

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2519

By Committee on Insurance

1-24

1 AN ACT concerning ~~expungement~~ **licensure of insurance agents**; relating
2 to applications for insurance agent license; **allowing the insurance**
3 **department access to expungement records of applicants for**
4 **insurance agent license**; amending K.S.A. 2011 Supp. 12-4516, 21-
5 6614 ~~and~~, 22-2410 ~~and~~ **40-4905** and repealing the existing sections;
6 also repealing K.S.A. 2011 Supp. 21-6614a, 21-6614b, 21-6614c and
7 22-2410a.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2011 Supp. 12-4516 is hereby amended to read as
11 follows: 12-4516. (a) (1) Except as provided in subsection (b), (c) and (d),
12 any person who has been convicted of a violation of a city ordinance of
13 this state may petition the convicting court for the expungement of such
14 conviction and related arrest records if three or more years have elapsed
15 since the person:

16 (A) Satisfied the sentence imposed; or

17 (B) was discharged from probation, parole or a suspended sentence.

18 (2) Except as provided in subsection (b), (c) and (d), any person who
19 has fulfilled the terms of a diversion agreement based on a violation of a
20 city ordinance of this state may petition the court for the expungement of
21 such diversion agreement and related arrest records if three or more years
22 have elapsed since the terms of the diversion agreement were fulfilled.

23 (b) No person may petition for expungement until five or more years
24 have elapsed since the person satisfied the sentence imposed or the terms
25 of a diversion agreement or was discharged from probation, parole,
26 conditional release or a suspended sentence, if such person was convicted
27 of the violation of a city ordinance which would also constitute:

28 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
29 repeal, or K.S.A. 2011 Supp. 21-5406, and amendments thereto;

30 (2) driving while the privilege to operate a motor vehicle on the
31 public highways of this state has been canceled, suspended or revoked, as
32 prohibited by K.S.A. 8-262, and amendments thereto;

33 (3) perjury resulting from a violation of K.S.A. 8-261a, and
34 amendments thereto;

35 (4) a violation of the provisions of the fifth clause of K.S.A. 8-142,
36 and amendments thereto, relating to fraudulent applications;

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

3 (6) failing to stop at the scene of an accident and perform the duties
4 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;

5 (7) a violation of the provisions of K.S.A. 40-3104, and amendments
6 thereto, relating to motor vehicle liability insurance coverage; or

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

8 (c) No person may petition for expungement until 10 or more years
9 have elapsed since the person satisfied the sentence imposed or the terms
10 of a diversion agreement or was discharged from probation, parole,
11 conditional release or a suspended sentence, if such person was convicted
12 of the violation of a city ordinance which would also constitute a violation
13 of K.S.A. 8-1567, and amendments thereto.

14 (d) There shall be no expungement of convictions or diversions for a
15 violation of a city ordinance which would also constitute a violation of
16 K.S.A. 8-2,144, and amendments thereto.

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

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

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

24 (4) the crime for which the defendant was arrested, convicted or
25 diverted;

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

27 (6) the identity of the convicting court, arresting law enforcement
28 agency or diverting authority. A municipal court may prescribe a fee to be
29 charged as costs for a person petitioning for an order of expungement
30 pursuant to this section. Any person who may have relevant information
31 about the petitioner may testify at the hearing. The court may inquire into
32 the background of the petitioner and shall have access to any reports or
33 records relating to the petitioner that are on file with the secretary of
34 corrections or the Kansas parole board.

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

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

40 (2) the circumstances and behavior of the petitioner warrant the
41 expungement; and

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

43 (g) When the court has ordered an arrest record, conviction or

1 diversion expunged, the order of expungement shall state the information
2 required to be contained in the petition. The clerk of the court shall send a
3 certified copy of the order of expungement to the Kansas bureau of
4 investigation which shall notify the federal bureau of investigation, the
5 secretary of corrections and any other criminal justice agency which may
6 have a record of the arrest, conviction or diversion. After the order of
7 expungement is entered, the petitioner shall be treated as not having been
8 arrested, convicted or diverted of the crime, except that:

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

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

14 (A) In any application for employment as a detective with a private
15 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
16 as security personnel with a private patrol operator, as defined by K.S.A.
17 75-7b01, and amendments thereto; or with an institution, as defined in
18 K.S.A. 76-12a01, and amendments thereto, of the department of social and
19 rehabilitation services;

