

HOUSE BILL No. 2535

By Committee on Corrections and Juvenile Justice

1-25

1 AN ACT concerning the prisoner review board; updating references and
2 corresponding changes due to the transfer of authority from the Kansas
3 parole board to the prisoner review board; amending K.S.A. 22-3706,
4 22-3709, 22-3710, 22-3711, 22-3712, 22-3713, 22-3718, 22-3719, 22-
5 3720, 22-3722, 22-3726, 22-4111, 60-4305, 74-7320, 74-7321, 74-9102
6 and 75-5202 and K.S.A. 2011 Supp. 12-4516, 19-4804, 21-6603, 21-
7 6606, 21-6609, 21-6614, 21-6803, 22-3701, 22-3717, 22-3728, 22-
8 3729, 22-4701, 59-29a02, 74-4911f, 74-9101, 75-4318, 75-4319, 75-
9 5210a, 75-5217, 75-5266, 77-421 and 77-603 and repealing the existing
10 sections; also repealing K.S.A. 22-3707a and 22-3708 and K.S.A. 2011
11 Supp. 22-3707.
12

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

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

20 (A) Satisfied the sentence imposed; or

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

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

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

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

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

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

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

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

7 (6) failing to stop at the scene of an accident and perform the duties
8 required by K.S.A. 8-1602, 8-1603, *prior to its repeal*, or 8-1604, and
9 amendments thereto;

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

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

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

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

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

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

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

29 (4) the crime for which the defendant was arrested, convicted or
30 diverted;

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

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

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

42 (1) The petitioner has not been convicted of a felony in the past two
43 years and no proceeding involving any such crime is presently pending or

1 being instituted against the petitioner;

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

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

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

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

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

19 (A) In any application for employment as a detective with a private
20 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
21 as security personnel with a private patrol operator, as defined by K.S.A.
22 75-7b01, and amendments thereto; or with an institution, as defined in
23 K.S.A. 76-12a01, and amendments thereto, of the department of social and
24 rehabilitation services;

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

27 (C) to aid in determining the petitioner's qualifications for
28 employment with the Kansas lottery or for work in sensitive areas within
29 the Kansas lottery as deemed appropriate by the executive director of the
30 Kansas lottery;

31 (D) to aid in determining the petitioner's qualifications for executive
32 director of the Kansas racing and gaming commission, for employment
33 with the commission or for work in sensitive areas in parimutuel racing as
34 deemed appropriate by the executive director of the commission, or to aid
35 in determining qualifications for licensure or renewal of licensure by the
36 commission;

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

42 (F) upon application for a commercial driver's license under K.S.A.
43 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

37 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

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

42 (12) the Kansas securities commissioner, or a designee of the
43 commissioner, and the request is accompanied by a statement that the

1 request is being made in conjunction with an application for registration as
2 a broker-dealer, agent, investment adviser or investment adviser
3 representative by such agency and the application was submitted by the
4 person whose record has been expunged;

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

9 (14) the Kansas sentencing commission;

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

14 (16) a law enforcement agency and the request is accompanied by a
15 statement that the request is being made to aid in determining eligibility
16 for employment as a law enforcement officer as defined by K.S.A. 22-
17 2202, and amendments thereto.

18 Sec. 2. K.S.A. 2011 Supp. 19-4804 is hereby amended to read as
19 follows: 19-4804. (a) An application for compensation shall be made in the
20 manner and form prescribed by the state crime victims compensation
21 board. A victim may seek compensation under this act whether or not an
22 offender has been charged with the crime which results in the victim's loss.

23 (b) Compensation may not be awarded unless the crime has been
24 reported to an appropriate law enforcement agency within 72 hours after
25 its discovery and the claim has been filed with the local board within 60
26 days after the filing of such report, unless the local board finds there was
27 good cause for the failure to report such crime within the time required.

28 (c) Compensation may not be awarded to a victim who was the
29 offender or an accomplice of the offender and may not be awarded to
30 another person if the award would unjustly benefit the offender or
31 accomplice.

32 (d) Compensation may not be awarded unless the local board finds
33 the victim has fully cooperated with appropriate law enforcement
34 agencies. The local board may deny, withdraw or reduce an award of
35 compensation for noncooperativeness.

36 (e) Compensation otherwise payable to a victim shall be diminished:

37 (1) To the extent, if any, that the economic loss upon which the
38 victim's claim is based is recouped from other persons, including collateral
39 sources; or

40 (2) to the extent a local board deems reasonable because of the
41 contributory misconduct of the victim.

42 (f) Compensation may be awarded only if the local board finds a
43 genuine need is present.

1 (g) No compensation payment may exceed \$500 if the property crime
2 results in a felony charge. If the crime is committed by a juvenile, whether
3 this subsection applies shall be determined on the basis of whether a
4 felony would be charged had the offender been an adult.

5 (h) No compensation payment may exceed \$250 if the property crime
6 results in a misdemeanor or traffic charge. If the crime is committed by a
7 juvenile, whether this subsection applies shall be determined on the basis
8 of whether a misdemeanor would be charged had the offender been an
9 adult. If the original crime charged was a felony and through plea
10 negotiations the adult or juvenile offender is charged with and pleads
11 guilty or *nolo contendere* to a misdemeanor, in the discretion of the local
12 board, subsection (g) limits may apply to the compensation payment.

13 (i) If extraordinary circumstances are present and subject to the
14 requirements imposed by subsection (c) of K.S.A. 19-4803, and
15 amendments thereto, the local board may exceed the amounts in
16 subsections (g) and (h).

17 (j) Compensation for work loss or personal injury due to criminally
18 injurious conduct shall be governed by K.S.A. 74-7301 *et seq.*, and
19 amendments thereto, and rules and regulations promulgated by the state
20 crime victims compensation board for that purpose. No local board may
21 duplicate compensation for criminally injurious conduct through payments
22 under this act.

23 (k) The local board may determine a floor amount of compensation
24 which would be administratively wasteful. Once such an amount is chosen
25 it shall be made public and must be uniformly applied to all persons filing
26 claims with the local board.

27 (l) The local board may provide written policy for the handling of an
28 expedited claims process where prompt assistance and payment of services
29 needed to repair property damage is needed to thwart the possibility of the
30 onset of illness or disease to the victim or victim's family, and where the
31 victim has no other means of paying for such services.

32 (m) No award made pursuant to this act shall be subject to execution,
33 attachment, garnishment or other legal process, except that an award for
34 allowable expenses shall not be exempt from a claim of a creditor to the
35 extent the creditor has provided products, services or accommodations the
36 costs of which are included in the payment made pursuant to this act.

37 (n) No assignment or agreement to assign any right to compensation
38 for loss under this act shall be enforceable in this state.

39 (o) No local fund shall pay any single individual or such individual's
40 immediate family member compensation on more than two claims within a
41 given fiscal year.

42 (p) No claim shall be allowed unless the crime charged is pursuant to
43 article 37 of chapter 21 of Kansas Statutes Annotated, prior to their repeal,

1 or article 58 of chapter 21 of the Kansas Statutes Annotated, or subsection
2 (a)(6) of K.S.A. 2011 Supp. 21-6412, and amendments thereto, or similar
3 crimes in county or municipal penal codes. If the crime charged is
4 pursuant to K.S.A. 21-3707, 21-3708, 21-3722, 21-3725, 21-3734, 21-
5 3736, 21-3737, 21-3739, 21-3748, 21-3749, 21-3750, 21-3753, 21-3754
6 and 21-3756, prior to their repeal, and K.S.A. 2011 Supp. 21-5806, 21-
7 5815, subsection (a) of 21-5817, 21-5820, 21-5821, 21-5830, 21-5831, 21-
8 5832 and 21-5837, and amendments thereto, no claim for compensation
9 under this act shall be allowed. In addition to claims that may be made for
10 criminally injurious conduct with the state crime victims compensation
11 board, a claim for compensation for property damage may be allowed
12 under this act for crimes charged under K.S.A. 21-3418, 21-3426 or 21-
13 3427, prior to their repeal, and K.S.A. 2011 Supp. 21-5420 or 21-6418,
14 and amendments thereto.

15 (q) Payment or payments made from a local fund under this act shall
16 not limit, impair or preclude the ability of a court or the ~~parole~~ *prisoner*
17 *review* board to order restitution, and prescribe the manner and conditions
18 of payment of restitution, as allowed by law.

19 Sec. 3. K.S.A. 2011 Supp. 21-6603 is hereby amended to read as
20 follows: 21-6603. As used in K.S.A. 2011 Supp. 21-6601 through 21-6616,
21 21-6702 through 21-6712, and 21-6801 through 21-6805, and amendments
22 thereto:

23 (a) "Court" means any court having jurisdiction and power to
24 sentence offenders for violations of the laws of this state;

25 (b) "community correctional services program" means a program
26 which operates under the community corrections act and to which a
27 defendant is assigned for supervision, confinement, detention, care or
28 treatment, subject to conditions imposed by the court. A defendant
29 assigned to a community correctional services program shall be subject to
30 the continuing jurisdiction of the court and in no event shall be considered
31 to be in the custody of or under the supervision of the secretary of
32 corrections;

33 (c) "correctional institution" means any correctional institution
34 established by the state for the confinement of offenders, and under control
35 of the secretary of corrections;

36 (d) "house arrest" is an individualized program in which the freedom
37 of an inmate is restricted within the community, home or noninstitutional
38 residential placement and specific sanctions are imposed and enforced.
39 "House arrest" may include:

40 (1) Electronic monitoring which requires a transmitter to be worn by
41 the defendant or inmate which broadcasts an encoded signal to the receiver
42 located in the defendant's or inmate's home. The receiver is connected to a
43 central office computer and is notified of any absence of the defendant or

1 inmate; or

2 (2) voice identification-encoder which consists of an encoder worn by
3 the defendant or inmate. A computer is programmed to randomly call the
4 defendant or inmate and such defendant or inmate is required to provide
5 voice identification and then insert the encoder into the verifier box,
6 confirming identity;

