (about 31%) had proof of completed background checks at the time of the request. This alarming finding highlights the inconsistencies in current practices and reinforces the urgency of standardized, recurring checks to protect students, many of whom are among the most vulnerable, including those with disabilities who receive these services.

Similarly, for adult care homes, community mental health centers, and other facilities under KDADS oversight, the bill reinforces prohibitions on employing those with histories of serious crimes like human trafficking, mistreatment of dependents, or sexual offenses. By allowing waivers only after careful review and rehabilitation periods, it balances fairness with protection. The creation of the Criminal History Record Check Reimbursement Fund will further support KDADS in conducting these vital checks without undue financial burden, ensuring consistent application across programs that serve the elderly and disabled.

The KBI already plays a pivotal role in processing fingerprint-based checks through state and federal databases, and this bill will enhance our efficiency in providing timely, accurate information. We are

---

<sup>1</sup> See attached

equipped to handle the increased demand, and the confidentiality safeguards outlined will maintain the integrity of sensitive data.

In conclusion, Senate Bill 246 represents a forward-thinking step to bolster public safety by expanding the coverage and frequency of background checks. By addressing the gaps identified in the Inspector General's reports, it directly protects children in our schools, the elderly in care facilities, and individuals with disabilities in supportive environments. The KBI urges the committee to advance this bill favorably.

Attached and incorporated into this document are proposed amendments to the original bill which are suggested by KBI subject matter experts regarding fingerprint based criminal history checks.

Thank you for your attention to this important matter. I am available to answer any questions or provide additional information as needed.

#####

SENATE BILL No. 246

By Committee on Judiciary

2-7

1 AN ACT concerning criminal history record information; relating to state  
2 and national criminal history record checks; requiring ~~the state board of~~  
32 ~~education-Kansas School Districts~~ to conduct state and national criminal  
history record checks  
43 on all school employees, ~~contractors, or volunteers~~; creating the criminal  
history record check  
54 reimbursement fund for certain state and criminal history record checks  
65 conducted by the Kansas department for aging and disability services; 7  
amending K.S.A. 72-2165 and 72-4223 and K.S.A. 2024 Supp. 22-  
8 4714 and repealing the existing sections.

9  
10 *Be it enacted by the Legislature of the State of Kansas:*

11 New Section 1. (a) (1) The ~~state board of education~~Kansas School  
Districts shall require  
12 every applicant to be fingerprinted and submit to a state and national  
13 criminal history record check in accordance with K.S.A. 2024 Supp. 22-  
14 4714, and amendments thereto.  
15 (2) ~~Each applicant shall pay a fee for the criminal history record~~  
16 ~~check required by subsection (a) in an amount necessary to reimburse the~~  
17 ~~state board of education for the cost of such criminal history record check.~~  
18 ~~If an applicant is employed by a school district, such school district may~~  
1915 ~~pay the fee on behalf of such applicant. The school district may pay for the~~  
cost of the criminal history record check or may require each employee  
subject to the provisions of this section to pay a fee in an amount necessary  
to reimburse the school district for the cost of the criminal history record  
check.  
2016 (3) Any applicant who does not comply with the provisions of this  
21 section shall not be ~~issued a license or certificate by the state board of~~  
2217 ~~education.~~ allowed to become an employee, contract worker, or volunteer in the  
school.

2318 (4) The ~~state board of education~~School Districts may adopt rules and  
regulations to  
2419 implement and enforce the provisions of this subsection.

25 (b) (1) ~~Any person not subject to the provisions of subsection (a), and~~  
26 ~~amendments thereto, who is an employee of a school district shall be~~  
27 ~~fingerprinted and submit to a state and national criminal history record~~  
28 ~~check in accordance with K.S.A. 2024 Supp. 22-4714, and amendments~~  
2920 ~~thereto, prior to commencing any work involving students.~~

3021 (2) ~~The criminal history record checks required by subsection (a)~~  
3122 ~~shall be conducted in the following manner:~~

3223 (A) ~~For employees hired before July 1, 2025, every five years from~~

~~3324~~ and after July 1, 2025; and

~~3425~~ (D) for employees hired on and after July 1, 2025, every five years

~~3526~~ from the first day of such employee's employment.

~~3627~~ (3) The school district may pay for the cost of the criminal history

Commented [NM1]: Addressed above

~~1 record check or may require each employee subject to the provisions of  
2 this section to pay a fee in an amount necessary to reimburse the school  
3 district for the cost of the criminal history record check.~~

41 (c) (1) Each ~~employee, applicant~~ subject to the provisions of this section  
who

52 has been convicted of any offense or act specified in K.S.A. 72-2165(a) or  
63 (b), and amendments thereto, or who has entered into a criminal diversion  
74 agreement after having been charged with any offense or act specified in  
85 K.S.A. 72-2165(b), and amendments thereto, shall file a report with the  
96 school district indicating the name, address and social security number of  
107 such ~~employee, applicant~~. Such report shall be filed within 30 days of the date  
of

118 such conviction or the date such person entered into any such diversion  
129 agreement.

1310 (2) Failure to file a report as required by this subsection is a class B  
1411 nonperson misdemeanor.

1512 (d) As used in this section:

16 (1) "Applicant" means a person who has applied for or is currently employed by,  
contracting with, or a volunteer of a school who has direct one-on-one contact  
with students that does not have a teaching license or certification making an  
initial application for a

17 Kansas teaching certificate or teaching license, an application for a  
18 renewal of such certificate or license or an application for renewal of an  
1913 expired certificate or license; and

20 (2) "~~employeeschool~~" means a person who is employed by a school district  
21 in a position with direct contact with students. "Employee" does not  
22 include a person making an initial application for a Kansas teaching  
23 certificate or teaching license, an application for a renewal of such  
24 certificate or license or an application for renewal of an expired certificate  
2514 or license; any K-12 public, private, or charter school in Kansas.

2615 New Sec. 2. (a) There is hereby created in the state treasury the  
2716 criminal history record check reimbursement fund. The fund shall be  
2817 administered by the Kansas department for aging and disability services.  
2918 All expenditures from the criminal history record check reimbursement  
3019 fund shall be to reimburse the Kansas department for aging and disability  
3120 services for criminal history record checks conducted pursuant to K.S.A.  
3221 39-970, 39-2009 and 65-5117, and amendments thereto. All expenditures  
3322 from the criminal history record check reimbursement fund shall be made  
3423 in accordance with appropriation acts upon warrants of the director of  
3524 accounts and reports issued pursuant to vouchers approved by the  
3625 secretary for aging and disability services, or the secretary's designee.

3726 (b) On July 1, ~~2025~~2026, and each July 1 thereafter, the secretary for aging  
3827 and disability services, in consultation with the director of the budget, shall  
3928 determine and certify to the director of accounts and reports the total  
4029 amount paid by the department for aging and disability services for  
4130 criminal history record checks conducted pursuant to K.S.A. 39-970, 39-  
4231 2009 and 65-5117, and amendments thereto, minus the amount received

Formatted: Font color: Red, Strikethrough  
Formatted: Font color: Red  
Formatted: Font: Italic

Formatted: Font color: Red, Strikethrough

SB 246

3

[4332](#) from fees charged and collected for such criminal history record checks.

1 Upon receipt of each such certification, or as soon thereafter as moneys are  
 2 available, the director of accounts and reports shall transfer such certified  
 3 amount from the state general fund to the criminal history record check  
 4 fund. When the secretary for aging and disability services transmits such  
 5 certification to the director of accounts and reports, the secretary shall  
 6 transmit a copy to the director of legislative research.

7 Sec. 3. K.S.A. 2024 Supp. 22-4714 is hereby amended to read as  
 8 follows: 22-4714. (a) A governmental agency other than a criminal justice  
 9 agency as defined in K.S.A. 22-4701, and amendments thereto, identified  
 10 in subsection (b) may require a person to be fingerprinted and shall submit  
 11 such fingerprints to the Kansas bureau of investigation and the federal  
 12 bureau of investigation for a search of the state and federal database.  
 13 Fingerprints provided pursuant to this section may be used to identify a  
 14 person and to determine whether such person has a record of criminal  
 15 history in this state or in another jurisdiction. An agency identified in  
 16 subsection (b) may use the information obtained from the criminal history  
 17 record check for the purposes of verifying the identification of a person  
 18 and in the official determination of the qualifications and fitness of such  
 19 person to be issued or maintain employment, licensure, registration,  
 20 certification or a permit, act as an agent of a licensee, hold ownership of a  
 21 licensee or serve as a director or officer of a licensee.

22 (b) (1) The Kansas bureau of investigation shall release criminal  
 23 history record information related to adult convictions, adult non-  
 24 convictions, adult diversions, adult expunged records, juvenile  
 25 adjudications, juvenile non-adjudications, juvenile diversions and juvenile  
 26 expunged records to the Kansas department for children and families or  
 27 the Kansas department for aging and disability services for initial or  
 28 continuing employment or participation in any program administered for  
 29 the placement, safety, protection or treatment of vulnerable children or  
 30 adults as described in K.S.A. 75-53,105, and amendments thereto.