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

22 (C) to aid in determining the petitioner's qualifications for
23 employment with the Kansas lottery or for work in sensitive areas within
24 the Kansas lottery as deemed appropriate by the executive director of the
25 Kansas lottery;

26 (D) to aid in determining the petitioner's qualifications for executive
27 director of the Kansas racing and gaming commission, for employment
28 with the commission or for work in sensitive areas in parimutuel racing as
29 deemed appropriate by the executive director of the commission, or to aid
30 in determining qualifications for licensure or renewal of licensure by the
31 commission;

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

37 (F) upon application for a commercial driver's license under K.S.A.
38 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

6 (K) for applications received on and after July 1, 2006, to aid in
7 determining the petitioner's qualifications for a license to carry a concealed
8 weapon pursuant to the personal and family protection act, K.S.A. 2011
9 Supp. 75-7c01 et seq., and amendments thereto; *or*

10 (L) *in any application for a license to engage in the business of*
11 *insurance;*

12 (3) the court, in the order of expungement, may specify other
13 circumstances under which the arrest, conviction or diversion is to be
14 disclosed; and

15 (4) the conviction may be disclosed in a subsequent prosecution for
16 an offense which requires as an element of such offense a prior conviction
17 of the type expunged.

18 (h) Whenever a person is convicted of an ordinance violation, pleads
19 guilty and pays a fine for such a violation, is placed on parole or probation
20 or is granted a suspended sentence for such a violation, the person shall be
21 informed of the ability to expunge the arrest records or conviction.
22 Whenever a person enters into a diversion agreement, the person shall be
23 informed of the ability to expunge the diversion.

24 (i) Subject to the disclosures required pursuant to subsection (g), in
25 any application for employment, license or other civil right or privilege, or
26 any appearance as a witness, a person whose arrest records, conviction or
27 diversion of an offense has been expunged under this statute may state that
28 such person has never been arrested, convicted or diverted of such offense.

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

34 (1) The person whose record was expunged;

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

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

41 (4) the secretary of social and rehabilitation services, or a designee of
42 the secretary, for the purpose of obtaining information relating to
43 employment in an institution, as defined in K.S.A. 76-12a01, and

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

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

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

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

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

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

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

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

39 (12) the Kansas securities commissioner, or a designee of the
40 commissioner, and the request is accompanied by a statement that the
41 request is being made in conjunction with an application for registration as
42 a broker-dealer, agent, investment adviser or investment adviser
43 representative by such agency and the application was submitted by the

1 person whose record has been expunged;

2 (13) the attorney general, and the request is accompanied by a
3 statement that the request is being made to aid in determining
4 qualifications for a license to carry a concealed weapon pursuant to the
5 personal and family protection act;

6 (14) the Kansas sentencing commission;

7 (15) the Kansas commission on peace officers' standards and training
8 and the request is accompanied by a statement that the request is being
9 made to aid in determining certification eligibility as a law enforcement
10 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; ~~or~~

11 (16) a law enforcement agency and the request is accompanied by a
12 statement that the request is being made to aid in determining eligibility
13 for employment as a law enforcement officer as defined by K.S.A. 22-
14 2202, and amendments thereto; *or*

15 *(17) the Kansas insurance commissioner or a designee of the*
16 *commissioner, and the request is accompanied by a statement that the*
17 *request is being made in conjunction with an application for a license to*
18 *engage in the business of insurance by such agent and the application was*
19 *submitted by the person whose record has been expunged.*

20 Sec. 2. K.S.A. 2011 Supp. 21-6614 is hereby amended to read as
21 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c) ~~and~~ ,
22 (d) *and* (e), any person convicted in this state of a traffic infraction,
23 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
24 for crimes committed on or after July 1, 1993, nondrug crimes ranked in
25 severity levels 6 through 10 or any felony ranked in severity level 4 of the
26 drug grid, may petition the convicting court for the expungement of such
27 conviction or related arrest records if three or more years have elapsed
28 since the person: (A) Satisfied the sentence imposed; or (B) was
29 discharged from probation, a community correctional services program,
30 parole, postrelease supervision, conditional release or a suspended
31 sentence.