7 (e) "parole" means the release of a prisoner to the community by the
8 ~~Kansas parole prisoner review~~ board prior to the expiration of such
9 prisoner's term, subject to conditions imposed by the board and to the
10 secretary of correction's supervision. Parole also means the release by a
11 court of competent jurisdiction of a person confined in the county jail or
12 other local place of detention after conviction and prior to expiration of
13 such person's term, subject to conditions imposed by the court and its
14 supervision. Where a court or other authority has filed a warrant against
15 the prisoner, the ~~Kansas parole prisoner review~~ board or paroling court
16 may release the prisoner on parole to answer the warrant of such court or
17 authority;

18 (f) "postrelease supervision," for crimes committed on or after July 1,
19 1993, means the same as in K.S.A. 2011 Supp. 21-6803, and amendments
20 thereto;

21 (g) "probation" means a procedure under which a defendant,
22 convicted of a crime, is released by the court after imposition of sentence,
23 without imprisonment except as provided in felony cases, subject to
24 conditions imposed by the court and subject to the supervision of the
25 probation service of the court or community corrections. In felony cases,
26 the court may include confinement in a county jail not to exceed 60 days,
27 which need not be served consecutively, as a condition of an original
28 probation sentence and up to 60 days in a county jail upon each revocation
29 of the probation sentence pursuant to subsection (b)(3) of K.S.A. 2011
30 Supp. 21-6702, and amendments thereto; and

31 (h) "suspension of sentence" means a procedure under which a
32 defendant, convicted of a crime, is released by the court without
33 imposition of sentence. The release may be with or without supervision in
34 the discretion of the court. In felony cases, the court may include
35 confinement in a county jail not to exceed 60 days, which need not be
36 served consecutively, as a condition of suspension of sentence pursuant to
37 subsection (b)(4) of K.S.A. 2011 Supp. 21-6702, and amendments thereto.

38 Sec. 4. K.S.A. 2011 Supp. 21-6606 is hereby amended to read as
39 follows: 21-6606. (a) When separate sentences of imprisonment for
40 different crimes are imposed on a defendant on the same date, including
41 sentences for crimes for which suspended sentences, probation or
42 assignment to a community correctional services program have been
43 revoked, such sentences shall run concurrently or consecutively as the

1 court directs. Whenever the record is silent as to the manner in which two
2 or more sentences imposed at the same time shall be served, they shall be
3 served concurrently, except as provided in subsections (c), (d) and (e).

4 (b) Any person who is convicted and sentenced for a crime
5 committed while on probation, assignment to a community correctional
6 services program, parole or conditional release for a misdemeanor shall
7 serve the sentence concurrently with or consecutively to the term or terms
8 under which the person was on probation, assigned to a community
9 correctional services program or on parole or conditional release, as the
10 court directs.

11 (c) Any person who is convicted and sentenced for a crime
12 committed while on probation, assigned to a community correctional
13 services program, on parole, on conditional release or on postrelease
14 supervision for a felony shall serve the sentence consecutively to the term
15 or terms under which the person was on probation, assigned to a
16 community correctional services program or on parole or conditional
17 release.

18 (d) Any person who is convicted and sentenced for a crime
19 committed while on release for a felony pursuant to article 28 of chapter
20 22 of the Kansas Statutes Annotated, and amendments thereto, shall serve
21 the sentence consecutively to the term or terms under which the person
22 was released.

23 (e)(1) Any person who is convicted and sentenced for a crime
24 committed while such person is incarcerated and serving a sentence for a
25 felony in any place of incarceration shall serve the sentence consecutively
26 to the term or terms under which the person was incarcerated.

27 (2) If a person is sentenced to prison for a crime committed on or
28 after July 1, 1993, while the person was imprisoned for an offense
29 committed prior to July 1, 1993, and the person is not eligible for the
30 retroactive application of the sentencing guidelines act, the new sentence
31 shall not be aggregated with the old sentence but shall begin when the
32 person is paroled or reaches the conditional release date on the old
33 sentence, whichever is earlier. If the offender was past the offender's
34 conditional release date at the time the new offense was committed, the
35 new sentence shall not be aggregated with the old sentence but shall begin
36 when the person is ordered released by the ~~Kansas parole~~ *prisoner review*
37 board or reaches the maximum sentence date on the old sentence,
38 whichever is earlier. The new sentence shall then be served as otherwise
39 provided by law. The period of post incarceration supervision shall be
40 based on the longest term of post incarceration supervision imposed for all
41 crimes upon which sentence was imposed or until discharged from
42 supervision by the ~~Kansas parole~~ *prisoner review* board. The term of post
43 incarceration supervision imposed by this paragraph shall apply

1 retroactively to crimes committed prior to July 1, 2008.

2 (3) As used in this subsection, "post incarceration supervision"
3 includes parole and postrelease supervision.

4 (f) The provisions of this subsection relating to parole eligibility shall
5 be applicable to persons convicted of crimes committed prior to January 1,
6 1979, but shall be applicable to persons convicted of crimes committed on
7 or after that date only to the extent that the terms of this subsection are not
8 in conflict with the provisions of K.S.A. 22-3717, and amendments
9 thereto. In calculating the time to be served on concurrent and consecutive
10 sentences, the following rules shall apply:

11 (1) When indeterminate terms run concurrently, the shorter minimum
12 terms merge in and are satisfied by serving the longest minimum term and
13 the shorter maximum terms merge in and are satisfied by conditional
14 release or discharge on the longest maximum term if the terms are imposed
15 on the same date.

16 (2) When concurrent terms are imposed on different dates,
17 computation will be made to determine which term or terms require the
18 longest period of imprisonment to reach parole eligibility, conditional
19 release and maximum dates, and that sentence will be considered the
20 controlling sentence. The parole eligibility date may be computed and
21 projected on one sentence and the conditional release date and maximum
22 may be computed and projected from another to determine the controlling
23 sentence.

24 (3) When indeterminate terms imposed on the same date are to be
25 served consecutively, the minimum terms are added to arrive at an
26 aggregate minimum to be served equal to the sum of all minimum terms
27 and the maximum terms are added to arrive at an aggregate maximum
28 equal to the sum of all maximum terms.

29 (4) When indeterminate sentences are imposed to be served
30 consecutively to sentences previously imposed in any other court or the
31 sentencing court, the aggregated minimums and maximums shall be
32 computed from the effective date of the subsequent sentences which have
33 been imposed as consecutive. For the purpose of determining the sentence
34 begins date and the parole eligibility and conditional release dates, the
35 inmate shall be given credit on the aggregate sentence for time spent
36 imprisoned on the previous sentences, but not exceeding an amount equal
37 to the previous minimum sentence less the maximum amount of good time
38 credit that could have been earned on the minimum sentence. For the
39 purpose of computing the maximum date, the inmate shall be given credit
40 for all time spent imprisoned on the previous sentence. This method for
41 computation of the maximum sentence shall be utilized for all sentences
42 computed pursuant to this subsection after July 1, 1983.

43 Nothing in this subsection (f)(4) shall affect the authority of the ~~Kansas~~

1 ~~parole prisoner review~~ board to determine the parole eligibility of inmates
2 pursuant to subsection (d) of K.S.A. 22-3717, and amendments thereto.

3 (5) When consecutive sentences are imposed which are to be served
4 consecutive to sentences for which a prisoner has been on probation,
5 assigned to a community correctional services program, on parole or on
6 conditional release, the amount of time served on probation, on assignment
7 to a community correctional services program, on parole or on conditional
8 release shall not be credited as service on the aggregate sentence in
9 determining the parole eligibility, conditional release and maximum dates,
10 except that credit shall be given for any amount of time spent in a
11 residential facility while on probation or assignment to a community
12 correctional residential services program.

13 (g) When a definite and an indefinite term run consecutively, the
14 period of the definite term is added to both the minimum and maximum of
15 the indeterminate term and both sentences are satisfied by serving the
16 indeterminate term. The provisions of this subsection shall not apply to
17 crimes committed on or after July 1, 1993.

18 (h) When a defendant is sentenced in a state court and is also under
19 sentence from a federal court or other state court or is subject to sentence
20 in a federal court or other state court for an offense committed prior to the
21 defendant's sentence in a Kansas state court, the court may direct that
22 custody of the defendant may be relinquished to federal or other state
23 authorities and that such state sentences as are imposed may run
24 concurrently with any federal or other state sentence imposed.

25 Sec. 5. K.S.A. 2011 Supp. 21-6609 is hereby amended to read as
26 follows: 21-6609. (a) The court or the secretary of corrections may
27 implement a house arrest program for defendants or inmates being
28 sentenced by the court or in the custody of the secretary of corrections or
29 as a sanction for offenders who have failed to comply with the conditions
30 of probation, parole or postrelease supervision, except:

31 (1) No defendant shall be placed by the court under house arrest if
32 found guilty of:

33 (A) Any crime designated as a class A or B felony in article 34 or 35
34 of the Kansas Statutes Annotated, prior to their repeal;

35 (B) subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments
36 thereto;

37 (C) K.S.A. 2011 Supp. 21-5602, and amendments thereto;

38 (D) any off-grid felony; or

39 (E) any nondrug crime ranked in severity levels 1 through 5 or any
40 felony ranked in severity levels 1 through 3 of the drug grid, unless the
41 offender has been sentenced to probation;

42 (2) no inmate shall be placed under house arrest if such inmate's
43 security status is greater than minimum security; or

1 (3) no inmate shall be placed under house arrest who has been denied
2 parole by the ~~parole~~ *prisoner review* board within the last 6 *six* months.
3 Any inmate who, while participating in the house arrest program, is denied
4 parole by the ~~parole~~ *prisoner review* board shall be allowed to remain
5 under house arrest until the completion of the sentence or until the inmate
6 is otherwise removed from the program.

7 (b) At the time of placement of an inmate under house arrest, the
8 court, secretary or house arrest staff shall provide written notification to
9 the sheriff and district or county attorney of the county in which any
10 person under house arrest is to be placed and to the chief law enforcement
11 officer of any incorporated city or town in which such person is to be
12 placed of the placement of the person under house arrest within the county
13 or incorporated city or town.