3031 *(b)(2)? The Kansas bureau of investigation shall release criminal history  
 record information related to adult convictions, adult nonconvictions, adult  
 diversions, adult expunged records, juvenile adjudications, juvenile non-  
 adjudications, juvenile diversions and juvenile expunged records to the Kansas  
 department for children and families for emergency placement of children as  
 described in New Section 10, and amendments thereto.*

3432 (2) The Kansas bureau of investigation shall release criminal history  
 3233 record information related to adult convictions, adult non-convictions,  
 3334 adult diversions, adult expunged records and juvenile expunged records to:

3435 (A) The state lottery for candidates for employees as defined in  
 3536 K.S.A. 74-8702, and amendments thereto, in connection with such  
 3637 employment as described in K.S.A. 74-8704, and amendments thereto; and  
 3738 (B) the Kansas racing and gaming commission for candidates for  
 3839 employees or licensees as defined in K.S.A. 74-8802, and amendments  
 3940 thereto, in connection with such employment or license as described in  
 4041 K.S.A. 74-8804, and amendments thereto, including an applicant for a  
 4142 simulcasting license.

4243 (3) The Kansas bureau of investigation shall release criminal history

SB 246

5

[4344](#) record information related to adult convictions, adult non-convictions,

- 1 adult diversions, adult expunged records, juvenile adjudications, juvenile  
2 non-adjudications and juvenile diversions to:
- 3 (A) The emergency medical services board for applicants as defined  
4 in K.S.A. 65-6129, and amendments thereto, in connection with such  
5 application as described in K.S.A. 65-6129, and amendments thereto;
- 6 (B) the attorney general for applicants as defined in K.S.A. 75-7c01,  
7 and amendments thereto, in connection with such application as described  
8 in K.S.A. 75-7c05, and amendments thereto; and
- 9 (C) the department of administration for candidates for sensitive  
10 employees as defined in K.S.A. 75-3707e, and amendments thereto, in  
11 connection with such employment as described in K.S.A. 75-3707e, and  
12 amendments thereto.
- 13 (4) The Kansas bureau of investigation shall release criminal history  
14 record information related to adult convictions, adult non-convictions,  
15 adult diversions and adult expunged records to:
- 16 (A) The supreme court and state board of law examiners for  
17 applicants as defined in K.S.A. 7-127, and amendments thereto, in  
18 connection with such application as described in K.S.A. 7-127, and  
19 amendments thereto;
- 20 (B) the state gaming agency for candidates for employees and  
21 licensees as defined in K.S.A. 74-9802, and amendments thereto, in  
22 connection with such employment or license as described in K.S.A. 74-  
23 9805, and amendments thereto;
- 24 (C) the attorney general for applicants as defined in K.S.A. 75-7b01,  
25 and amendments thereto, in connection with such application as described  
26 in K.S.A. 75-7b04, and amendments thereto;
- 27 (D) the attorney general for applicants as defined in K.S.A. 75-7b01,  
28 and amendments thereto, in connection with such application for  
29 certification as described in K.S.A. 75-7b21, and amendments thereto;-atti
- 30 (E) the commission on peace officers' standards and training for  
31 applicants for certification under the Kansas law enforcement training act  
32 as described in K.S.A. 74-5607, and amendments thereto;
- 33 (F) ~~the state board of education~~Kansas School Districts for applicants as  
34 defined in section  
35 1, and amendments thereto, in connection with such application as  
36 described in section 1, and amendments thereto;
- ~~37~~ ~~(G) school districts for employees as defined in section 1, and~~  
~~3836~~ ~~amendments thereto, in connection with such employment with a school~~  
~~3937~~ ~~district as described in section 1, and amendments thereto; and~~  
~~4038~~ ~~4223, and amendments thereto, in connection with such employment with~~  
~~4139~~ ~~a public innovative district as described in K.S.A. 72-4223, and~~  
~~4240~~ ~~amendments thereto.~~
- 4341 (5) The Kansas bureau of investigation shall release criminal history

- 1 record information related to adult convictions, adult non-convictions,  
2 adult diversions and juvenile adjudications to:
- 3 (A) The athletic commission within the Kansas department of  
4 commerce for a candidate for boxing commission as defined in K.S.A. 74-  
5 50,182, and amendments thereto, in connection with such appointment as  
6 described in K.S.A. 74-50,184, and amendments thereto; and
- 7 (B) the secretary of health and environment for employees at a child  
8 care facility as defined in K.S.A. 65-503, and amendments thereto, in  
9 connection with such employment as described in K.S.A. 65-516, and  
10 amendments thereto.
- 11 (6) The Kansas bureau of investigation shall release criminal history  
12 record information related to adult convictions and juvenile adjudications  
13 to:
- 14 (A) The secretary for aging and disability services for applicants as  
15 defined in K.S.A. 39-970, and amendments thereto, in connection with  
16 such application as described in K.S.A. 39-970, and amendments thereto;
- 17 (B) the Kansas department for aging and disability services for  
18 applicants as defined in K.S.A. 39-2009, and amendments thereto, in  
19 connection with such application as described in K.S.A. 39-2009, and  
20 amendments thereto; and
- 21 (C) the secretary for aging and disability services for applicants as  
22 defined in K.S.A. 65-5117, and amendments thereto, in connection with  
23 such application as described in K.S.A. 65-5117, and amendments thereto.
- 24 (7) The Kansas bureau of investigation shall release criminal history  
25 record information related to adult convictions and adult non-convictions  
26 to:
- 27 (A) The division of motor vehicles within the department of revenue  
28 for applicants for reinstatement of a license to drive a commercial motor  
29 vehicle as described in K.S.A. 8-2,142, and amendments thereto;
- 30 (B) the board of examiners in optometry for applicants or licensees as  
31 defined in K.S.A. 65-1501, and amendments thereto, in connection with  
32 such application or an investigation as described in K.S.A. 65-1505, and  
33 amendments thereto;
- 34 (C) the board of pharmacy for fingerprint candidates as defined in  
35 K.S.A. 65-1626, and amendments thereto, in connection with such  
36 application or license as described in K.S.A. 65-1696, and amendments  
37 thereto;
- 38 (D) the state board of healing arts for applicants or licensees as  
39 defined in K.S.A. 65-2802, and amendments thereto, in connection with  
40 such application or an investigation as described in K.S.A. 65-28,129, and  
41 amendments thereto;
- 42 (E) the state board of healing arts for applicants or licensees as  
43 defined in K.S.A. 65-2901, and amendments thereto, in connection with

- 1 such application or an investigation as described in K.S.A. 65-2924, and  
2 amendments thereto;
- 3 (F) the board of nursing for applicants as defined in K.S.A. 74-1112,  
4 and amendments thereto, in connection with such application as described  
5 in K.S.A. 74-1112, and amendments thereto;
- 6 (G) the behavioral sciences regulatory board for licensees as defined  
7 in K.S.A. 74-7511, and amendments thereto, in connection with such  
8 application or license as described in K.S.A. 74-7511, and amendments  
9 thereto;
- 10 (H) the state lottery for a vendor to whom a major procurement  
11 contract is to be awarded in connection with an investigation as described  
12 in K.S.A. 74-8705, and amendments thereto;
- 13 (I) the attorney general for appointees of the governor to positions  
14 subject to confirmation by the senate and judicial appointees as described  
15 in K.S.A. 75-712, and amendments thereto;
- 16 (J) appointing authorities as defined in K.S.A. 75-4315d, and  
17 amendments thereto, for nongubernatorial appointees as described in  
18 K.S.A. 75-4315d, and amendments thereto;
- 19 (K) the Kansas real estate commission for applicants as defined in  
20 K.S.A. 58-3035, and amendments thereto, or for licensees as defined in  
21 K.S.A. 58-3035, and amendments thereto, in connection with an  
22 investigation as described in K.S.A. 58-3039, and amendments thereto;
- 23 (L) the insurance commissioner for applicants for licensure as an  
24 insurance agent as defined in K.S.A. 40-4902, and amendments thereto, in  
25 connection with such application as described in K.S.A. 40-4905, and  
26 amendments thereto; and
- 27 (M) the insurance commissioner for applicants as defined in K.S.A.  
28 40-5501, and amendments thereto, in connection with such application as  
29 described in K.S.A. 40-5505, and amendments thereto.
- 30 (8) The Kansas bureau of investigation shall release criminal history  
31 record information related to adult convictions to:
- 32 (A) The department of agriculture for hemp employees as defined in  
33 K.S.A. 2-3901, and amendments thereto, in connection with such  
34 employment as described in K.S.A. 2-3902, and amendments thereto;
- 35 (B) the department of agriculture for applicants for licensure as a  
36 hemp producer as defined in K.S.A. 2-3901, and amendments thereto, in  
37 connection with such application as described in K.S.A. 2-3906, and  
38 amendments thereto;
- 39 (C) the office of state fire marshal for applicants for registration as a  
40 hemp processor as defined in K.S.A. 2-3901, and amendments thereto, in  
41 connection with such application as described in K.S.A. 2-3907, and  
42 amendments thereto;
- 43 (D) the department of agriculture for hemp destruction employees as