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

37 (b) Except as provided in subsections (c) ~~and~~ , (d) *and* (e), no person
38 may petition for expungement until five or more years have elapsed since
39 the person satisfied the sentence imposed, the terms of a diversion
40 agreement or was discharged from probation, a community correctional
41 services program, parole, postrelease supervision, conditional release or a
42 suspended sentence, if such person was convicted of a class A, B or C
43 felony, or for crimes committed on or after July 1, 1993, if convicted of an

1 off-grid felony or any nondrug crime ranked in severity levels 1 through 5
2 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

3 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
4 repeal, or K.S.A. 2011 Supp. 21-5406, and amendments thereto, or as
5 prohibited by any law of another state which is in substantial conformity
6 with that statute;

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

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

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

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

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

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

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

28 (c) No person may petition for expungement until 10 or more years
29 have elapsed since the person satisfied the sentence imposed, the terms of
30 a diversion agreement or was discharged from probation, a community
31 correctional services program, parole, postrelease supervision, conditional
32 release or a suspended sentence, if such person was convicted of a
33 violation of K.S.A. 8-1567, and amendments thereto, including any
34 diversion for such violation.

35 (d) There shall be no expungement of convictions for the following
36 offenses or of convictions for an attempt to commit any of the following
37 offenses:

38 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
39 2011 Supp. 21-5503, and amendments thereto;

40 (2) indecent liberties with a child or aggravated indecent liberties
41 with a child as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
42 or K.S.A. 2011 Supp. 21-5506, and amendments thereto;

43 (3) criminal sodomy as defined in subsection (a)(2) or (a)(3) of

1 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
2 2011 Supp. 21-5504, and amendments thereto;

3 (4) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
4 to its repeal, or K.S.A. 2011 Supp. 21-5504, and amendments thereto;

5 (5) indecent solicitation of a child or aggravated indecent solicitation
6 of a child as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or
7 K.S.A. 2011 Supp. 21-5508, and amendments thereto;

8 (6) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
9 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

10 (7) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal,
11 or K.S.A. 2011 Supp. 21-5604, and amendments thereto;

12 (8) endangering a child or aggravated endangering a child as defined
13 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2011 Supp.
14 21-5601, and amendments thereto;

15 (9) abuse of a child as defined in K.S.A. 21-3609, prior to its repeal,
16 or K.S.A. 2011 Supp. 21-5602, and amendments thereto;

17 (10) capital murder as defined in K.S.A. 21-3439, prior to its repeal,
18 or K.S.A. 2011 Supp. 21-5401, and amendments thereto;

19 (11) murder in the first degree as defined in K.S.A. 21-3401, prior to
20 its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto;

21 (12) murder in the second degree as defined in K.S.A. 21-3402, prior
22 to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto;

23 (13) voluntary manslaughter as defined in K.S.A. 21-3403, prior to its
24 repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto;

25 (14) involuntary manslaughter as defined in K.S.A. 21-3404, prior to
26 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

27 (15) sexual battery as defined in K.S.A. 21-3517, prior to its repeal,
28 or K.S.A. 2011 Supp. 21-5505, and amendments thereto, when the victim
29 was less than 18 years of age at the time the crime was committed;

30 (16) aggravated sexual battery as defined in K.S.A. 21-3518, prior to
31 its repeal, or K.S.A. 2011 Supp. 21-5505, and amendments thereto;

32 (17) a violation of K.S.A. 8-2,144, and amendments thereto,
33 including any diversion for such violation; or

34 (18) any conviction for any offense in effect at any time prior to July
35 1, 2011, that is comparable to any offense as provided in this subsection.

36 (e) *Notwithstanding any other law to the contrary, for any offender*
37 *who is required to register as provided in the Kansas offender registration*
38 *act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no*
39 *expungement of any conviction or any part of the offender's criminal*
40 *record while the offender is required to register as provided in the Kansas*
41 *offender registration act.*

42 (e) (f) (1) When a petition for expungement is filed, the court shall set
43 a date for a hearing of such petition and shall cause notice of such hearing

1 to be given to the prosecutor and the arresting law enforcement agency.

2 The petition shall state the:

3 (A) Defendant's full name;

4 (B) full name of the defendant at the time of arrest, conviction or
5 diversion, if different than the defendant's current name;

6 (C) defendant's sex, race and date of birth;

7 (D) crime for which the defendant was arrested, convicted or
8 diverted;

9 (E) date of the defendant's arrest, conviction or diversion; and

10 (F) identity of the convicting court, arresting law enforcement
11 authority or diverting authority.