14 (c) House arrest sanctions shall be administered by the court and the
15 secretary of corrections, respectively, through rules and regulations, and
16 may include, but are not limited to, rehabilitative restitution in money or in
17 kind, curfew, revocation or suspension of the driver's license, community
18 service, deprivation of nonessential activities or privileges, or other
19 appropriate restraints on the inmate's liberty.

20 (d) Upon placement in a house arrest program, the court, secretary or
21 house arrest staff shall inform the offender, and any other people residing
22 with such offender, of the nature and extent of such house arrest
23 monitoring, and shall obtain the written agreement of such offender to
24 comply with all requirements of the program.

25 (e) The offender shall remain within the property boundaries of the
26 offender's residence at all times during the term of house arrest, except as
27 provided under the house arrest agreement with such offender.

28 (f) The offender shall allow any law enforcement officer, community
29 corrections officer, court services officer or duly authorized agent of the
30 department of corrections, to enter such offender's residence at any time to
31 verify the offender's compliance with the conditions of the house release.

32 (g) As a condition of house arrest, the court or secretary may require
33 an offender placed under house arrest to pay any supervision costs
34 associated with the house arrest program.

35 (h) The offender shall consent to be monitored by:

36 (1) An electronic monitoring device on such offender's person;

37 (2) an electronic monitoring device in such offender's home;

38 (3) a remote blood alcohol monitoring device;

39 (4) a home telephone verification procedure;

40 (5) radio frequency devices; or

41 (6) any combination of monitoring methods as the court, secretary or
42 house arrest staff finds necessary.

43 (i) The secretary or the court may contract for independent

1 monitoring services. Such independent monitoring service shall be able to
2 provide monitoring 24 hours a day, every day of the year, and any other
3 services as determined by the secretary or the court.

4 (j) An offender violating the provisions of K.S.A. 8-1567, and
5 amendments thereto, if placed under house arrest, shall be monitored by an
6 electronic monitoring device, which verifies the offender's location. On a
7 second conviction of K.S.A. 8-1567, and amendments thereto, an offender
8 placed under house arrest shall serve a total of 120 hours of confinement
9 within the boundaries of the offender's residence. Any exceptions to
10 remaining within the boundaries of the offender's residence provided for
11 in the house arrest agreement shall not be counted as part of the 120 hours.
12 On a third or subsequent conviction of K.S.A. 8-1567, and amendments
13 thereto, an offender placed under house arrest shall serve a total of 240
14 hours of confinement within the boundaries of the offender's residence.
15 Any exceptions to remaining within the boundaries of the offender's
16 residence provided for in the house arrest agreement shall not be counted
17 as part of the 240 hours.

18 (k) As used in this section:

19 (1) "House arrest staff" means an independent contractor or
20 government entity, and agents thereof, utilized by the secretary or court to
21 administer the provisions of a house arrest program;

22 (2) "electronic monitoring device" means:

23 (A) An active or passive global positioning system-enabled device
24 capable of recording and transmitting an offender's location at all times or
25 at designated intervals. Such monitoring device may record or transmit
26 sound, visual images or other information regarding such offender's
27 location, via wireless communication; or

28 (B) a radio frequency device capable of monitoring an offender's
29 location; and

30 (3) "remote alcohol monitoring device" means a device capable of
31 monitoring an offender's blood alcohol content via micro fuel cell or deep
32 lung tissue sample. Such monitoring devices shall be of comparable
33 accuracy to roadside breath alcohol testing devices utilized by law
34 enforcement, and shall have wireless or landline telephone transmission
35 capabilities. Such device may be used in conjunction with an alcohol and
36 drug-sensing bracelet to monitor such offender's compliance with the
37 terms of house arrest.

38 Sec. 6. K.S.A. 2011 Supp. 21-6614 is hereby amended to read as
39 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c) ~~and~~ ,
40 (d) *and* (e), any person convicted in this state of a traffic infraction,
41 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
42 for crimes committed on or after July 1, 1993, nondrug crimes ranked in
43 severity levels 6 through 10 or any felony ranked in severity level 4 of the

1 drug grid, may petition the convicting court for the expungement of such
2 conviction or related arrest records if three or more years have elapsed
3 since the person: (A) Satisfied the sentence imposed; or (B) was
4 discharged from probation, a community correctional services program,
5 parole, postrelease supervision, conditional release or a suspended
6 sentence.

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

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

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

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

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

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

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

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

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

1 thereto, relating to motor vehicle liability insurance coverage; or

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

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

10 (d) There shall be no expungement of convictions for the following
11 offenses or of convictions for an attempt to commit any of the following
12 offenses:

13 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
14 2011 Supp. 21-5503, and amendments thereto;

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

18 (3) criminal sodomy as defined in subsection (a)(2) or (a)(3) of
19 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
20 2011 Supp. 21-5504, and amendments thereto;

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

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

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

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

30 (8) endangering a child or aggravated endangering a child as defined
31 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2011 Supp.
32 21-5601, and amendments thereto;

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

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

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

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

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

43 (14) involuntary manslaughter as defined in K.S.A. 21-3404, prior to

1 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

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

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

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

9 (18) any conviction for any offense in effect at any time prior to July
10 1, 2011, that is comparable to any offense as provided in this subsection.

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

17 ~~(f)~~ (f) (1) When a petition for expungement is filed, the court shall set
18 a date for a hearing of such petition and shall cause notice of such hearing
19 to be given to the prosecutor and the arresting law enforcement agency.
20 The petition shall state the:

21 (A) Defendant's full name;

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

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

25 (D) crime for which the defendant was arrested, convicted or
26 diverted;

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

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

30 (2) Except as otherwise provided by law, a petition for expungement
31 shall be accompanied by a docket fee in the amount of \$100. On and after
32 ~~April 15, 2010 through June 30, 2011~~ *May 19, 2011, through June 30,*
33 *2012,* the supreme court may impose a charge, not to exceed ~~\$15~~ *\$19* per
34 case, to fund the costs of non-judicial personnel. The charge established in
35 this section shall be the only fee collected or moneys in the nature of a fee
36 collected for the case. Such charge shall only be established by an act of
37 the legislature and no other authority is established by law or otherwise to
38 collect a fee.

39 (3) All petitions for expungement shall be docketed in the original
40 criminal action. Any person who may have relevant information about the
41 petitioner may testify at the hearing. The court may inquire into the
42 background of the petitioner and shall have access to any reports or
43 records relating to the petitioner that are on file with the secretary of

1 corrections or the ~~Kansas parole~~ *prisoner review* board.

2 ~~(f)~~ (g) At the hearing on the petition, the court shall order the
3 petitioner's arrest record, conviction or diversion expunged if the court
4 finds that:

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

8 (2) the circumstances and behavior of the petitioner warrant the
9 expungement;

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

11 ~~(g)~~ (h) When the court has ordered an arrest record, conviction or
12 diversion expunged, the order of expungement shall state the information
13 required to be contained in the petition. The clerk of the court shall send a
14 certified copy of the order of expungement to the Kansas bureau of
15 investigation which shall notify the federal bureau of investigation, the
16 secretary of corrections and any other criminal justice agency which may
17 have a record of the arrest, conviction or diversion. After the order of
18 expungement is entered, the petitioner shall be treated as not having been
19 arrested, convicted or diverted of the crime, except that:

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

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

25 (A) In any application for licensure as a private detective, private
26 detective agency, certification as a firearms trainer pursuant to K.S.A.
27 2011 Supp. 75-7b21, and amendments thereto, or employment as a
28 detective with a private detective agency, as defined by K.S.A. 75-7b01,
29 and amendments thereto; as security personnel with a private patrol
30 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
31 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
32 the department of social and rehabilitation services;

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

35 (C) to aid in determining the petitioner's qualifications for
36 employment with the Kansas lottery or for work in sensitive areas within
37 the Kansas lottery as deemed appropriate by the executive director of the
38 Kansas lottery;

39 (D) to aid in determining the petitioner's qualifications for executive
40 director of the Kansas racing and gaming commission, for employment
41 with the commission or for work in sensitive areas in parimutuel racing as
42 deemed appropriate by the executive director of the commission, or to aid
43 in determining qualifications for licensure or renewal of licensure by the

1 commission;

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

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

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

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

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

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

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

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

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

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

32 ~~(h)~~ (i) Whenever a person is convicted of a crime, pleads guilty and
33 pays a fine for a crime, is placed on parole, postrelease supervision or
34 probation, is assigned to a community correctional services program, is
35 granted a suspended sentence or is released on conditional release, the
36 person shall be informed of the ability to expunge the arrest records or
37 conviction. Whenever a person enters into a diversion agreement, the
38 person shall be informed of the ability to expunge the diversion.

39 ~~(i)~~ (j) Subject to the disclosures required pursuant to subsection ~~(f)~~
40 (g), in any application for employment, license or other civil right or
41 privilege, or any appearance as a witness, a person whose arrest records,
42 conviction or diversion of a crime has been expunged under this statute
43 may state that such person has never been arrested, convicted or diverted

1 of such crime, but the expungement of a felony conviction does not relieve
2 an individual of complying with any state or federal law relating to the use
3 or possession of firearms by persons convicted of a felony.