- 1 defined in K.S.A. 2-3901, and amendments thereto, in connection with  
2 such employment as described in K.S.A. 2-3911, and amendments thereto;
- 3 (E) the bank commissioner for any applicant as defined in K.S.A. 9-  
4 508, and amendments thereto, in connection with such application as  
5 described in K.S.A. 9-509, and amendments thereto;
- 6 (F) the bank commissioner for an applicant for employment as a new  
7 executive officer or director with a money transmitter company as  
8 described in K.S.A. 9-513e, and amendments thereto;
- 9 (G) the bank commissioner for any applicant as defined in K.S.A. 9-  
10 1719, and amendments thereto, in connection with such application as  
11 described in K.S.A. 9-1722, and amendments thereto;
- 12 (H) the bank commissioner for an applicant, registrant or licensee as  
13 defined in K.S.A. 9-2201, and amendments thereto, in connection with  
14 such application, registration or license as described in K.S.A. 9-2209, and  
15 amendments thereto;
- 16 (I) the state banking board for any officer, director or organizer of a  
17 proposed fiduciary financial institution as defined in K.S.A. 9-2301, and  
18 amendments thereto, in connection with such role as described in K.S.A.  
19 9-2302, and amendments thereto;
- 20 (J) municipalities for applicants for merchant or security police as  
21 described in K.S.A. 12-1679, and amendments thereto;
- 22 (K) the bank commissioner for applicants as defined in K.S.A. 16a-6-  
23 104, and amendments thereto, in connection with such application as  
24 described in K.S.A. 16a-6-104, and amendments thereto;
- 25 (L) the state department of credit unions for every candidate as  
26 defined in K.S.A. 17-2234, and amendments thereto, in connection with  
27 such employment as described in K.S.A. 17-2234, and amendments  
28 thereto;
- 29 (M) the division of alcoholic beverage control within the department  
30 of revenue for applicants as defined in K.S.A. 41-102, and amendments  
31 thereto, in connection with such application as described in K.S.A. 41-  
32 311b, and amendments thereto;
- 33 (N) the division of post audit for employees as defined in K.S.A. 46-  
34 1103, and amendments thereto, in connection with such employment as  
35 described in K.S.A. 46-1103, and amendments thereto;
- 36 (O) the bank commissioner for licensees as defined in K.S.A. 50-  
37 1126, and amendments thereto, in connection with such license as  
38 described in K.S.A. 50-1128, and amendments thereto;
- 39 (P) the real estate appraisal board for licensees as defined in K.S.A.  
40 58-4102, and amendments thereto, in connection with an application or  
41 investigation as described in K.S.A. 58-4127, and amendments thereto;
- 42 (Q) the real estate appraisal board for applicants as defined in K.S.A.  
43 58-4703, and amendments thereto, in connection with such application as

- 1 described in K.S.A. 58-4709, and amendments thereto;
- 2 (R) the department of health and environment for an employee as  
3 defined in K.S.A. 65-2401, and amendments thereto, in connection with  
4 such employment as described in K.S.A. 65-2402, and amendments  
5 thereto;
- 6 (S) the Kansas ~~commission on veterans affairs~~ office of veterans  
7 services for candidates as defined in K.S.A. 73-1210a, and amendments  
8 thereto, in connection with an application as described in K.S.A. 73-1210a,  
9 and amendments thereto;
- 10 (T) a senate standing committee for a member named, appointed or  
11 elected to the public employee retirement systems board of trustee  
12 membership as described in K.S.A. 74-4905, and amendments thereto;
- 13 (U) the attorney general for applicants as defined in K.S.A. 75-7e01,  
14 and amendments thereto, in connection with such application as described  
15 in K.S.A. 75-7e03, and amendments thereto;
- 16 (V) the department of revenue for employees as defined in K.S.A. 75-  
17 5133c, and amendments thereto, in connection with such employment as  
18 described in K.S.A. 75-5133c, and amendments thereto;
- 19 (W) the ~~divison~~ division of motor vehicles within the department of  
20 revenue for employees as defined in K.S.A. 75-5156, and amendments  
21 thereto, in connection with such employment as described in K.S.A. 75-  
22 5156, and amendments thereto;
- 23 (X) the Kansas commission for the deaf and hard of hearing for  
24 applicants as defined in K.S.A. 75-5397f, and amendments thereto, in  
25 connection with such application as described in K.S.A. 75-5393a, and  
26 amendments thereto;
- 27 (Y) the Kansas commission for the deaf and hard of hearing for  
28 employees as defined in K.S.A. 75-5397f, and amendments thereto, in  
29 connection with such employment as described in K.S.A. 75-5393c, and  
30 amendments thereto;
- 31 (Z) the department of health and environment for employees as  
32 defined in K.S.A. 75-5609a, and amendments thereto, in connection with  
33 such employment as described in K.S.A. 75-5609a, and amendments  
34 thereto; and
- 35 (AA) an executive branch agency head for employees as defined in  
36 K.S.A. 75-7241, and amendments thereto, in connection with such  
37 employment as described in K.S.A. 75-7241, and amendments thereto.
- 38 (c) State and local law enforcement agencies shall assist with taking  
39 fingerprints of individuals as authorized by this section.
- 40 (d) Any board, commission, committee or other public body shall  
41 recess into a closed executive session pursuant to K.S.A. 75-4319, and  
42 amendments thereto, to receive and discuss criminal history record  
43 information obtained pursuant to this section.

1 (e) The Kansas bureau of investigation may charge a reasonable fee  
2 for conducting a criminal history record check.

3 (f) (1) Fingerprints and criminal history record information received  
4 pursuant to this section shall be confidential and shall not be subject to the  
5 provisions of the Kansas open records act, K.S.A. 45-215 et seq., and  
6 amendments thereto. The provisions of this paragraph shall expire on July  
7 1, 2029, unless the legislature reviews and reenacts this provision pursuant  
8 to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

9 (2) Disclosure or use of any information received pursuant to this  
10 section for any purpose other than the purpose described in this section  
11 shall be a class A nonperson misdemeanor and shall constitute grounds for  
12 removal from office.

13 Sec. 4. K.S.A. 72-2165 is hereby amended to read as follows: 72-  
14 2165. (a) The state board of education shall not knowingly issue a license  
15 to or renew the license of any person who has been convicted of *any of the*  
16 *following, and shall revoke the license of any such person that has been*  
17 *issued or renewed:*

18 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
19 21-5503, and amendments thereto;

20 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior  
21 to its repeal, or K.S.A. 21-5506(a), and amendments thereto;

22 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
23 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments  
24 thereto;

25 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
26 prior to its repeal, or K.S.A. 21-5504(a)(3) or (a)(4), and amendments  
27 thereto;

28 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
29 to its repeal, or K.S.A. 21-5504(b), and amendments thereto;

30 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
31 prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto;

32 (7) aggravated indecent solicitation of a child, as defined in K.S.A.  
33 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments  
34 thereto;

35 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
36 to its repeal, or K.S.A. 21-5510, and amendments thereto;

37 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
38 repeal, or K.S.A. 21-5604(b), and amendments thereto;

39 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,  
40 prior to its repeal, or K.S.A. 21-5601(b), and amendments thereto;

41 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,  
42 or K.S.A. 21-5602, and amendments thereto;

43 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,

- 1 or K.S.A. 21-5401, and amendments thereto;
- 2 (13) murder in the first degree, as defined in K.S.A. 21-3401, prior to
- 3 its repeal, or K.S.A. 21-5402, and amendments thereto;
- 4 (14) murder in the second degree, as defined in K.S.A. 21-3402, prior
- 5 to its repeal, or K.S.A. 21-5403, and amendments thereto;
- 6 (15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
- 7 its repeal, or K.S.A. 21-5404, and amendments thereto;
- 8 (16) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
- 9 its repeal, or K.S.A. 21-5405, and amendments thereto;
- 10 (17) involuntary manslaughter while driving under the influence of
- 11 alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 12 (18) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
- 13 or K.S.A. 21-5505(a), and amendments thereto, when, at the time the
- 14 crime was committed, the victim was less than 18 years of age or a student
- 15 of the person committing such crime;
- 16 (19) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
- 17 its repeal, or K.S.A. 21-5505(b), and amendments thereto;
- 18 (20) commercial sexual exploitation of a child, as defined in K.S.A.
- 19 21-6422, and amendments thereto;
- 20 (21) human trafficking, as defined in K.S.A. 21-3446, prior to its
- 21 repeal, or K.S.A. 21-5426(a), and amendments thereto;
- 22 (22) aggravated human trafficking, as defined in K.S.A. 21-3447,
- 23 prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto;
- 24 (23) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-
- 25 5301, and amendments thereto, to commit any act specified in this
- 26 subsection;
- 27 (24) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
- 28 21-5302, and amendments thereto, to commit any act specified in this
- 29 subsection;
- 30 (25) an act in another state or by the federal government that is
- 31 comparable to any act described in this subsection; or
- 32 (26) an offense in effect at any time prior to the effective date of this
- 33 act that is comparable to an offense as provided in this subsection.
- 34 (b) Except as provided in subsection (c), the state board of education
- 35 shall not knowingly issue a license to or renew the license of any person
- 36 who has been convicted of, or has entered into a criminal diversion
- 37 agreement after having been charged with *any of the following, and shall*
- 38 *revoke the license of any such person that has been issued or renewed:*
- 39 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
- 40 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes
- 41 Annotated, and amendments thereto, or any felony violation of any
- 42 provision of the uniform controlled substances act prior to July 1, 2009;
- 43 (2) a felony described in any section of article 34 of chapter 21 of the