12 (2) Except as otherwise provided by law, a petition for expungement
13 shall be accompanied by a docket fee in the amount of \$100. On and after
14 ~~April 15, 2010 through June 30, 2011~~ *May 19, 2011, through June 30,*
15 *2012*, the supreme court may impose a charge, not to exceed ~~\$15~~ *\$19* per
16 case, to fund the costs of non-judicial personnel. The charge established in
17 this section shall be the only fee collected or moneys in the nature of a fee
18 collected for the case. Such charge shall only be established by an act of
19 the legislature and no other authority is established by law or otherwise to
20 collect a fee.

21 (3) All petitions for expungement shall be docketed in the original
22 criminal action. Any person who may have relevant information about the
23 petitioner may testify at the hearing. The court may inquire into the
24 background of the petitioner and shall have access to any reports or
25 records relating to the petitioner that are on file with the secretary of
26 corrections or the Kansas parole board.

27 ~~(f)~~ *(g)* At the hearing on the petition, the court shall order the
28 petitioner's arrest record, conviction or diversion expunged if the court
29 finds that:

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

33 (2) the circumstances and behavior of the petitioner warrant the
34 expungement;

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

36 ~~(g)~~ *(h)* When the court has ordered an arrest record, conviction or
37 diversion expunged, the order of expungement shall state the information
38 required to be contained in the petition. The clerk of the court shall send a
39 certified copy of the order of expungement to the Kansas bureau of
40 investigation which shall notify the federal bureau of investigation, the
41 secretary of corrections and any other criminal justice agency which may
42 have a record of the arrest, conviction or diversion. After the order of
43 expungement is entered, the petitioner shall be treated as not having been

1 arrested, convicted or diverted of the crime, except that:

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

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

7 (A) In any application for licensure as a private detective, private
8 detective agency, certification as a firearms trainer pursuant to K.S.A.
9 2011 Supp. 75-7b21, and amendments thereto, or employment as a
10 detective with a private detective agency, as defined by K.S.A. 75-7b01,
11 and amendments thereto; as security personnel with a private patrol
12 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
13 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
14 the department of social and rehabilitation services;

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

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

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

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

32 (F) upon application for a commercial driver's license under K.S.A.
33 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

1 (K) for applications received on and after July 1, 2006, to aid in
2 determining the petitioner's qualifications for a license to carry a concealed
3 weapon pursuant to the personal and family protection act, K.S.A. 2011
4 Supp. 75-7c01 et seq., and amendments thereto; *or*

5 (L) *in any application for a license to engage in the business of*
6 *insurance;*

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

9 (4) the conviction may be disclosed in a subsequent prosecution for
10 an offense which requires as an element of such offense a prior conviction
11 of the type expunged; and

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

16 ~~(i)~~ (i) Whenever a person is convicted of a crime, pleads guilty and
17 pays a fine for a crime, is placed on parole, postrelease supervision or
18 probation, is assigned to a community correctional services program, is
19 granted a suspended sentence or is released on conditional release, the
20 person shall be informed of the ability to expunge the arrest records or
21 conviction. Whenever a person enters into a diversion agreement, the
22 person shall be informed of the ability to expunge the diversion.

23 ~~(j)~~ (j) Subject to the disclosures required pursuant to subsection ~~(h)~~
24 (h), in any application for employment, license or other civil right or
25 privilege, or any appearance as a witness, a person whose arrest records,
26 conviction or diversion of a crime has been expunged under this statute
27 may state that such person has never been arrested, convicted or diverted
28 of such crime, but the expungement of a felony conviction does not relieve
29 an individual of complying with any state or federal law relating to the use
30 or possession of firearms by persons convicted of a felony.