4 (j) (k) Whenever the record of any arrest, conviction or diversion has
5 been expunged under the provisions of this section or under the provisions
6 of any other existing or former statute, the custodian of the records of
7 arrest, conviction, diversion and incarceration relating to that crime shall
8 not disclose the existence of such records, except when requested by:

9 (1) The person whose record was expunged;

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

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

16 (4) the secretary of social and rehabilitation services, or a designee of
17 the secretary, for the purpose of obtaining information relating to
18 employment in an institution, as defined in K.S.A. 76-12a01, and
19 amendments thereto, of the department of social and rehabilitation services
20 of any person whose record has been expunged;

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

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

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

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

37 (9) the governor or the Kansas racing and gaming commission, or a
38 designee of the commission, and the request is accompanied by a
39 statement that the request is being made to aid in determining
40 qualifications for executive director of the commission, for employment
41 with the commission, for work in sensitive areas in parimutuel racing as
42 deemed appropriate by the executive director of the commission or for
43 licensure, renewal of licensure or continued licensure by the commission;

1 (10) the Kansas racing and gaming commission, or a designee of the
2 commission, and the request is accompanied by a statement that the
3 request is being made to aid in determining qualifications of the following
4 under the Kansas expanded lottery act: (A) Lottery gaming facility
5 managers and prospective managers, racetrack gaming facility managers
6 and prospective managers, licensees and certificate holders; and (B) their
7 officers, directors, employees, owners, agents and contractors;

8 (11) the Kansas sentencing commission;

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

14 (13) the Kansas securities commissioner or a designee of the
15 commissioner, and the request is accompanied by a statement that the
16 request is being made in conjunction with an application for registration as
17 a broker-dealer, agent, investment adviser or investment adviser
18 representative by such agency and the application was submitted by the
19 person whose record has been expunged;

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

24 (15) a law enforcement agency and the request is accompanied by a
25 statement that the request is being made to aid in determining eligibility
26 for employment as a law enforcement officer as defined by K.S.A. 22-
27 2202, and amendments thereto; or

28 (16) the attorney general and the request is accompanied by a
29 statement that the request is being made to aid in determining
30 qualifications for a license to carry a concealed weapon pursuant to the
31 personal and family protection act; ; or

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

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

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

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

41 Sec. 7. K.S.A. 2011 Supp. 21-6803 is hereby amended to read as
42 follows: 21-6803. As used in K.S.A. 2011 Supp. 21-6801 through 21-
43 6824, and amendments thereto:

- 1 (a) "Aggravating factor" means a substantial and compelling reason
2 justifying an exceptional sentence whereby the sentencing court may
3 impose a departure sentence outside the standard sentencing range for a
4 crime. An aggravating factor may result in a dispositional or durational
5 departure;
- 6 (b) "commission" means the Kansas sentencing commission;
- 7 (c) "criminal history" means and includes an offender's criminal
8 record of adult felony, class A misdemeanor, class B person misdemeanor
9 or select misdemeanor convictions and comparable juvenile adjudications
10 at the time such offender is sentenced;
- 11 (d) "criminal history score" means the summation of the convictions
12 described as criminal history that place an offender in one of the criminal
13 history score categories listed on the horizontal axis of the sentencing
14 guidelines grids;
- 15 (e) "decay factor" means prior convictions that are no longer
16 considered as part of an offender's criminal history score;
- 17 (f) "departure" means a sentence which is inconsistent with the
18 presumptive sentence for an offender;
- 19 (g) "dispositional departure" means a departure sentence imposing a
20 nonprison sanction when the presumptive sentence is prison or prison
21 when the presumptive sentence is nonimprisonment;
- 22 (h) "dispositional line" means the solid black line on the sentencing
23 guidelines grids which separates the grid blocks in which the presumptive
24 sentence is a term of imprisonment and postrelease supervision from the
25 grid blocks in which the presumptive sentence is nonimprisonment;
- 26 (i) "durational departure" means a departure sentence which is
27 inconsistent with the presumptive term of imprisonment or
28 nonimprisonment;
- 29 (j) "good time" means a method of behavior control or sanctions
30 utilized by the department of corrections;
- 31 (k) "grid" means the sentencing guidelines grid for nondrug crimes as
32 provided in K.S.A. 2011 Supp. 21-6804, and amendments thereto, or the
33 sentencing guidelines grid for drug crimes as provided in K.S.A. 2011
34 Supp. 21-6805, and amendments thereto, or both;
- 35 (l) "grid block" means a box on the grid formed by the intersection of
36 the crime severity ranking of a current crime of conviction and an
37 offender's criminal history classification;
- 38 (m) "imprisonment" means imprisonment in a facility operated by the
39 Kansas department of corrections;
- 40 (n) "mitigating factor" means a substantial and compelling reason
41 justifying an exceptional sentence whereby the sentencing court may
42 impose a departure sentence outside of the standard sentencing range for a
43 crime. A mitigating factor may result in a dispositional or durational

1 departure;

2 (o) "nonimprisonment," "nonprison" or "nonprison sanction" means
3 probation, community corrections, conservation camp, house arrest or any
4 other community based disposition;

5 (p) "postrelease supervision" means the release of a prisoner to the
6 community after having served a period of imprisonment or equivalent
7 time served in a facility where credit for time served is awarded as set
8 forth by the court, subject to conditions imposed by the ~~Kansas parole~~
9 *prisoner review* board and to the secretary of correction's supervision;

10 (q) "presumptive sentence" means the sentence provided in a grid
11 block for an offender classified in that grid block by the combined effect
12 of the crime severity ranking of the offender's current crime of conviction
13 and the offender's criminal history;

14 (r) "prison" means a facility operated by the Kansas department of
15 corrections; and

16 (s) "sentencing range" means the sentencing court's discretionary
17 range in imposing a nonappealable sentence.

18 Sec. 8. K.S.A. 2011 Supp. 22-3701 is hereby amended to read as
19 follows: 22-3701. (1) The governor may pardon, or commute the sentence
20 of, any person convicted of a crime in any court of this state upon such
21 terms and conditions as prescribed in the order granting the pardon or
22 commutation.

23 (2) The ~~Kansas parole~~ *prisoner review* board, hereafter referred to as
24 the board, shall adopt rules and regulations governing the procedure for
25 initiating, processing, and reviewing applications for pardon, or
26 commutation of sentence filed by and on behalf of persons convicted of
27 crime.

28 (3) Except as otherwise provided, no pardon or commutation of
29 sentence shall be granted until more than 30 days after written notice of
30 the application therefor has been given to: (a) The prosecuting attorney
31 and the judge of the court in which the defendant was convicted; and (b)
32 any victim of the person's crime or the victim's family, if the person was
33 convicted of a crime specified in article 34, 35 or 36 of chapter 21 of the
34 Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of
35 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-
36 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments
37 thereto. Notice of such application for pardon or commutation of sentence
38 shall be given by the secretary of corrections to the victim who is alive and
39 whose address is known to the secretary of corrections, or if the victim is
40 deceased, to the victim's family if the family's address is known to the
41 secretary of corrections. Notice of the receipt of such application shall be
42 given by publication in the official county paper of the county of
43 conviction. The form of notice shall be prescribed by the board. If the

1 applicant executes a poverty affidavit, the cost of one publication of the
2 notice during a twelve-month period shall be paid by the state. If more
3 than one notice of application is published during any twelve-month
4 period the additional cost of publication shall be paid by the applicant.
5 Subject to the provisions of subsection (4), if written notification is not
6 given to such victim who is alive and whose address is known to the
7 secretary of corrections or, if the victim is deceased, to the victim's family
8 if the family's address is known to the secretary of corrections, the
9 governor shall not grant or deny such application until a time at least 30
10 days after notification is given by publication as provided in this section.

11 (4) All applications for pardon or commutation of sentence shall be
12 referred to the board. The board shall examine each case and submit a
13 report, together with such information as the board may have concerning
14 the applicant, to the governor within 120 days after referral to the board.
15 The governor shall not grant or deny any such application until the
16 governor has received the report of the board or until 120 days after the
17 referral to the board, whichever time is the shorter and the provisions of
18 subsection (3) have been satisfied.

19 Sec. 9. K.S.A. 22-3706 is hereby amended to read as follows: 22-
20 3706. No person acting as agent or representative for an individual before
21 the board for pardon, commutation of sentence, parole or revocation of
22 parole, conditional release or postrelease supervision shall contract for or
23 receive a fee contingent upon a certain decision by the board. Such agent
24 or representative shall submit a statement on the applicant's behalf to the
25 ~~Kansas parole~~ *prisoner review* board in writing and shall submit therewith
26 an affidavit stating such agent's representative's name; place of residence;
27 the name of the applicant being represented or has been represented; the
28 fee, if any, paid to or to be paid to such agent or representative by any
29 person for such services; that such fee is not or was not a contingent fee. If
30 any person representing any applicant for pardon, commutation of
31 sentence, or parole shall fail to file such affidavit the application shall not
32 be considered. Any affidavit filed as provided in this section shall be a
33 public record.

34 Sec. 10. K.S.A. 22-3709 is hereby amended to read as follows: 22-
35 3709. The chairperson and vice-chairperson of the ~~Kansas parole~~ *prisoner*
36 *review* board shall be designated by the ~~governor~~ *secretary of corrections*.
37 The chairperson of the board shall have the authority to organize and
38 administer the activities of the board. The chairperson of the board may
39 designate panels, consisting of two members of the board, which shall
40 have the full authority and power of the board to order the denial, grant or
41 revocation of an inmate's parole or conditional release, or for crimes
42 committed on or after July 1, 1993, grant parole for off-grid crimes or
43 revocation of postrelease supervision or to order the revocation of an

1 inmate's conditional release, upon hearing by one or more members of the
2 panel, and by a majority vote of the board.

3 Sec. 11. K.S.A. 22-3710 is hereby amended to read as follows: 22-
4 3710. The ~~Kansas parole~~ *prisoner review* board shall adopt an official seal
5 of which the courts shall take judicial notice. The orders of the ~~parole~~
6 board shall not be reviewable except as to compliance with the terms of
7 this act or other applicable laws of this state. The ~~parole~~ board shall keep a
8 record of its acts and shall notify each institution and the secretary of
9 corrections of its decisions relating to the persons who are or have been
10 confined therein. At the close of each fiscal year, the ~~parole~~ board shall
11 submit to the governor and to the legislature a report with statistical and
12 other data of its work, including research studies which it may make of
13 probation, sentencing, parole, postrelease supervision or related functions,
14 and a compilation and analysis of dispositions of criminal cases by district
15 courts throughout the state or by executive authority.