1 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21  
2 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or  
3 21-6418, and amendments thereto, other than an act specified in  
4 subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its  
5 repeal, or K.S.A. 21-5413(a), and amendments thereto, or domestic  
6 battery, as described in K.S.A. 21-3412a, prior to its repeal, or K.S.A. 21-  
7 5414, and amendments thereto, if the victim is a minor or student;

8 (3) a felony described in any section of article 35 of chapter 21 of the  
9 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21  
10 of the Kansas Statutes Annotated, or K.S.A. 21-6419 through 21-6421, and  
11 amendments thereto, other than an act specified in subsection (a);

12 (4) any act described in any section of article 36 of chapter 21 of the  
13 Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21  
14 of the Kansas Statutes Annotated, and amendments thereto, other than an  
15 act specified in subsection (a);

16 (5) a felony described in article 37 of chapter 21 of the Kansas  
17 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the  
18 Kansas Statutes Annotated, or K.S.A. 21-6412(a)(6), and amendments  
19 thereto;

20 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its  
21 repeal, or K.S.A. 21-6401(a), and amendments thereto, promoting  
22 obscenity to minors, as described in K.S.A. 21-4301a, prior to its repeal, or  
23 K.S.A. 21-6401(b), and amendments thereto, or promoting to minors  
24 obscenity harmful to minors, as described in K.S.A. 21-4301c, prior to its  
25 repeal, or K.S.A. 21-6402, and amendments thereto;

26 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its  
27 repeal, or K.S.A. 21-5601(a), and amendments thereto;

28 (8) driving under the influence of alcohol or drugs in violation of  
29 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is  
30 punishable as a felony;

31 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-  
32 5301, and amendments thereto, to commit any act specified in this  
33 subsection;

34 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.  
35 21-5302, and amendments thereto, to commit any act specified in this  
36 subsection; or

37 (11) an act committed in violation of a federal law or in violation of  
38 another state's law that is comparable to any act described in this  
39 subsection.

40 (c) The state board of education may issue a license to ~~or renew the~~  
41 ~~license of~~ a person who has been convicted of committing an offense or  
42 act described in subsection (b) or who has entered into a criminal diversion  
43 agreement after having been charged with an offense or act described in

1 subsection (b) if the state board determines, following a hearing, that the  
2 person has been rehabilitated for a period of at least five years from the  
3 date of conviction of the offense or commission of the act or, in the case of  
4 a person who has entered into a criminal diversion agreement, that the  
5 person has satisfied the terms and conditions of the agreement. The state  
6 board of education may consider factors including, but not limited to, the  
7 following in determining whether to grant a license:

- 8 (1) The nature and seriousness of the offense or act;
- 9 (2) the conduct of the person subsequent to commission of the  
10 offense or act;
- 11 (3) the time elapsed since the commission of the offense or act;
- 12 (4) the age of the person at the time of the offense or act;
- 13 (5) whether the offense or act was an isolated or recurring incident;
- 14 and

15 (6) discharge from probation, pardon or expungement.

16 (d) Before any license is *revoked or* denied by the state board of  
17 education for any of the offenses or acts specified in subsections (a) and  
18 (b), the person shall be given notice and an opportunity for a hearing in  
19 accordance with the provisions of the Kansas administrative procedure act.

20 (e) ~~(1) The county or district attorney shall file a report with the state~~  
21 ~~board of education indicating the name, address and social security~~  
22 ~~number of any person. Each person who has been determined to have~~  
23 ~~committed convicted of any offense or act specified in subsection (a) or (b)~~  
24 ~~or to have who has entered into a criminal diversion agreement after~~  
25 ~~having been charged with any offense or act specified in subsection (b)~~  
26 ~~shall file a report with the state board of education indicating the name,~~  
27 ~~address and social security number of such person. Such report shall be~~  
28 ~~filed within 30 days of the date of the determination that the person has~~  
29 ~~committed any such act such conviction or the date such person entered~~  
30 ~~into any such diversion agreement.~~

31 (2) *If any person who made a report required by paragraph (1) is a*  
32 *licensed employee of a unified school district, the state board of education*  
33 *shall notify such unified school district within 30 days that such report has*  
34 *been received, and upon request by such unified school district shall*  
35 *provide a copy of such report to the unified school district.*

36 (3) *Failure to file a report as required by this subsection is a class B*  
37 *nonperson misdemeanor.*

38 (f) The state board of education shall not be liable for civil damages  
39 to any person refused issuance or renewal of a license by reason of the  
40 state board's compliance, in good faith, with the provisions of this section.

41 Sec. 5. K.S.A. 72-4223 is hereby amended to read as follows: 72-  
42 4223. (a) Except as provided in K.S.A. 72-4225, and amendments thereto,  
43 the board of education of any school district may apply to the state board

1 for a grant of authority to operate such school district as a public  
2 innovative district. The application shall be submitted in the form and  
3 manner prescribed by the state board, and shall be submitted not later than  
4 December 1 of the school year preceding the school year in which the  
5 school district intends to operate as a public innovative district.

6 (b) The application shall include the following:

7 (1) A description of the educational programs of the public innovative  
8 district;

9 (2) a description of the interest and support for partnerships between  
10 the public innovative district, parents and the community;

11 (3) the specific goals and the measurable pupil outcomes to be  
12 obtained by operating as a public innovative district; and

13 (4) an explanation of how pupil performance in achieving the  
14 specified outcomes will be measured, evaluated and reported.

15 (c) (1) Within 90 days from the date such application is submitted, the  
16 state board shall review the application to determine compliance with this  
17 section, and shall approve or deny such application on or before the  
18 conclusion of such 90-day period. If the application is determined to be in  
19 compliance with this section, the state board shall approve such  
20 application and grant the school district authority to operate as a public  
21 innovative district. Notification of such approval shall be sent to the board  
22 of education of such school district within 10 days after such decision.

23 (2) If the state board determines such application is not in compliance  
24 with either this section, or K.S.A. 72-4225, and amendments thereto, the  
25 state board shall deny such application. Notification of such denial shall be  
26 sent to the board of education of such school district within 10 days after  
27 such decision and shall specify the reasons therefor. Within 30 days from  
28 the date such notification is sent, the board of education of such school  
29 district may submit a request to the state board for reconsideration of the  
30 application and may submit an amended application with such request.  
31 The state board shall act on the request for reconsideration within 60 days  
32 of receipt of such request.

33 (d) A public innovative district shall:

34 (1) Not charge tuition for any of the pupils residing within the public  
35 innovative district;

36 (2) participate in all Kansas math and reading assessments applicable  
37 to such public innovative district, or an alternative assessment program for  
38 measuring student progress as determined by the board of education;

39 (3) abide by all financial and auditing requirements that are  
40 applicable to school districts, except that a public innovative district may  
41 use generally accepted accounting principles;

42 (4) comply with all applicable health, safety and access laws; and

43 (5) comply with all statements set forth in the application submitted

1 pursuant to subsection (a).

2 (e) (1) Except as otherwise provided in K.S.A. 72-4221 through 72-  
3 4230, and amendments thereto, or as required by the board of education of  
4 the public innovative district, a public innovative district shall be exempt  
5 from all laws and rules and regulations that are applicable to school  
6 districts.

7 (2) A public innovative district shall be subject to the special  
8 education for exceptional children act, the virtual school act, the Kansas  
9 school equity and enhancement act, K.S.A. 72-5131 et seq., and  
10 amendments thereto, the provisions of K.S.A. 72-53,113 et seq., and  
11 amendments thereto, all laws governing the issuance of general obligation  
12 bonds by school districts, the provisions of K.S.A. 74-4901 et seq., and  
13 amendments thereto, and all laws governing the election of members of  
14 the board of education, the open meetings act as provided in K.S.A. 75-  
15 4317 et seq., and amendments thereto, and the open records act as  
16 provided in K.S.A. 45-215 et seq., and amendments thereto.

17 (f) (1) A public innovative district shall require any employee to be  
18 fingerprinted and submit to a state and national criminal history record  
19 check in accordance with K.S.A. 2024 Supp. 22-4714, and amendments  
20 thereto, prior to commencing any work involving students.

21 (2) ~~The criminal history record checks required by paragraph (1)~~  
22 ~~shall be conducted in the following manner:~~

Formatted: Font color: Red, Strikethrough

23 ~~(A) For employees hired prior to July 1, 2025~~2026~~, every five years~~  
24 ~~from~~

24 ~~and after July 1, 2025~~2026~~; and~~

25 ~~(B) for employees hired on and after July 1, 2025~~2026~~, every five years~~  
26 ~~from the first day of such employee's employment.~~

27 (3) The public innovative district may pay for the cost of the criminal  
28 history record check or may require each employee subject to the  
29 provisions of this subsection to pay a fee in an amount necessary to  
30 reimburse the public innovative district for the cost of the criminal history  
31 record check.