31 ~~(k)~~ (k) Whenever the record of any arrest, conviction or diversion has
32 been expunged under the provisions of this section or under the provisions
33 of any other existing or former statute, the custodian of the records of
34 arrest, conviction, diversion and incarceration relating to that crime shall
35 not disclose the existence of such records, except when requested by:

36 (1) The person whose record was expunged;

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

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

43 (4) the secretary of social and rehabilitation services, or a designee of

1 the secretary, for the purpose of obtaining information relating to
2 employment in an institution, as defined in K.S.A. 76-12a01, and
3 amendments thereto, of the department of social and rehabilitation services
4 of any person whose record has been expunged;

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

7 (6) a prosecutor, and such request is accompanied by a statement that
8 the request is being made in conjunction with a prosecution of an offense
9 that requires a prior conviction as one of the elements of such offense;

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

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

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

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

35 (11) the Kansas sentencing commission;

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

41 (13) the Kansas securities commissioner or a designee of the
42 commissioner, and the request is accompanied by a statement that the
43 request is being made in conjunction with an application for registration as

1 a broker-dealer, agent, investment adviser or investment adviser
2 representative by such agency and the application was submitted by the
3 person whose record has been expunged;

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

8 (15) a law enforcement agency and the request is accompanied by a
9 statement that the request is being made to aid in determining eligibility
10 for employment as a law enforcement officer as defined by K.S.A. 22-
11 2202, and amendments thereto; ~~or~~

12 (16) the attorney general and the request is accompanied by a
13 statement that the request is being made to aid in determining
14 qualifications for a license to carry a concealed weapon pursuant to the
15 personal and family protection act: ;

16 (17) *the Kansas bureau of investigation for the purposes of:*

17 (A) *Completing a person's criminal history record information within*
18 *the central repository, in accordance with K.S.A. 22-4701 et seq., and*
19 *amendments thereto; or*

20 (B) *providing information or documentation to the federal bureau of*
21 *investigation, in connection with the national instant criminal background*
22 *check system, to determine a person's qualification to possess a firearm;*
23 *or*

24 (18) *the Kansas insurance commissioner or a designee of the*
25 *commissioner; and the request is accompanied by a statement that the*
26 *request is being made in conjunction with an application for a license to*
27 *engage in the business of insurance by such agent and the application was*
28 *submitted by the person whose record has been expunged.*

29 (l) *The provisions of subsection (k)(17) shall apply to records created*
30 *prior to, on and after July 1, 2011.*

31 Sec. 3. K.S.A. 2011 Supp. 22-2410 is hereby amended to read as
32 follows: 22-2410. (a) Any person who has been arrested in this state may
33 petition the district court for the expungement of such arrest record.

34 (b) When a petition for expungement is filed, the court shall set a date
35 for hearing on such petition and shall cause notice of such hearing to be
36 given to the prosecuting attorney and the arresting law enforcement
37 agency. When a petition for expungement is filed, the official court file
38 shall be separated from the other records of the court, and shall be
39 disclosed only to a judge of the court and members of the staff of the court
40 designated by a judge of the district court, the prosecuting attorney, the
41 arresting law enforcement agency, or any other person when authorized by
42 a court order, subject to any conditions imposed by the order. Except as
43 otherwise provided by law, a petition for expungement shall be

1 accompanied by a docket fee in the amount of \$100. Except as provided
2 further, the docket fee established in this section shall be the only fee
3 collected or moneys in the nature of a fee collected for the docket fee.
4 Such fee shall only be established by an act of the legislature and no other
5 authority is established by law or otherwise to collect a fee. On and after
6 ~~the effective date of this act~~ *May 19, 2011*, through June 30, 2012, the
7 supreme court may impose an additional charge, not to exceed \$19 per
8 docket fee, to fund the costs of non-judicial personnel. The petition shall
9 state:

- 10 (1) The petitioner's full name;
- 11 (2) the full name of the petitioner at the time of arrest, if different
12 than the petitioner's current name;
- 13 (3) the petitioner's sex, race and date of birth;
- 14 (4) the crime for which the petitioner was arrested;
- 15 (5) the date of the petitioner's arrest; and
- 16 (6) the identity of the arresting law enforcement agency.

17 No surcharge or fee shall be imposed to any person filing a petition
18 pursuant to this section, who was arrested as a result of being a victim of
19 identity theft under K.S.A. 21-4018, prior to its repeal, or subsection (a) of
20 K.S.A. 2011 Supp. 21-6107, and amendments thereto, *or who has had*
21 *criminal charges dismissed because a court has found that there was no*
22 *probable cause for the arrest, the petitioner was found not guilty in court*
23 *proceedings or the charges have been dismissed. Any person who may*
24 *have relevant information about the petitioner may testify at the hearing.*
25 The court may inquire into the background of the petitioner.