16 Sec. 12. K.S.A. 22-3711 is hereby amended to read as follows: 22-
17 3711. The presentence report, the preparole report, the pre-postrelease
18 supervision report and the supervision history, obtained in the discharge of
19 official duty by any member or employee of the ~~Kansas parole~~ *prisoner*
20 *review* board or any *other* employee of the department of corrections, shall
21 be privileged and shall not be disclosed directly or indirectly to anyone
22 other than the ~~parole~~ *prisoner review* board, the judge, the attorney general
23 or others entitled to receive the information, except that the ~~parole~~ board,
24 secretary of corrections or court may permit the inspection of the report or
25 parts of it by the defendant, inmate, defendant's or inmate's attorney or
26 other person having a proper interest in it, whenever the best interest or
27 welfare of a particular defendant or inmate makes the action desirable or
28 helpful.

29 Sec. 13. K.S.A. 22-3712 is hereby amended to read as follows: 22-
30 3712. As a condition of probation, parole or postrelease supervision, a
31 probationer, parolee or person on postrelease supervision may be placed in
32 a diagnostic, or treatment facility by order of the court or ~~parole~~ *prisoner*
33 *review* board. Placement in a diagnostic or treatment facility shall not
34 exceed 90 days or the maximum period of the prison sentence that could
35 be imposed, but may be renewed for further ninety-day periods on
36 certificates presented to the court by the director of such facility.

37 Sec. 14. K.S.A. 22-3713 is hereby amended to read as follows: 22-
38 3713. (a) The ~~parole~~ *prisoner review* board may authorize one or more of
39 its members to conduct hearings on behalf of the ~~parole~~ board.

40 (b) The secretary of corrections shall provide the ~~Kansas parole~~
41 *prisoner review* board with necessary personnel and accounting services.

42 Sec. 15. K.S.A. 2011 Supp. 22-3717 is hereby amended to read as
43 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.

1 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638,
2 prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642,
3 prior to its repeal; K.S.A. 2011 Supp. 21-6617, 21-6620, 21-6623, 21-
4 6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567,
5 and amendments thereto; an inmate, including an inmate sentenced
6 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2011 Supp. 21-
7 6707, and amendments thereto, shall be eligible for parole after serving the
8 entire minimum sentence imposed by the court, less good time credits.

9 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior
10 to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
11 6625, and amendments thereto, an inmate sentenced to imprisonment for
12 the crime of capital murder, or an inmate sentenced for the crime of
13 murder in the first degree based upon a finding of premeditated murder,
14 committed on or after July 1, 1994, shall be eligible for parole after
15 serving 25 years of confinement, without deduction of any good time
16 credits.

17 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
18 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior
19 to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
20 6625, and amendments thereto, an inmate sentenced to imprisonment for
21 an off-grid offense committed on or after July 1, 1993, but prior to July 1,
22 1999, shall be eligible for parole after serving 15 years of confinement,
23 without deduction of any good time credits and an inmate sentenced to
24 imprisonment for an off-grid offense committed on or after July 1, 1999,
25 shall be eligible for parole after serving 20 years of confinement without
26 deduction of any good time credits.

27 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
28 repeal, an inmate sentenced for a class A felony committed before July 1,
29 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
30 its repeal, or K.S.A. 2011 Supp. 21-6707, and amendments thereto, shall
31 be eligible for parole after serving 15 years of confinement, without
32 deduction of any good time credits.

33 (4) An inmate sentenced to imprisonment for a violation of
34 subsection (a) of K.S.A. 21-3402, prior to its repeal, committed on or after
35 July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after
36 serving 10 years of confinement without deduction of any good time
37 credits.

38 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
39 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
40 thereto, committed on or after July 1, 2006, shall be eligible for parole
41 after serving the mandatory term of imprisonment without deduction of
42 any good time credits.

43 (c) (1) Except as provided in subsection (e), if an inmate is sentenced

1 to imprisonment for more than one crime and the sentences run
2 consecutively, the inmate shall be eligible for parole after serving the total
3 of:

4 (A) The aggregate minimum sentences, as determined pursuant to
5 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2011 Supp. 21-6606, and
6 amendments thereto, less good time credits for those crimes which are not
7 class A felonies; and

8 (B) an additional 15 years, without deduction of good time credits,
9 for each crime which is a class A felony.

10 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
11 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
12 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
13 eligible for parole after serving the mandatory term of imprisonment.

14 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
15 committed on or after July 1, 1993, or persons subject to subparagraph
16 (G), will not be eligible for parole, but will be released to a mandatory
17 period of postrelease supervision upon completion of the prison portion of
18 their sentence as follows:

19 (A) Except as provided in subparagraphs (D) and (E), persons
20 sentenced for nondrug severity level 1 through 4 crimes and drug severity
21 levels 1 and 2 crimes must serve 36 months, plus the amount of good time
22 and program credit earned and retained pursuant to K.S.A. 21-4722, prior
23 to its repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
24 postrelease supervision.

25 (B) Except as provided in subparagraphs (D) and (E), persons
26 sentenced for nondrug severity levels 5 and 6 crimes and drug severity
27 level 3 crimes must serve 24 months, plus the amount of good time and
28 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
29 repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
30 postrelease supervision.

31 (C) Except as provided in subparagraphs (D) and (E), persons
32 sentenced for nondrug severity level 7 through 10 crimes and drug severity
33 level 4 crimes must serve 12 months, plus the amount of good time and
34 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
35 repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
36 postrelease supervision.

37 (D) (i) The sentencing judge shall impose the postrelease supervision
38 period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless
39 the judge finds substantial and compelling reasons to impose a departure
40 based upon a finding that the current crime of conviction was sexually
41 motivated. In that event, departure may be imposed to extend the
42 postrelease supervision to a period of up to 60 months.

43 (ii) If the sentencing judge departs from the presumptive postrelease

1 supervision period, the judge shall state on the record at the time of
2 sentencing the substantial and compelling reasons for the departure.
3 Departures in this section are subject to appeal pursuant to K.S.A. 21-
4 4721, prior to its repeal, or K.S.A. 2011 Supp. 21-6820, and amendments
5 thereto.

6 (iii) In determining whether substantial and compelling reasons exist,
7 the court shall consider:

8 (a) Written briefs or oral arguments submitted by either the defendant
9 or the state;

10 (b) any evidence received during the proceeding;

11 (c) the presentence report, the victim's impact statement and any
12 psychological evaluation as ordered by the court pursuant to subsection (e)
13 of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2011
14 Supp. 21-6813, and amendments thereto; and

15 (d) any other evidence the court finds trustworthy and reliable.

16 (iv) The sentencing judge may order that a psychological evaluation
17 be prepared and the recommended programming be completed by the
18 offender. The department of corrections or the ~~parole~~ *prisoner review*
19 board shall ensure that court ordered sex offender treatment be carried out.

20 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
21 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2011 Supp. 21-
22 6817, and amendments thereto.

23 (vi) Upon petition, the ~~parole~~ *prisoner review* board may provide for
24 early discharge from the postrelease supervision period upon completion
25 of court ordered programs and completion of the presumptive postrelease
26 supervision period, as determined by the crime of conviction, pursuant to
27 subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
28 postrelease supervision is at the discretion of the ~~parole~~ *prisoner review*
29 board.

30 (vii) Persons convicted of crimes deemed sexually violent or sexually
31 motivated, shall be registered according to the offender registration act,
32 K.S.A. 22-4901 through 22-4910, and amendments thereto.

33 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
34 repeal, or K.S.A. 2011 Supp. 21-5508, and amendments thereto, shall be
35 required to participate in a treatment program for sex offenders during the
36 postrelease supervision period.

37 (E) The period of postrelease supervision provided in subparagraphs
38 (A) and (B) may be reduced by up to 12 months and the period of
39 postrelease supervision provided in subparagraph (C) may be reduced by
40 up to six months based on the offender's compliance with conditions of
41 supervision and overall performance while on postrelease supervision. The
42 reduction in the supervision period shall be on an earned basis pursuant to
43 rules and regulations adopted by the secretary of corrections.

1 (F) In cases where sentences for crimes from more than one severity
2 level have been imposed, the offender shall serve the longest period of
3 postrelease supervision as provided by this section available for any crime
4 upon which sentence was imposed irrespective of the severity level of the
5 crime. Supervision periods will not aggregate.

6 (G) Except as provided in subsection (u), persons convicted of a
7 sexually violent crime committed on or after July 1, 2006, and who are
8 released from prison, shall be released to a mandatory period of
9 postrelease supervision for the duration of the person's natural life.

10 (2) As used in this section, "sexually violent crime" means:

11 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2011 Supp.
12 21-5503, and amendments thereto;

13 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
14 or subsection (a) of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

15 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
16 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506, and
17 amendments thereto;

18 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
19 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2011 Supp. 21-
20 5504, and amendments thereto;

21 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
22 or subsection (b) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

23 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
24 or subsection (a) of K.S.A. 2011 Supp. 21-5508, and amendments thereto;

25 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
26 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5508, and
27 amendments thereto;

28 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
29 or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

30 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
31 subsection (b) of K.S.A. 2011 Supp. 21-5505, and amendments thereto;

32 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
33 subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments thereto; or

34 (K) an attempt, conspiracy or criminal solicitation, as defined in
35 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
36 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
37 sexually violent crime as defined in this section.

38 "Sexually motivated" means that one of the purposes for which the
39 defendant committed the crime was for the purpose of the defendant's
40 sexual gratification.

41 (e) If an inmate is sentenced to imprisonment for a crime committed
42 while on parole or conditional release, the inmate shall be eligible for
43 parole as provided by subsection (c), except that the ~~Kansas parole~~

1 *prisoner review* board may postpone the inmate's parole eligibility date by
2 assessing a penalty not exceeding the period of time which could have
3 been assessed if the inmate's parole or conditional release had been
4 violated for reasons other than conviction of a crime.