32 (g) (1) Each employee subject to the provisions of subsection (f) who  
33 has been convicted of any offense or act specified in K.S.A. 72-2165(a) or  
34 (b), and amendments thereto, or who has entered into a criminal diversion  
35 agreement after having been charged with any offense or act specified in  
36 K.S.A. 72-2165(b), and amendments thereto, shall file a report with the  
37 public innovative district indicating the name, address and social security  
38 number of such employee. Such report shall be filed within 30 days of the  
39 date of such conviction or the date such employee entered in any such  
40 diversion agreement.

41 (2) Failure to file a report as required by this subsection is a class B  
42 nonperson misdemeanor.

43 (h) As used in this section, "employee" means any person who is employed  
by, contracted with, or a volunteer of a public innovative district school who  
has direct one-on-one contact with students that does not have a teaching  
license or certification. ~~employed~~

Formatted: Font: Italic

~~44~~

~~1 by a public innovative district in a position with direct contact with  
2 students.~~

3 Sec. 6. K.S.A. 72-2165, 72-4223 and K.S.A. 2024 Supp. 22-4714 are  
4 hereby repealed.

5 Sec. 7. This act shall take effect and be in force from and after its  
6 publication in the statute book.

7

Formatted: Font color: Auto  
Formatted: Normal, No bullets or numbering

Sec. 8. K.S.A 39-970 is hereby amended to read as follows: 39-970. (a) As used in this section:

- (1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home or adult day care facility that is required to be licensed to operate by the secretary for aging and disability services.
  - (2) "Applicant" means an individual who applies for employment with an adult care home or applies to work for an employment agency or as an independent contractor who provides staff to an adult care home.
  - (3) "Completion of the sentence" means the last day of the entire term of incarceration imposed by a sentence, including any term that is deferred, suspended or subject to parole, probation, diversion, community corrections, fines, fees, restitution or any other imposed sentencing requirements.
  - (4) "Department" means the Kansas department for aging and disability services.
  - (5) "Direct access" means work that involves an actual or reasonable expectation of one-on-one interaction with a consumer or a consumer's property, personally identifiable information, medical records, treatment information or financial information.
  - (6) "Direct supervision" means that a supervisor is physically present within an immediate distance to a supervisee and is available to provide constant direction, feedback and assistance to a client and the supervisee.
  - (7) "Employment agency" means an organization or entity that has a contracted relationship with an adult care home to provide staff with direct access to consumers.
  - (8) "Independent contractor" means an organization, entity, agency or individual that provides contracted workers or services to an adult care home.
  - (9) "Secretary" means the secretary for aging and disability services.
- (b)(1) No person shall knowingly operate an adult care home if, in the adult care home, there works any person who has adverse findings on any state or national registry, as defined in rules and regulations adopted by the secretary for aging and disability services, or has been convicted of or has been adjudicated a juvenile offender because of having committed an act that if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 21-5403(a), and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-

5407, and amendments thereto, mistreatment of a dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 21-5417, and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 21-5426(a), and amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or K.S.A. 21-5506(a), and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto, commercial sexual exploitation of a child, pursuant to K.S.A. 21-6422, and amendments thereto, an attempt to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto, or similar statutes of other states or the federal government. The provisions of subsection (b)(2)(C) shall not apply to any person who is employed by an adult care home on or before July 1, 2010, and while continuously employed by the same adult care home or to any person during or upon successful completion of a diversion agreement.

(2) A person operating an adult care home may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification: A felony conviction for a crime that is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, except those crimes listed in subsection (b)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6420, and amendments thereto, except those crimes listed in subsection (b)(1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 21-5606, and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in this paragraph, pursuant to K.S.A.

21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (2) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(3) A person operating an adult care home may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification:

- (i) Interference with custody of a committed person pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful administration of a substance pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 21-5425, and amendments thereto; violation of a protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A. 21-5924, and amendments thereto; promoting obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and amendments thereto; or
- (ii) any felony conviction of: Unlawful manufacture of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or K.S.A. 21-5703, and amendments thereto; unlawful cultivation or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto; unlawful manufacture, distribution, cultivation or possession of a controlled substance using a communication facility pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and amendments thereto; unlawful obtainment or sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A. 21-5708, and amendments thereto; unlawful distribution of drug precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful distribution or possession of a simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-5828, and amendments thereto; any violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or K.S.A. 21-5925 et seq., and amendments thereto; making a false claim, statement or representation to the medicaid program pursuant to K.S.A. 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments

thereto; unlawful acts relating to the medicaid program pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare fraud pursuant to K.S.A. 39-720, and amendments thereto.

The provisions of this paragraph (3) shall not apply to any person who is employed by an adult care home on or before July 1, 2018, and is continuously employed by the same adult care home or to any person during or upon successful completion of a diversion agreement.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (3) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(c) No person shall operate an adult care home if such person has been found to be in need of a guardian or conservator, or both as provided in the act for obtaining a guardian or a conservator, or both. The provisions of this subsection shall not apply to an individual who, as a minor, was found to be in need of a guardian or conservator for reasons other than impairment.

(d) (1) The Kansas bureau of investigation shall release all records of adult and juvenile convictions and adjudications and adult and juvenile convictions and adjudications of any other state or country concerning persons working in an adult care home to the secretary for aging and disability services in accordance with K.S.A. 2024 Supp. 22-4714, and amendments thereto.

(2) The department ~~may~~ *shall* require an applicant to be fingerprinted and to submit to a state and national criminal history record check in accordance with K.S.A. 2024 Supp. 22-4714, and amendments thereto.

(3) An applicant for employment in an adult care home shall have 20 calendar days after receipt of authorization to submit the applicant's fingerprints through an authorized collection site in order to be eligible for provisional employment or the applicant's application shall be deemed withdrawn.

(4) (A) The current or prospective employer of an applicant shall pay a reasonable fee for criminal history record information to the department for each applicant submitted.

(B) The prospective employer, employee or independent contractor shall pay the fingerprint collection fee at the time of fingerprinting to the authorized collection site.

(5) If an applicant disputes the contents of a criminal history record check, then the applicant may file an appeal with the Kansas bureau of investigation.

(6) Individuals who have been disqualified for employment by reason of their criminal history records and who have met the requirements of this subsection may apply for a waiver with the department within 30 days of the receipt of the notice of employment prohibition.

(7) The department shall adopt rules and regulations specifying the criteria and procedure for issuing a waiver of the employment prohibition. The secretary shall consider the following criteria when rendering a decision on such a waiver request: Passage of time; extenuating circumstances; demonstration of rehabilitation; and

relevancy of the criminal history record information to the position for which the applicant is applying. Any employment prohibition issued shall remain in effect unless or until a waiver is granted.

(e) For the purpose of complying with this section, the operator of an adult care home shall request from the Kansas department for aging and disability services an eligibility determination regarding adult and juvenile convictions and adjudications. For the purpose of complying with this section, the operator of an adult care home shall receive from any employment agency or independent contractor that provides employees to work in the adult care home written certification that such employees are not prohibited from working in the adult care home under this section. For the purpose of complying with this section, a person who operates an adult care home may hire an applicant for provisional employment on a one-time basis of 60 calendar days pending the results from the Kansas department for aging and disability services of a request for information under this subsection. A provisional employee may only be supervised by an employee that has completed all training required by federal regulations, rules and regulations of the department and the adult care home's policies and procedures. No adult care home, the operator or employees of an adult care home or an employment agency or an independent contractor shall be liable for civil damages resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on such adult care home's compliance with the provisions of this section if such adult care home or employment agency acts in good faith to comply with this section.

(f) The secretary for aging and disability services shall provide each operator requesting information under this section with a pass or fail determination after review of any criminal history record information in writing and within three working days of receipt of such information from the Kansas bureau of investigation or the federal bureau of investigation.

(g) A person who volunteers in an adult care home shall not be subject to the provisions of this section unless the volunteer performs equivalent functions to those performed by direct access employees.

(h) No person who has been continuously employed by the same adult care home since July 1, 1992, shall be subject to the provisions of this section while employed by such adult care home.

(i) The operator of an adult care home shall not be required under this section to conduct a criminal history record check on an applicant for employment with the adult care home if the applicant has been the subject of a criminal history record check under this act within one year prior to the application for employment with the adult care home.

(j) No person who is in the custody of the secretary of corrections and who provides services, under direct supervision in nonpatient areas, on the grounds or other areas designated by the superintendent of the Kansas soldiers' home or the Kansas veterans' home shall be subject to the provisions of this section while providing such services.

(k) (1) All fees charged by the secretary for criminal history record checks conducted pursuant to this section shall be established by rules and regulations of the secretary.

(2) All moneys collected and remitted to the Kansas department for aging and disability services for fees charged for criminal history record checks conducted pursuant to this section shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance,

the state treasurer shall deposit the entire amount into the state treasury to the credit of the state licensure fee fund created by K.S.A. 39-930, and amendments thereto.