26 (c) At the hearing on a petition for expungement, the court shall order
27 the arrest record and subsequent court proceedings, if any, expunged upon
28 finding: (1) The arrest occurred because of mistaken identity;
29 (2) a court has found that there was no probable cause for the arrest;
30 (3) the petitioner was found not guilty in court proceedings; or
31 (4) the expungement would be in the best interests of justice and: (A)
32 Charges have been dismissed; or (B) no charges have been or are likely to
33 be filed.

34 (d) When the court has ordered expungement of an arrest record and
35 subsequent court proceedings, if any, the order shall state the information
36 required to be stated in the petition and shall state the grounds for
37 expungement under subsection (c). The clerk of the court shall send a
38 certified copy of the order to the Kansas bureau of investigation which
39 shall notify the federal bureau of investigation, the secretary of corrections
40 and any other criminal justice agency which may have a record of the
41 arrest. If an order of expungement is entered, the petitioner shall be treated
42 as not having been arrested.

43 (e) If the ground for expungement is as provided in subsection (c)(4),

1 the court shall determine whether, in the interests of public welfare, the
2 records should be available for any of the following purposes: (1) In any
3 application for employment as a detective with a private detective agency,
4 as defined in K.S.A. 75-7b01, and amendments thereto; as security
5 personnel with a private patrol operator, as defined by K.S.A. 75-7b01,
6 and amendments thereto; or with an institution, as defined in K.S.A. 76-
7 12a01, and amendments thereto, of the department of social and
8 rehabilitation services;

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

11 (3) to aid in determining the petitioner's qualifications for
12 employment with the Kansas lottery or for work in sensitive areas within
13 the Kansas lottery as deemed appropriate by the executive director of the
14 Kansas lottery;

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

21 (5) in any application for a commercial driver's license under K.S.A.
22 8-2,125 through 8-2,142, and amendments thereto;

23 (6) to aid in determining the petitioner's qualifications to be an
24 employee of the state gaming agency;

25 (7) to aid in determining the petitioner's qualifications to be an
26 employee of a tribal gaming commission or to hold a license issued
27 pursuant to a tribal-state gaming compact; ~~or~~

28 *(8) to aid in determining the petitioner's qualifications for a license
29 to engage in the business of insurance; or*

30 ~~(8)~~ (9) in any other circumstances which the court deems appropriate.

31 *(f) The court shall make all expunged records and related
32 information in such court's possession, created prior to, on and after July
33 1, 2011, available to the Kansas bureau of investigation for the purposes
34 of:*

35 *(1) Completing a person's criminal history record information within
36 the central repository in accordance with K.S.A. 22-4701 et seq., and
37 amendments thereto; or*

38 *(2) providing information or documentation to the federal bureau of
39 investigation, in connection with the national instant criminal background
40 check system, to determine a person's qualification to possess a firearm.*

41 ~~(f)~~ (g) Subject to any disclosures required under subsection (e), in any
42 application for employment, license or other civil right or privilege, or any
43 appearance as a witness, a person whose arrest records have been

1 expunged as provided in this section may state that such person has never
2 been arrested.

3 ~~(g)~~ (h) Whenever a petitioner's arrest records have been expunged as
4 provided in this section, the custodian of the records of arrest,
5 incarceration due to arrest or court proceedings related to the arrest, shall
6 not disclose the arrest or any information related to the arrest, except as
7 directed by the order of expungement or when requested by the person
8 whose arrest record was expunged.

9 ~~(h)~~ (i) The docket fee collected at the time the petition for
10 expungement is filed shall be disbursed in accordance with K.S.A. 20-362,
11 and amendments thereto.