5 (f) If a person is sentenced to prison for a crime committed on or after
6 July 1, 1993, while on probation, parole, conditional release or in a
7 community corrections program, for a crime committed prior to July 1,
8 1993, and the person is not eligible for retroactive application of the
9 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
10 4724, prior to its repeal, the new sentence shall not be aggregated with the
11 old sentence, but shall begin when the person is paroled or reaches the
12 conditional release date on the old sentence. If the offender was past the
13 offender's conditional release date at the time the new offense was
14 committed, the new sentence shall not be aggregated with the old sentence
15 but shall begin when the person is ordered released by the ~~Kansas parole~~
16 *prisoner review* board or reaches the maximum sentence expiration date on
17 the old sentence, whichever is earlier. The new sentence shall then be
18 served as otherwise provided by law. The period of postrelease supervision
19 shall be based on the new sentence, except that those offenders whose old
20 sentence is a term of imprisonment for life, imposed pursuant to K.S.A.
21 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with
22 a maximum term of life imprisonment, for which there is no conditional
23 release or maximum sentence expiration date, shall remain on postrelease
24 supervision for life or until discharged from supervision by the ~~Kansas~~
25 *parole board*.

26 (g) Subject to the provisions of this section, the ~~Kansas parole~~
27 *prisoner review* board may release on parole those persons confined in
28 institutions who are eligible for parole when: (1) The board believes that
29 the inmate should be released for hospitalization, for deportation or to
30 answer the warrant or other process of a court and is of the opinion that
31 there is reasonable probability that the inmate can be released without
32 detriment to the community or to the inmate; or (2) the secretary of
33 corrections has reported to the board in writing that the inmate has
34 satisfactorily completed the programs required by any agreement entered
35 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
36 agreement, and the board believes that the inmate is able and willing to
37 fulfill the obligations of a law abiding citizen and is of the opinion that
38 there is reasonable probability that the inmate can be released without
39 detriment to the community or to the inmate. Parole shall not be granted as
40 an award of clemency and shall not be considered a reduction of sentence
41 or a pardon.

42 (h) The ~~Kansas parole~~ *prisoner review* board shall hold a parole
43 hearing at least the month prior to the month an inmate will be eligible for

1 parole under subsections (a), (b) and (c). At least the month preceding the
2 parole hearing, the county or district attorney of the county where the
3 inmate was convicted shall give written notice of the time and place of the
4 public comment sessions for the inmate to any victim of the inmate's crime
5 who is alive and whose address is known to the county or district attorney
6 or, if the victim is deceased, to the victim's family if the family's address is
7 known to the county or district attorney. Except as otherwise provided,
8 failure to notify pursuant to this section shall not be a reason to postpone a
9 parole hearing. In the case of any inmate convicted of an off-grid felony or
10 a class A felony the secretary of corrections shall give written notice of the
11 time and place of the public comment session for such inmate at least one
12 month preceding the public comment session to any victim of such
13 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
14 amendments thereto. If notification is not given to such victim or such
15 victim's family in the case of any inmate convicted of an off-grid felony or
16 a class A felony, the board shall postpone a decision on parole of the
17 inmate to a time at least 30 days after notification is given as provided in
18 this section. Nothing in this section shall create a cause of action against
19 the state or an employee of the state acting within the scope of the
20 employee's employment as a result of the failure to notify pursuant to this
21 section. If granted parole, the inmate may be released on parole on the date
22 specified by the board, but not earlier than the date the inmate is eligible
23 for parole under subsections (a), (b) and (c). At each parole hearing and, if
24 parole is not granted, at such intervals thereafter as it determines
25 appropriate, the ~~Kansas parole~~ *prisoner review* board shall consider: (1)
26 Whether the inmate has satisfactorily completed the programs required by
27 any agreement entered under K.S.A. 75-5210a, and amendments thereto,
28 or any revision of such agreement; and (2) all pertinent information
29 regarding such inmate, including, but not limited to, the circumstances of
30 the offense of the inmate; the presentence report; the previous social
31 history and criminal record of the inmate; the conduct, employment, and
32 attitude of the inmate in prison; the reports of such physical and mental
33 examinations as have been made, including, but not limited to, risk factors
34 revealed by any risk assessment of the inmate; comments of the victim and
35 the victim's family including in person comments, contemporaneous
36 comments and prerecorded comments made by any technological means;
37 comments of the public; official comments; any recommendation by the
38 staff of the facility where the inmate is incarcerated; proportionality of the
39 time the inmate has served to the sentence a person would receive under
40 the Kansas sentencing guidelines for the conduct that resulted in the
41 inmate's incarceration; and capacity of state correctional institutions.

42 (i) In those cases involving inmates sentenced for a crime committed
43 after July 1, 1993, the ~~parole~~ *prisoner review* board ~~will~~ *shall* review the

1 inmates proposed release plan. The board may schedule a hearing if they
2 desire. The board may impose any condition they deem necessary to insure
3 public safety, aid in the reintegration of the inmate into the community, or
4 items not completed under the agreement entered into under K.S.A. 75-
5 5210a, and amendments thereto. The board may not advance or delay an
6 inmate's release date. Every inmate while on postrelease supervision shall
7 remain in the legal custody of the secretary of corrections and is subject to
8 the orders of the secretary.

9 (j) (1) Before ordering the parole of any inmate, the ~~Kansas parole~~
10 *prisoner review* board shall have the inmate appear either in person or via
11 a video conferencing format and shall interview the inmate unless
12 impractical because of the inmate's physical or mental condition or
13 absence from the institution. Every inmate while on parole shall remain in
14 the legal custody of the secretary of corrections and is subject to the orders
15 of the secretary. Whenever the ~~Kansas parole~~ board formally considers
16 placing an inmate on parole and no agreement has been entered into with
17 the inmate under K.S.A. 75-5210a, and amendments thereto, the board
18 shall notify the inmate in writing of the reasons for not granting parole. If
19 an agreement has been entered under K.S.A. 75-5210a, and amendments
20 thereto, and the inmate has not satisfactorily completed the programs
21 specified in the agreement, or any revision of such agreement, the board
22 shall notify the inmate in writing of the specific programs the inmate must
23 satisfactorily complete before parole will be granted. If parole is not
24 granted only because of a failure to satisfactorily complete such programs,
25 the board shall grant parole upon the secretary's certification that the
26 inmate has successfully completed such programs. If an agreement has
27 been entered under K.S.A. 75-5210a, and amendments thereto, and the
28 secretary of corrections has reported to the board in writing that the inmate
29 has satisfactorily completed the programs required by such agreement, or
30 any revision thereof, the board shall not require further program
31 participation. However, if the board determines that other pertinent
32 information regarding the inmate warrants the inmate's not being released
33 on parole, the board shall state in writing the reasons for not granting the
34 parole. If parole is denied for an inmate sentenced for a crime other than a
35 class A or class B felony or an off-grid felony, the board shall hold another
36 parole hearing for the inmate not later than one year after the denial unless
37 the ~~parole~~ board finds that it is not reasonable to expect that parole would
38 be granted at a hearing if held in the next three years or during the interim
39 period of a deferral. In such case, the ~~parole~~ board may defer subsequent
40 parole hearings for up to three years but any such deferral by the board
41 shall require the board to state the basis for its findings. If parole is denied
42 for an inmate sentenced for a class A or class B felony or an off-grid
43 felony, the board shall hold another parole hearing for the inmate not later

1 than three years after the denial unless the parole board finds that it is not
2 reasonable to expect that parole would be granted at a hearing if held in
3 the next 10 years or during the interim period of a deferral. In such case,
4 the parole board may defer subsequent parole hearings for up to 10 years
5 but any such deferral shall require the board to state the basis for its
6 findings.

7 (2) Inmates sentenced for a class A or class B felony who have not
8 had a parole board hearing in the five years prior to July 1, 2010, shall
9 have such inmates' cases reviewed by the *parole prisoner review* board on
10 or before July 1, 2012. Such review shall begin with the inmates with the
11 oldest deferral date and progress to the most recent. Such review shall be
12 done utilizing existing resources unless the *parole prisoner review* board
13 determines that such resources are insufficient. If the *parole prisoner*
14 *review* board determines that such resources are insufficient, then the
15 provisions of this paragraph are subject to appropriations therefor.

16 (k) Parolees and persons on postrelease supervision shall be assigned,
17 upon release, to the appropriate level of supervision pursuant to the criteria
18 established by the secretary of corrections.

19 (l) The ~~Kansas~~ *parole prisoner review* board shall adopt rules and
20 regulations in accordance with K.S.A. 77-415 *et seq.*, and amendments
21 thereto, not inconsistent with the law and as it may deem proper or
22 necessary, with respect to the conduct of parole hearings, postrelease
23 supervision reviews, revocation hearings, orders of restitution,
24 reimbursement of expenditures by the state board of indigents' defense
25 services and other conditions to be imposed upon parolees or releasees.
26 Whenever an order for parole or postrelease supervision is issued it shall
27 recite the conditions thereof.

28 (m) Whenever the ~~Kansas~~ *parole prisoner review* board orders the
29 parole of an inmate or establishes conditions for an inmate placed on
30 postrelease supervision, the board:

31 (1) Unless it finds compelling circumstances which would render a
32 plan of payment unworkable, shall order as a condition of parole or
33 postrelease supervision that the parolee or the person on postrelease
34 supervision pay any transportation expenses resulting from returning the
35 parolee or the person on postrelease supervision to this state to answer
36 criminal charges or a warrant for a violation of a condition of probation,
37 assignment to a community correctional services program, parole,
38 conditional release or postrelease supervision;

39 (2) to the extent practicable, shall order as a condition of parole or
40 postrelease supervision that the parolee or the person on postrelease
41 supervision make progress towards or successfully complete the
42 equivalent of a secondary education if the inmate has not previously
43 completed such educational equivalent and is capable of doing so;

1 (3) may order that the parolee or person on postrelease supervision
2 perform community or public service work for local governmental
3 agencies, private corporations organized not-for-profit or charitable or
4 social service organizations performing services for the community;

5 (4) may order the parolee or person on postrelease supervision to pay
6 the administrative fee imposed pursuant to K.S.A. 22-4529, and
7 amendments thereto, unless the board finds compelling circumstances
8 which would render payment unworkable; and

9 (5) unless it finds compelling circumstances which would render a
10 plan of payment unworkable, shall order that the parolee or person on
11 postrelease supervision reimburse the state for all or part of the
12 expenditures by the state board of indigents' defense services to provide
13 counsel and other defense services to the person. In determining the
14 amount and method of payment of such sum, the ~~parole prisoner review~~
15 board shall take account of the financial resources of the person and the
16 nature of the burden that the payment of such sum will impose. Such
17 amount shall not exceed the amount claimed by appointed counsel on the
18 payment voucher for indigents' defense services or the amount prescribed
19 by the board of indigents' defense services reimbursement tables as
20 provided in K.S.A. 22-4522, and amendments thereto, whichever is less,
21 minus any previous payments for such services.