(l) The Kansas department for aging and disability services may implement the amendments made to this section by this act in phases for different categories of employers. The department shall adopt rules and regulations establishing dates and procedures for the implementation of the criminal history record checks required by this section, and such dates may be staggered to facilitate implementation of the criminal history record checks required by this section.

(m) Upon authorization by the secretary for aging and disability services, other state agencies may access an internet-based application portal that is operated and maintained by the Kansas department for aging and disability services for purposes of processing criminal history record information requests in accordance with this section. Agencies may not share criminal history record information or the resulting pass or fail determinations with any other agency. The secretary for aging and disability services may charge an authorized agency the amount of \$1 per request made pursuant to this subsection.

(n) This section shall be a part of and supplemental to the adult care home licensure act.

Sec. 9. K.S.A. 39-2009 is hereby amended to read as follows: 39-2009. (a) As used in this section:

- (1) "Applicant" means an individual who applies for employment with a center, facility, hospital or a provider of services or applies to work for an employment agency or as an independent contractor that provides staff to a center, facility, hospital or a provider of services.
  - (2) "Completion of the sentence" means the last day of the entire term of incarceration imposed by a sentence, including any term that is deferred, suspended or subject to parole, probation, diversion, community corrections, fines, fees, restitution or any other imposed sentencing requirements.
  - (3) "Department" means the Kansas department for aging and disability services.
  - (4) "Direct access" means work that involves an actual or reasonable expectation of one-on-one interaction with a consumer or a consumer's property, personally identifiable information, medical records, treatment information or financial information.
  - (5) "Direct supervision" means that a supervisor is physically present within an immediate distance to a supervisee and is available to provide constant direction, feedback and assistance to a client and the supervisee.
  - (6) "Employment agency" means an organization or entity that has a contracted relationship with a center, hospital, facility or provider of services to provide staff with direct access to consumers.
  - (7) "Independent contractor" means an organization, entity, agency or individual that provides contracted workers or services to a center, facility, hospital or provider of services.
- (b) (1) No licensee shall knowingly operate a center, facility, hospital or be a provider of services if any person who works in the center, facility, hospital or for a provider of services has adverse findings on any state or national registry, as defined in rules and regulations adopted by the secretary for aging and disability services, or has been convicted of or has been adjudicated a juvenile offender because of having ~~committing~~ committed an act that if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its

Formatted: Normal, No bullets or numbering

Commented [NM2]: This statute wasn't actually changed. It still reads shall. However, it does need aligned with the format and structure of the other statutes. I believe they put forth an effort, or plan to, that Bob showed me. However, in case I dreamed that up, I fixed it here.

Formatted: Strikethrough

repeal, or K.S.A. 21-5403(a), and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto, mistreatment of a dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 21-5417, and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 21-5426(a), and amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or K.S.A. 21-5506(a), and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto, commercial sexual exploitation of a child, pursuant to K.S.A. 21-6422, and amendments thereto, an attempt to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto, or similar statutes of other states or the federal government.

(2) A licensee operating a center, facility or hospital or as a provider of services may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or if the applicant has been granted a waiver of such six-year disqualification: A felony conviction for a crime that is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, except those crimes listed in paragraph (1); (B) article 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-6420, and amendments thereto, except those crimes listed in paragraph (1); (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in this paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

An individual who has been disqualified for employment due to

conviction or adjudication of an offense listed in this paragraph (2) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and the criteria to be utilized by the secretary in evaluating any such waiver request.

(3) A licensee operating a center, facility, hospital or as a provider of services may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification:

- (i) Interference with custody of a committed person pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful administration of a substance pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 21-5425, and amendments thereto; violation of a protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A. 21-5924; promoting obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and amendments thereto; or
- (ii) any felony conviction of: Unlawful manufacture of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or K.S.A. 21-5703, and amendments thereto; unlawful cultivation or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto; unlawful manufacture, distribution, cultivation or possession of a controlled substance using a communication facility pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and amendments thereto; unlawful obtainment or sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A. 21-5708, and amendments thereto; unlawful distribution of drug precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful distribution or possession of a simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-5828, and amendments thereto; any violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or K.S.A. 21-5925 et seq., and amendments thereto; making a false claim, statement or representation to the medicaid program pursuant to K.S.A. 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto; unlawful acts relating to the medicaid program pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare fraud pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this paragraph shall not apply to any person who is employed by a center, facility, hospital or provider of services on or before July 1, 2018,

and is continuously employed by the same center, facility, hospital or provider of services or to any person during or upon successful completion of a diversion agreement.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (3) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(c) No licensee shall operate a center, facility, hospital or be a provider of services if such person has been found to be an adult with an impairment in need of a guardian or a conservator, or both, as provided in the act for obtaining a guardian or conservator, or both. The provisions of this subsection shall not apply to an individual who, as a minor, was found to be in need of a guardian or conservator for reasons other than impairment.

(d) (1) The Kansas bureau of investigation shall release all records of adult and juvenile convictions and adjudications and adult and juvenile convictions and adjudications of any other state or country concerning persons working in a center, facility, hospital or for a provider of services to the secretary for aging and disability services *in accordance with section 2, and amendments thereto.* ~~The Kansas bureau of investigation may charge to the Kansas department for aging and disability services a reasonable fee for providing criminal history record information under this subsection.~~

Formatted: Strikethrough

(2) The department shall *may* require an applicant to be fingerprinted and to submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto.* ~~The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The department is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and for making an official determination of the qualifications and fitness of the person to work in the center, facility, hospital or for a provider of services.~~

Formatted: Highlight

Formatted: Strikethrough

(3) An applicant for employment in ~~an~~ a center, facility, hospital or for a provider of services shall have 20 calendar days after receipt of authorization to submit the applicant's fingerprints through an authorized collection site in order to be eligible for provisional employment or the applicant's application shall be deemed withdrawn.

Formatted: Strikethrough

(4) (A) The current or prospective employer of an applicant shall pay a ~~reasonable fee not to exceed \$19 of the total cost for criminal history record information to the department for each applicant submitted.~~

Formatted: Strikethrough

(B) The prospective employer, employee or independent contractor shall pay the fingerprint collection fee at the time of fingerprinting to the authorized collection site.

(5) If an applicant disputes the contents of a criminal history record check, then the applicant may file an appeal with the Kansas bureau of investigation.

(6) Individuals who have been disqualified for employment by reason of their criminal history records and who have met the requirements of this subsection may apply for a waiver with the department within 30 days of the receipt of the notice of employment prohibition.

(7) The department shall adopt rules and regulations specifying the criteria and procedure for issuing a waiver of the employment prohibition. The secretary shall consider the following criteria when rendering a decision on such a waiver request: Passage of time; extenuating

circumstances; demonstration of rehabilitation; and relevancy of the criminal history record information to the position for which the applicant is applying. Any employment prohibition issued shall remain in effect unless or until a waiver is granted.

(d) The secretary shall provide each licensee requesting information under this section with a pass or fail determination after review of any criminal history record information in writing and within three working days of receipt of such information from the Kansas bureau of investigation or the federal bureau of investigation.

(e) Any licensee or member of the staff who receives information concerning the fitness or unfitness of any person shall keep such information confidential, except that the staff person may disclose such information to the person who is the subject of the request for information. A violation of this subsection shall be an unclassified misdemeanor punishable by a fine of \$100.

(f) For the purpose of complying with this section, the licensee operating a center, facility, hospital or a provider of services shall request from the Kansas department for aging and disability services an eligibility determination regarding adult and juvenile convictions and adjudications. For the purpose of complying with this section, the licensee operating a center, facility, hospital or a provider of services shall receive from any employment agency or independent contractor that provides employees to work in the center, facility, hospital or for the provider of services written certification that such employees are not prohibited from working in the center, facility, hospital or for the provider of services under this section. For the purpose of complying with this section, a licensee may hire an applicant for provisional employment on a one-time basis of 60 calendar days pending the results from the Kansas department for aging and disability services of an eligibility determination under this subsection. A provisional employee may only be supervised by an employee who has completed all training required by federal regulations, department rules and regulations and the center's, facility's, hospital's or provider of services' policies and procedures. No licensee, its contractors or employees, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such licensee's compliance with the provisions of this section if such licensee acts in good faith to comply with this section.

(g) The licensee operating a center, facility, hospital or a provider of services shall not require an applicant under this section to be fingerprinted, if the applicant has been the subject of a criminal history record check under this act within one year prior to the application for employment with the licensee operating a center, facility, hospital or a provider of services and has maintained a record of continuous employment, with no lapse of employment of over 90 days in any center, facility, hospital or a provider of services covered by this act.

Formatted: Normal, No bullets or numbering

**New Sec. 10.** (a) During an emergency situation when a child must be placed in home-care due to the absence of parents or custodians, the Kansas department for children and families may request that a criminal justice agency perform a federal name-based criminal history record check of each adult residing in the home. Name-based check results may be provided to the Kansas department for children and families, which shall then provide a complete set of each adult resident's fingerprints to the Kansas central repository for the immediate submission to the Federal Bureau of Investigation within 14 calendar days from the date the name search was conducted. The central repository shall either positively identify the fingerprint subject or forward the fingerprints to the FBI within 15 calendar days from the date the name search was conducted. The child shall be

removed from the home immediately if any adult resident fails to provide such fingerprints and written permission to perform a federal criminal history record check when requested.