12 **Sec. 4. K.S.A. 2011 Supp. 40-4905 is hereby amended to read as**
13 **follows: 40-4905. (a) Subject to the provisions of K.S.A. 2011 Supp. 40-**
14 **4904, and amendments thereto, it shall be unlawful for any person to**
15 **sell, solicit or negotiate any insurance within this state unless such**
16 **person has been issued a license as an insurance agent in accordance**
17 **with this act.**

18 **(b) Any person applying for a resident insurance agent license**
19 **shall make application on a form prescribed by the commissioner. The**
20 **applicant shall declare under penalty of perjury that the statements**
21 **made in the application are true, correct and complete to the best of**
22 **the applicant's knowledge and belief. Before approving the**
23 **application, the commissioner shall determine that the applicant:**

24 **(1) Is at least 18 years of age;**

25 **(2) has not committed any act that is grounds for denial pursuant**
26 **to this section or suspension or revocation pursuant to K.S.A. 2011**
27 **Supp. 40-4909, and amendments thereto;**

28 **(3) is a citizen of the United States or is an alien lawfully present in**
29 **the United States;**

30 ~~(3)~~ **(4) has paid a nonrefundable fee in the amount of \$30; and**

31 ~~(4)~~ **(5) has successfully passed the examination for each line of**
32 **authority for which the applicant has applied.**

33 **(c) If the applicant is a business entity, then the commissioner**
34 **shall make the following additional determinations in addition to those**
35 **required by subsection (a):**

36 **(1) The name and address of a licensed agent who shall be**
37 **responsible for the business entity's compliance with the insurance**
38 **laws of this state and the rules and regulations promulgated**
39 **thereunder;**

40 **(2) that each officer, director, partner and employee of the**
41 **business entity who acts as an insurance agent is licensed as an**
42 **insurance agent;**

43 **(3) that the business entity has disclosed to the department all of**

1 its officers, directors and partners whether or not such officers,
2 directors, partners and employees are licensed as insurance agents;
3 and

4 (4) that the business entity has disclosed to the department each
5 officer, director, partner and employee who is licensed as an insurance
6 agent.

7 (d) Any business entity which acts as an insurance agent and
8 holds a direct agency appointment from an insurance company shall
9 be required to obtain an insurance agent license.

10 (e) The commissioner may require the applicant to furnish any
11 document or other material reasonably necessary to verify the
12 information contained in an application.

13 (f) Each insurer that sells, solicits or negotiates any form of
14 limited line credit insurance shall provide a program of instruction
15 that may be approved by the commissioner to each individual
16 employed by or acting on behalf of such insurer to sell, solicit or
17 negotiate limited line credit insurance.

18 (g) (1) Each licensed insurance agent shall notify the
19 commissioner of any officer, director, partner or employee of such
20 insurance agent who:

21 (A) Is licensed as an individual insurance agent; and

22 (B) was not disclosed in such insurance agent's application for a
23 license or any renewal thereof.

24 (2) Each licensed insurance agent shall notify the commissioner of
25 any of its officers, directors, partners or employees who:

26 (A) Have terminated such relationship as an officer, director,
27 partner or employee of such insurance agent; and

28 (B) has been previously disclosed in such insurance agent's
29 application for a license or any renewal thereof.

30 (3) Each licensed insurance agent shall notify the commissioner
31 within 30 working days of occurrence of any event required to be
32 reported under paragraphs (1) or (2) of this subsection. Failure to
33 provide the commissioner with the information required by this
34 subsection shall subject the licensee to a monetary penalty of \$10 per
35 day for each working day the required information is late subject to a
36 maximum of \$50 per person per licensing year.

37 (h) Any applicant whose application for a license, is denied shall
38 be given an opportunity for a hearing in accordance with the
39 provisions of the Kansas administrative procedure act.

40 (i) (1) *For the purposes of determining citizenship of the applicant,*
41 *the commissioner may rely upon any document submitted by the applicant*
42 *and which is specified in subsection (l) of K.S.A. 2011 Supp. 25-2309, and*
43 *amendments thereto.*

1 (2) *For the purposes of determining whether an alien is lawfully*
2 *present in the United States, the commissioner shall make a reasonable*
3 *attempt, when practicable, to determine the immigration status of the*
4 *applicant. Such determination shall be made by contacting the federal*
5 *government pursuant to 8 U.S.C. § 1373(c) and relying on the verification*
6 *provided by the federal government.*

7 ~~Sec.-4:~~ **5.** K.S.A. 2011 Supp. 12-4516, 21-6614, 21-6614a, 21-6614b,
8 21-6614c, 22-2410 ~~and~~, 22-2410a ~~and~~ **40-4905** are hereby repealed.

9 ~~Sec.-5:~~ **6.** This act shall take effect and be in force from and after its
10 publication in the statute book.

11