22 (n) If the court which sentenced an inmate specified at the time of
23 sentencing the amount and the recipient of any restitution ordered as a
24 condition of parole or postrelease supervision, the ~~Kansas parole prisoner~~
25 *review* board shall order as a condition of parole or postrelease supervision
26 that the inmate pay restitution in the amount and manner provided in the
27 journal entry unless the board finds compelling circumstances which
28 would render a plan of restitution unworkable.

29 (o) Whenever the ~~Kansas parole prisoner review~~ board grants the
30 parole of an inmate, the board, within 14 days of the date of the decision to
31 grant parole, shall give written notice of the decision to the county or
32 district attorney of the county where the inmate was sentenced.

33 (p) When an inmate is to be released on postrelease supervision, the
34 secretary, within 30 days prior to release, shall provide the county or
35 district attorney of the county where the inmate was sentenced written
36 notice of the release date.

37 (q) Inmates shall be released on postrelease supervision upon the
38 termination of the prison portion of their sentence. Time served while on
39 postrelease supervision will vest.

40 (r) An inmate who is allocated regular good time credits as provided
41 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
42 good time credits in increments of not more than 90 days per meritorious
43 act. These credits may be awarded by the secretary of corrections when an

1 inmate has acted in a heroic or outstanding manner in coming to the
2 assistance of another person in a life threatening situation, preventing
3 injury or death to a person, preventing the destruction of property or taking
4 actions which result in a financial savings to the state.

5 (s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and
6 (d)(1)(E) shall be applied retroactively as provided in subsection (t).

7 (t) For offenders sentenced prior to May 25, 2000 who are eligible for
8 modification of their postrelease supervision obligation, the department of
9 corrections shall modify the period of postrelease supervision as provided
10 for by this section for offenders convicted of severity level 9 and 10 crimes
11 on the sentencing guidelines grid for nondrug crimes and severity level 4
12 crimes on the sentencing guidelines grid for drug crimes on or before
13 September 1, 2000; for offenders convicted of severity level 7 and 8
14 crimes on the sentencing guidelines grid for nondrug crimes on or before
15 November 1, 2000; and for offenders convicted of severity level 5 and 6
16 crimes on the sentencing guidelines grid for nondrug crimes and severity
17 level 3 crimes on the sentencing guidelines grid for drug crimes on or
18 before January 1, 2001.

19 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
20 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
21 thereto, for crimes committed on or after July 1, 2006, shall be placed on
22 parole for life and shall not be discharged from supervision by the ~~Kansas~~
23 ~~parole~~ *prisoner review* board. When the board orders the parole of an
24 inmate pursuant to this subsection, the board shall order as a condition of
25 parole that the inmate be electronically monitored for the duration of the
26 inmate's natural life.

27 (v) Whenever the ~~Kansas parole~~ *prisoner review* board or the court
28 orders a person to be electronically monitored, the board or court shall
29 order the person to reimburse the state for all or part of the cost of such
30 monitoring. In determining the amount and method of payment of such
31 sum, the board or court shall take account of the financial resources of the
32 person and the nature of the burden that the payment of such sum will
33 impose.

34 Sec. 16. K.S.A. 22-3718 is hereby amended to read as follows: 22-
35 3718. Upon release, an inmate who has served the inmate's maximum term
36 or terms, less such work and good behavior credits as have been earned,
37 shall be subject to such written rules and conditions as the ~~Kansas parole~~
38 *prisoner review* board may impose, until the expiration of the maximum
39 term or terms for which the inmate was sentenced or until the inmate is
40 otherwise discharged. If the court which sentenced an inmate specified at
41 the time of sentencing the amount and the recipient of any restitution
42 ordered as a condition of release pursuant to this section, the ~~parole~~ board
43 may set aside restitution as a condition of release payment of restitution, if

1 the board finds compelling circumstances which would render a plan of
2 restitution unworkable. If the court which sentenced an inmate specified
3 reimbursement of all or part of the expenditures by the state board of
4 indigents' defense services as a condition of release, the ~~parole~~ board may
5 set aside such reimbursement, if the board finds compelling circumstances
6 which would render a plan of reimbursement unworkable. Prior to the
7 release of any inmate on parole, conditional release or expiration of
8 sentence, if an inmate is released into the community under a program
9 under the supervision of the secretary of corrections, the secretary shall
10 give written notice of such release to any victim or victim's family as
11 provided in K.S.A. 22-3727, and amendments thereto.

12 Sec. 17. K.S.A. 22-3719 is hereby amended to read as follows: 22-
13 3719. It shall be the duty of all correctional institution officials to grant to
14 the members of the ~~Kansas parole~~ *prisoner review* board, or its properly
15 accredited representatives, access at all reasonable times to any inmate, to
16 provide for the ~~parole~~ board or such representative facilities for
17 communicating with and observing such inmate, and to furnish to the
18 ~~parole~~ board such reports as the ~~parole~~ board shall require concerning the
19 conduct and character of any inmate in their custody and any other facts
20 deemed by the ~~parole~~ board to be pertinent in determining any issue before
21 the ~~parole~~ board.

22 Sec. 18. K.S.A. 22-3720 is hereby amended to read as follows: 22-
23 3720. The ~~Kansas parole~~ *prisoner review* board shall have power to issue
24 subpoenas requiring the attendance of any witnesses and the production of
25 any records, books, papers and documents that it considers necessary for
26 the investigation of the issues before it. Subpoenas may be signed and
27 oaths administered by any member of the ~~parole~~ board. Subpoenas so
28 issued may be served by any law enforcement officer, in the same manner
29 as similar process in the district court. Any person who testifies falsely,
30 fails to appear when subpoenaed or fails or refuses to produce material
31 pursuant to the subpoena shall be subject to the same orders and penalties
32 to which a person before a court is subject. Any district court of this state,
33 upon application of the ~~parole~~ board, may in its discretion compel the
34 attendance of witnesses, the production of material and the giving of
35 testimony before the ~~parole~~ board, by an attachment for contempt or
36 otherwise in the same manner as production of evidence may be compelled
37 before the district court.

38 Sec. 19. K.S.A. 22-3722 is hereby amended to read as follows: 22-
39 3722. The period served on parole or conditional release shall be deemed
40 service of the term of confinement, and, subject to the provisions
41 contained in K.S.A. 75-5217, and amendments thereto, relating to an
42 inmate who is a fugitive from or has fled from justice, the total time served
43 may not exceed the maximum term or sentence. The period served on

1 postrelease supervision shall vest in and be subject to the provisions
2 contained in K.S.A. 75-5217, and amendments thereto, relating to an
3 inmate who is a fugitive from or has fled from justice. The total time
4 served shall not exceed the postrelease supervision period established at
5 sentencing.

6 When an inmate on parole or conditional release has performed the
7 obligations of the release for such time as shall satisfy the ~~Kansas parole~~
8 *prisoner review* board that final release is not incompatible with the best
9 interest of society and the welfare of the individual, the ~~parole~~ board may
10 make a final order of discharge and issue a certificate of discharge to the
11 inmate but no such order of discharge shall be made in any case within a
12 period of less than one year after the date of release except where the
13 sentence expires earlier thereto. When an inmate has reached the end of
14 the postrelease supervision period, the ~~parole~~ board shall issue a certificate
15 of discharge to the releasee. Such discharge, and the discharge of an
16 inmate who has served the inmate's term of imprisonment, shall have the
17 effect of restoring all civil rights lost by operation of law upon
18 commitment, and the certification of discharge shall so state. Nothing
19 herein contained shall be held to impair the power of the governor to grant
20 a pardon or commutation of sentence in any case.

21 Sec. 20. K.S.A. 22-3726 is hereby amended to read as follows: 22-
22 3726. The secretary of corrections may place, on a six-month supervised
23 furlough, any inmate who is classified at a custody level not higher than
24 minimum and who will be eligible for parole under K.S.A. 22-3717, and
25 amendments thereto, by the end of the six-month period. If, at the end of
26 the six-month period, the secretary determines that the inmate has
27 successfully completed the furlough, the secretary shall certify that fact to
28 the ~~Kansas parole~~ *prisoner review* board, which shall promptly order the
29 inmate's release on parole, without hearing, under the level of supervision
30 specified by the secretary and subject to such conditions as imposed by the
31 board. The provisions of this section shall not apply to crimes committed
32 by inmates on or after July 1, 1993.

33 Sec. 21. K.S.A. 2011 Supp. 22-3728 is hereby amended to read as
34 follows: 22-3728. (a) (1) Upon application of the secretary of corrections,
35 the ~~Kansas parole~~ *prisoner review* board may grant release to any person
36 deemed to be functionally incapacitated, upon such terms and conditions
37 as prescribed in the order granting such release.

38 (2) The ~~Kansas parole board~~ *secretary of corrections* shall adopt rules
39 and regulations governing the *prisoner review board's* procedure for
40 initiating, processing, reviewing and establishing criteria for review of
41 applications filed on behalf of persons deemed to be functionally
42 incapacitated. Such rules and regulations shall include criteria and
43 guidelines for determining whether the functional incapacitation precludes

1 the person from posing a threat to the public.