(b) When placement of a child in a home is denied as a result of a name-based criminal history record check of a resident, and the resident contests that denial, each such resident shall, within 15 calendar days, submit to the Kansas department for children and families a complete set of the resident's fingerprints with written permission allowing the Kansas department for children and families to forward the fingerprints to the Kansas criminal history record repository for submission to the Federal Bureau of Investigation.

(c) The Kansas criminal history record repository and the Federal Bureau of Investigation may each charge a reasonable fee for processing a fingerprint-based criminal history record check.

8 (d) As used in this section, "emergency placement" refers to those limited instances when the Kansas department for children and families is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

Formatted: Normal, Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.72" + 0.72"

(e) As used in this section, "secretary" means the secretary for children and families.

(f) The secretary shall upon request receive from the Kansas bureau of investigation such criminal history record information in accordance with section 2, and amendments thereto, as necessary for the purpose of emergency placement of children in the absence of parents or custodians.

9

Formatted: Font: 12 pt

Formatted: Normal, No bullets or numbering

**Office of Medicaid Inspector General**

---

# **School Reimbursements Interim Report**

**Office of Kansas Attorney General  
Kris W. Kobach**

# Table of Contents

Table of Contents .....	1
Letter from the Inspector General .....	2
Executive Summary .....	3
Background Information .....	6
Applicable Laws and Policies.....	7
Findings & Recommendations.....	10

## Letter from the Inspector General

October 31, 2023

To: Attorney General Kris W. Kobach  
Kansas Department of Health and Environment, Janet Stanek, Secretary  
Kansas State Department of Education, Dr. Randy Watson, Commissioner

Members of the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight:

Representative Brenda Landwehr, Vice-Chair	Senator Beverly Gossage, Chair
Representative Barbara Ballard	Senator Michael Fagg
Representative Will Carpenter	Senator Molly Baumgardner
Representative Susan Concannon	Senator Pat Pettey
Representative Emil Bergquist	Senator Mark Steffen
Representative Susan Ruiz	

This interim report contains information developed during our performance audit of the Kansas Department of Health and Environment's (KDHE) management of School-Based Fee-For-Service (FFS) Medicaid Reimbursements for the State of Kansas. This audit is being conducted in accordance with the Association of Inspectors General Principles and Standards for Offices of Inspector General: Quality Standards for Inspections, Evaluations, and Reviews, May 2014 Revision.

We greatly appreciate the cooperation of KDHE and Kansas State Department of Education (KSDE) staff. We welcome any comments or questions you may have regarding this interim report.

Respectfully submitted,

  
Steven D. Anderson  
Medicaid Inspector General

## Executive Summary

Our objectives were to obtain sufficient evidence to answer the following questions:

1. **Does KDHE have an effective system for processing and tracking school-based Medicaid FFS claim reimbursements?** Still under review.
2. **Does KDHE have adequate policies and procedures that promote effective and efficient school-based Medicaid programs?** Still under review.
3. **Does KDHE/KSDE have sufficient oversight processes in place to ensure Individual Education Plans (IEP's) are complete, and support medical necessity when services are billed to Medicaid?** Still under review.

The scope of our audit included all Medicaid enrolled students who had services billed on their behalf from a Local Education Agency (LEA) provider within a school-based program from January 1, 2021 through January 31, 2023. Approximately, \$23.5 million in Medicaid funds are dispersed via Fee-For-Service (FFS) to Kansas school districts each year to reimburse them for providing services to students that are on Medicaid. Only covered medically necessary services identified on the student's Individual Education Plan (IEP) are eligible for Medicaid reimbursement. Covered services include the following:

- **Audiology Services:** Sensory and hearing therapy
- **Nursing Care:** Attendant Care (activities of daily living assistance)
- **Social Work Services:** Individual/group therapy
- **Therapy Services:** Occupational, Physical, Speech Language and Psychology based therapies

The services listed above are delivered by various providers who are employees of the school districts or are contractors. We discovered that of the 231 providers reviewed as part of our audit sample, 72 or 31% did not have proof the background checks were completed at the time of our request for records. Also, five schools completed background checks on 14 providers after receiving our request for records.

Our sample of providers was taken from 17 of the 287 public schools across Kansas. We added one additional school-based program for a total of 18, due to an associated school cooperative (Co-Op). Schools were picked at random, providing a cross representation in total enrollment and geographical location across the state. It is estimated there is an average of 13 providers per school district in Kansas. Accordingly, there is an estimated total of 3,731 providers working directly with children in Kansas public schools. Our sample testing indicates that 31% or 1,157 of those providers may be working without a background check.

We also found that teachers are only required to have a single background check. Unless a teacher has a break in service and allows their license to lapse, they are not required to undergo any additional background checks during their careers. There were three teachers in our sample

group that last had background checks completed in 1997 and 1998. It is reasonable to assume there are teachers in daily contact with students that have not had any type of background check done in 10-20 years.

The Kansas State Department of Education (KSDE) requires a fingerprint-based criminal history check for licensed staff. There are no State of Kansas statutes that require these checks. We did not find any state level requirements for other school employees to have background checks. This includes other employees, such as, therapists, coaches, paraprofessionals, bus drivers, cooks, and janitorial workers. K.A.R. 91-1-214, State Department of Education; Criminal history records check. *(a) Each person submitting any of the following shall also submit, at the time of the application, a complete set of legible fingerprints of the person taken by a qualified law enforcement agency or properly trained school personnel: (1) An initial application for a Kansas certificate or license; (2) an application for renewal of an expired Kansas certificate or license; or (3) an application for renewal of a valid Kansas certificate or license, if the person has never submitted fingerprints as part of any previous application for a Kansas certificate or license issued by the state board. Fingerprints submitted pursuant to this regulation shall be released by the Kansas state department of education to the Kansas bureau of investigation for the purpose of conducting criminal history records checks, utilizing the files and records of the Kansas bureau of investigation and the federal bureau of investigation. A list of those applicants who are required to submit fingerprints at the time of license or certificate renewal shall be maintained by the Kansas state department of education. (b) Each applicant shall pay the appropriate fee for the criminal history records check, to be determined on an annual basis. (c) In addition to any other requirements established by regulation for the issuance of any certificate or license specified in subsection (a), the submittal of fingerprints shall be a prerequisite to the issuance of any certificate or license by the state board. A person submitting an application who does not comply with this regulation shall not be issued a certificate or license.*

We reviewed Kansas statutes that required fingerprint-based criminal history background checks and found the following:

K.S.A. 65-516 requires a fingerprint-based criminal history background check for any individual residing, working, or regularly volunteering in a licensed child care facility.

K.S.A. 39-970 requires a fingerprint-based criminal history background check for any individual working in an adult care home. This includes any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home or adult day care facility.

K.S.A. 65-5117 requires a fingerprint-based criminal history background check for any individual working for a home health agency.

K.S.A. 39-2009 requires a fingerprint-based criminal history background for any individual who applies for employment with a center, facility, hospital or a provider of services or applies to work for an employment agency or as an independent contractor that provides staff to a center, facility, hospital or a provider of services.

The Kansas Department for Aging and Disability Services Policy E2019-010, Home and Community Based Services (HCBS) Background Check Policy requires that individuals who work as direct support workers providing HCBS for Medicaid waiver beneficiaries, must have a background check every two years.

Our research found an attempt to make fingerprint-based checks a statutory requirement. Senate Bill 70 was introduced January 26, 2015. The bill would have required every teacher to have a fingerprint-based background check at the time they apply for their initial teaching license and every time they renew their license (every 5 years). It would also have required teachers convicted of any crimes listed in K.S.A. 72-1397 9(a) or (b), or who entered into a diversion after having been charged with a crime listed in (b), to notify the Kansas State Board of Education and their license would have been revoked. It passed the Senate. On March 23, 2015, it was recommended that the Committee of Education pass the bill as amended. On March 25, 2015, it was stricken from the calendar because of timeliness rule #1507.

We made the following recommendations:

1. All school districts immediately confirm that all employees, regardless of role, have current background investigations on file.
2. All school district employees have fingerprint-based criminal history background investigation performed on a regular, documented cycle of every five years.
3. Fingerprint-based criminal history background investigations on a five-year cycle be a statutory requirement for all school employees.

## Background Information

The Office of the Medicaid Inspector General (OMIG) is conducting a review on school-based Medicaid Fee-For-Service (FFS) claim reimbursements to Kansas Unified School Districts (USD) to determine if the school-based Medicaid programs are running effectively and efficiently. Failure to properly reimburse schools for Medicaid services to eligible Medicaid children with an established Individual Education Plan (IEP), can lead to state and federal funds being used to cover school-based services.

School-based Medicaid programs provide a variety of medical services in addition to traditional educational services to ensure students are able to fully participate in the school environment. Direct medical services form the basis for the Medicaid FFS program.

School providers and licensed paraprofessionals work with students daily and are positioned to assist in the Medicaid enrollment of eligible students to assist them in receiving medical services and supporting administrative services required to care for each student. Services include medically necessary services required for each student to fully participate in the school environment.

The State Medicaid Agency (SMA) reimburses Local Education Agencies (LEAs) for medically necessary services for the Medicaid eligible student to receive a free and appropriate public education, as documented on the student's IEP. LEA provider FFS reimbursements are approved by the Kansas Department of Health and Environment, Division of Healthcare Finance (KDHE-DHCF), the SMA, for services provided through the Kansas Medical Assistance Program (KMAP).

Only covered medically necessary services identified on the student's IEP are eligible for Medicaid reimbursement. Covered services include the following:

- **Audiology Services:** Sensory and hearing therapy
- **Nursing Care:** Attendant Care (activities of daily living assistance)
- **Social Work Services:** Individual/group therapy
- **Therapy Services:** Occupational, Physical, Speech Language and Psychology based therapies

We constructed a 6% sample or a 17-school sample of the 287 USD Schools across Kansas. Schools were picked at random, providing a cross representation in total enrollment and geographical location across the state. We added one additional school-based program for a total of 18, due to an associated school cooperative (Co-Op).

## Applicable Laws and Policies

### **School-Based Services (SBS)**

School-based services (SBS), which are Medicaid-coverable services provided to children and adolescents in a school setting, play an important role in the health and well-being of children and adolescents, particularly for those enrolled in the Medicaid program. The Early and Periodic Screening, Diagnostic and Treatment (EPSDT) is a Medicaid benefit that mandates coverage of services described in section 1905(r) of the Social Security Act (the Act), which include a range of services including medical, dental, personal care, and long-term services and supports, regardless of whether the particular services are covered under the state plan.

Medicaid covers many services provided through schools to students enrolled in Medicaid. This includes services provided by school-based health centers, which can significantly improve key health and educational outcomes among students. State Medicaid agencies and LEAs work together to explore opportunities to obtain payment for Medicaid-covered services for Medicaid-enrolled students. Federal law allows states to set payment rates for Medicaid-covered services in a manner that is consistent with section 1902(a)(30)(A) of the Act and its implementing regulations in 42 C.F.R. §447. Below, we provide a basic overview of the parameters for Medicaid coverage and payment of services furnished in schools:

- There is no benefit category in Medicaid called “school-based services.” SBS are Medicaid-covered services that are provided in school settings by qualified Medicaid providers enrolled in the Medicaid program.
- To receive payment for providing Medicaid covered services, SBS providers must be enrolled in the Medicaid program and must meet specific federal and state requirements regarding provider qualifications for participation in the Medicaid program.
- To be eligible for payment by Medicaid, services must be included among those listed in Title XIX of the Act, such as those described in section 1905(a) of the Act, and coverable under the State plan (or waiver of such plan).
- Like services furnished elsewhere, Medicaid-covered services provided in schools must meet applicable statutory and regulatory requirements.
- Generally, the Medicaid statute requires Medicaid to be the payer of last resort.
- Section 1903(c) of the Act provides that Medicaid may cover services in an IEP or IFSP under the IDEA. IDEA requires special education be delivered at no cost to the child’s family. Families must not be subject to copays or other fees.

### **Individuals with Disabilities Education Act (IDEA)**

The IDEA is a law that makes available a free appropriate public education to eligible children with disabilities throughout the nation and ensures special education and related services to those children. The IDEA governs how states and public agencies provide early intervention, special education, and related services to more than 7.5 million (as of school year 2020-21) eligible infants, toddlers, children, and youth with disabilities. Section 1414 of IDEA outlines evaluations, eligibility determinations, IEP’s and educational placement rules and regulations.

Medicaid pays for health and related services provided in schools when covered services are provided to Medicaid-enrolled children and adolescents, or when services are provided to a child

through his or her individualized education plan (IEP) under the Individuals with Disabilities Education Act (IDEA, P.L. 101476). As part of the activities necessary to administer the Medicaid state plan, states may also provide Medicaid payments to schools for Medicaid outreach. To receive Medicaid payment for health and related services, schools, providers in schools, or school-based health centers must meet federal and state requirements for Medicaid providers (42 CFR 455.400455.470, CMS 1997).

Since 1988, states have been able to draw down federal funds under Medicaid to pay for school-based health and related services required by IDEA, when provided to Medicaid-eligible children with disabilities. Under IDEA, children with disabilities are eligible to receive educational and related services that will help them achieve their educational goals, as documented in each child's IEP, or for infants and toddlers (children under age three), in the individualized family service plan (IFSP). These services must be provided in the school, although children may also receive similar services outside the school setting.

The IEP is a written plan developed by the school's IEP team that describes a plan for the child's education. Every IEP is tailored to a child's specific circumstances and needs. Required components of an IEP include:

- The assessment of a child's academic and functional performance level;
- Annual educational goals;
- Educational and related services that a school will provide to help a child reach his or her goals;
- Program modifications or accommodations for school personnel to help support the child's participation or make progress in their education;
- Established plan to measure a child's progress toward annual goals (34 CFR 300.320).

State Medicaid programs may cover services included in a child's IEP or IFSP as long as (1) the services are listed in Section 1905(a) of the Social Security Act and are medically necessary; (2) all federal and state regulations are followed, including those specifying provider qualifications; and (3) the services are included in the state plan or available under Early and Periodic, Screening, Diagnostics and Treatment (EPSDT).

Section 1902(a)(27) of the SSA Act, indicates states claiming Federal Medicaid funding must document services provided. Pursuant to 42 CFR 455.1(a)(2), states are required to have a method for verifying whether services reimbursed by Medicaid were actually furnished.

#### **Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)—KAN Be Healthy (KBH)**

The Early and Periodic, Screening, Diagnostics and Treatment (EPSDT) Program is Medicaid's provision for providing preventive child health services for individuals under the age of 21. EPSDT's purpose is to discover and treat childhood health conditions before they become serious or disabling. States must inform all Medicaid-eligible families about the benefit, screen children at reasonable intervals, diagnose and treat any health problems found, and report certain data regarding EPSDT participation annually to the Centers for Medicare & Medicaid Services (CMS) in accordance with 42 CFR 441.

EPSDT services are screening and prevention services provided by EPSDT providers. 15 EPSDT service codes overlap with SBS and are allowed to be billed by LEA's when applicable. Screening results and identified findings must be sent to the member's primary medical provider. IEP's are not required in order for the provider to conduct and bill for an annual screening, per child. The following KBH-EPSDT Current Procedural Terminology (CPT) codes represent covered LEA services that are billable to the Kansas Medical Assistance Plan (KMAP):

99173	99385	92551
99213	99203	99394
99384	99215	99205
99202	99393	99383
99214	99204	99395

Medicaid reimburses school-based programs for medically necessary services for the student to receive a free and appropriate public education, as documented in the student's IEP. Payment is made to schools approved by the Kansas Department of Health and Environment, Division of Health Care Finance (KDHE-DHCF) for services provided through the Kansas Medicaid Assistance Plan (KMAP) via a FFS payment model. Only covered, medically necessary, services identified on the child's IEP will be eligible for reimbursement.

Ongoing services can be addressed on the Individualized Healthcare Plan (IHP), Behavior Intervention Plan (BIP), and/or assisted technology plan. These plans must be identified in the IEP as well as attached to it.

LEA providers of Medicaid-reimbursable services in school-based programs must have appropriate credentials as described in the Medicaid State Plan and as required by the Kansas State Department of Education (KSDE). Professionals are expected to supervise the work of same-type paraprofessionals and confine the scope of practice to the usual and customary for their profession/paraprofession.

## Findings & Recommendations

### FINDINGS:

#### 1. Medicaid service providers do not have background checks.

- a. We discovered that of the 231 providers reviewed as part of our audit sample, 72 or 31% did not have proof that background checks were completed at the time of our request for records.
- b. Five schools completed the background checks after receiving our request for records on 14 of the providers.
- c. It is estimated there is an average of 13 providers per school district in Kansas. Accordingly, there is an estimated total of 3,731 providers (13 x 287 school districts = 3,731 providers) working directly with children in Kansas public schools. Our sample testing indicates that 31% or 1,157 of those providers may be working without a background check.

#### 2. Teachers are only required to have a single background check.

- a. Unless a teacher has a break in service and allows their license to lapse, they are not required to undergo any additional background checks during their careers.
- b. There were three teachers in our sample group who last had background checks completed in 1997 and 1998. It is reasonable to assume there are teachers in daily contact with students who have not had any type of background check done in 10-20 years.
- c. The Kansas State Department of Education (KSDE) requires a single fingerprint-based criminal history check for licensed staff. There are no State of Kansas statutes that require these checks.
- d. We did not find any state level requirements for other school employees to have background checks. This includes other employees, such as therapists, coaches, paraprofessionals, bus drivers, cooks, and janitorial workers.

### RECOMMENDATIONS:

1. All school districts immediately confirm that all employees, regardless of role, have current background investigations on file.
2. All school district employees have fingerprint-based criminal history background investigations performed on a regular, documented cycle of every five years.

3. Fingerprint-based criminal history background investigations on a five-year cycle be a statutory requirement for all school employees.