2 (3) Subject to the provisions of subsections (a)(4) and (a)(5), a
3 functional incapacitation release shall not be granted until at least 30 days
4 after written notice of the application has been given to: (A) The
5 prosecuting attorney and the judge of the court in which the person was
6 convicted; and (B) any victim of the person's crime or the victim's family.
7 Notice of such application shall be given by the secretary of corrections to
8 the victim who is alive and whose address is known to the secretary, or if
9 the victim is deceased, to the victim's family if the family's address is
10 known to the secretary. Subject to the provisions of subsection (a)(4), if
11 there is no known address for the victim, if alive, or the victim's family, if
12 deceased, the board shall not grant or deny such application until at least
13 30 days after notification is given by publication in the county of
14 conviction. Publication costs shall be paid by the department of
15 corrections.

16 (4) All applications for functional incapacitation release shall be
17 referred to the board. The board shall examine each case and may approve
18 such application and grant a release. An application for release shall not be
19 approved unless the board determines that the person is functionally
20 incapacitated and does not represent a future risk to public safety. The
21 board shall determine whether a hearing is necessary on the application.
22 The board may request additional information or evidence it deems
23 necessary from a medical or mental health practitioner.

24 (5) The board shall establish any conditions related to the release of
25 the person. The release shall be conditional, and be subject to revocation
26 pursuant to K.S.A. 75-5217, and amendments thereto, if the person's
27 functional incapacity significantly diminishes, if the person fails to comply
28 with any condition of release, or if the board otherwise concludes that the
29 person presents a threat or risk to public safety. The person shall remain on
30 release supervision until the release is revoked, expiration of the maximum
31 sentence, or discharged by the board. Subject to the provisions of
32 subsection (f) of K.S.A. 75-5217, and amendments thereto, the person
33 shall receive credit for the time during which the person is on functional
34 incapacitation release supervision towards service of the prison and
35 postrelease supervision obligations of determinate sentences or
36 indeterminate sentences.

37 (6) The secretary of corrections shall cause the person to be
38 supervised upon release, and shall have the authority to initiate revocation
39 of the person at any time for the reasons indicated in subsection (a)(5).

40 (7) The decision of the board on the application or any revocation
41 shall be final and not subject to review by any administrative agency or
42 court.

43 (8) In determining whether a person is functionally incapacitated, the

1 board shall consider the following: (A) The person's current condition as
2 confirmed by medical or mental health care providers, including whether
3 the condition is terminal;

4 (B) the person's age and personal history;

5 (C) the person's criminal history;

6 (D) the person's length of sentence and time the person has served;

7 (E) the nature and circumstances of the current offense;

8 (F) the risk or threat to the community if released;

9 (G) whether an appropriate release plan has been established; and

10 (H) any other factors deemed relevant by the board.

11 (b) Nothing in this section shall be construed to limit or preclude
12 submission of an application for pardon or commutation of sentence
13 pursuant to K.S.A. 22-3701, and amendments thereto.

14 (c) Nothing in this section shall apply to the release of people with
15 terminal medical conditions as described in K.S.A. 2011 Supp. 22-3729,
16 and amendments thereto.

17 (d) This section does not apply to any person sentenced to
18 imprisonment for an off-grid offense.

19 Sec. 22. K.S.A. 2011 Supp. 22-3729 is hereby amended to read as
20 follows: 22-3729. (a) (1) Upon application of the secretary of corrections,
21 the chairperson of the ~~Kansas parole~~ *prisoner review* board may grant
22 release to any person deemed by a doctor licensed to practice medicine
23 and surgery in Kansas to have a terminal medical condition likely to cause
24 death within 30 days upon such terms and conditions as prescribed in the
25 order granting such release.

26 (2) The ~~Kansas parole board~~ *secretary of corrections* shall adopt rules
27 and regulations governing the *prisoner review board's* procedure for
28 initiating, processing, reviewing and establishing criteria for review of
29 applications filed on behalf of persons deemed to have a terminal medical
30 condition likely to cause death within 30 days. Such rules and regulations
31 shall include criteria and guidelines for determining whether the terminal
32 medical condition precludes the person from posing a threat to the public.

33 (3) All applications for a terminal medical condition release shall be
34 referred to the chairperson of the board. The chairperson of the board shall
35 examine each case and may approve such application and grant a release.
36 An application for release shall not be approved unless the chairperson of
37 the board determines that the person has been deemed by a doctor licensed
38 to practice medicine and surgery in Kansas to have a terminal medical
39 condition likely to cause death within 30 days and does not represent a
40 future risk to public safety. The chairperson of the board may request
41 additional information or evidence the chairperson of the board deems
42 necessary from a doctor licensed to practice medicine and surgery in
43 Kansas.

1 (4) The chairperson of the board shall establish any conditions related
2 to the release of the person. The release shall be conditional, and be
3 subject to revocation pursuant to K.S.A. 75-5217, and amendments
4 thereto, if the person's illness or condition significantly improves, the
5 person does not die within 30 days of release, if the person fails to comply
6 with any condition of release, or if the board otherwise concludes that the
7 person presents a threat or risk to public safety. The person shall remain on
8 release supervision until the release is revoked, expiration of the maximum
9 sentence or discharged by the board. Subject to the provisions of
10 subsection (f) of K.S.A. 75-5217, and amendments thereto, the person
11 shall receive credit for the time during which the person is on terminal
12 medical condition release supervision towards service of the prison and
13 postrelease supervision obligations of determinate sentences or
14 indeterminate sentences.

15 (5) The secretary of corrections shall cause the person to be
16 supervised upon release, and shall have the authority to initiate revocation
17 of the person at any time for the reasons indicated in subsection (a)(4).

18 (6) The decision of the chairperson of the board on the application
19 and the decision of the board regarding any revocation shall be final and
20 not subject to review by any administrative agency or court.

21 (7) In determining whether a person meets the criteria to be released
22 under this section, the chairperson of the board shall consider the
23 following: (A) The person's current condition as confirmed by a doctor
24 licensed to practice medicine and surgery in Kansas, including whether the
25 condition is terminal and likely to cause death within 30 days;

26 (B) the person's age and personal history;

27 (C) the person's criminal history;

28 (D) the person's length of sentence and time the person has served;

29 (E) the nature and circumstances of the current offense;

30 (F) the risk or threat to the community if released;

31 (G) whether an appropriate release plan has been established; and

32 (H) any other factors deemed relevant by the board member.

33 (b) Nothing in this section shall be construed to limit or preclude
34 submission of an application for pardon or commutation of sentence
35 pursuant to K.S.A. 22-3701, and amendments thereto.

36 (c) The secretary shall give notice of the granting of a terminal
37 medical condition release to: (1) The prosecuting attorney and the judge of
38 the court in which the person was convicted; and (2) any victim of the
39 person's crime if alive or the victim's family if the victim is deceased,
40 whose address is known by the secretary.

41 (d) This section does not apply to any person sentenced to
42 imprisonment for an off-grid offense.

43 Sec. 23. K.S.A. 22-4111 is hereby amended to read as follows: 22-

- 1 4111. (a) The Kansas council for interstate adult offender supervision shall
2 consist of the following members:
- 3 (1) The governor or the governor's designee;
 - 4 (2) the chief justice of the supreme court or the chief justice's
5 designee;
 - 6 (3) the attorney general or the attorney general's designee;
 - 7 (4) a person representing crime victims groups appointed by the
8 attorney general;
 - 9 (5) one county attorney or district attorney appointed by the governor;
 - 10 (6) one private defense counsel appointed by the governor;
 - 11 (7) the chairperson of the ~~Kansas parole~~ *prisoner review* board or
12 such chairperson's designee;
 - 13 (8) the secretary of corrections or the secretary's designee;
 - 14 (9) two senators, one shall be appointed by the president of the senate
15 and one shall be appointed by the minority leader of the senate; and
 - 16 (10) two representatives, one shall be appointed by the speaker of the
17 house of representatives and one shall be appointed by the minority leader
18 of the house of representatives.
- 19 (b) The appointments shall be made within 30 days after the effective
20 date of this act. The initial meeting of the council shall be convened within
21 60 days after the effective date of this act by the secretary of corrections at
22 a time and place designated by the secretary of corrections. The council
23 shall elect a chairperson and may elect any additional officers from among
24 its members necessary to discharge its duties.
- 25 (c) Meetings of the council subsequent to its initial meeting shall be
26 held and conducted in accordance with policies and procedures established
27 by the council.
- 28 (d) The council shall meet upon call of its chairperson as necessary to
29 carry out its duties under this act.
- 30 (e) Each member of the council appointed by the governor or the
31 attorney general shall be appointed for a term of four years. All other
32 members shall be appointed for a term of two years and shall continue to
33 serve during that time as long as the member occupies the position which
34 made the member eligible for the appointment. Each member shall
35 continue in office until a successor is appointed and qualifies. Members
36 shall be eligible for reappointment, and appointment may be made to fill
37 an unexpired term.
- 38 (f) The council shall oversee and administer the state's participation
39 in the interstate compact for adult offenders supervision, K.S.A. 22-4110,
40 and amendments thereto, and shall develop policies concerning the
41 operations and procedures of the compact within the state. The council
42 shall appoint the compact administrator.
- 43 (g) Each member of the council shall receive compensation,

1 subsistence allowances, mileage and other expenses as provided for in
2 K.S.A. 75-3223, and amendments thereto, for each day or part thereof
3 actually spent on council activities.

4 (h) The provisions of this section shall take effect and be in force
5 from and after the later of July 1, 2002, or upon enactment into law by the
6 35th jurisdiction of the interstate compact for adult offenders supervision.

7 Sec. 24. K.S.A. 2011 Supp. 22-4701 is hereby amended to read as
8 follows: 22-4701. As used in this act, unless the context clearly requires
9 otherwise:

10 (a) "Central repository" means the criminal justice information
11 system central repository created by this act and the juvenile offender
12 information system created pursuant to K.S.A. 2011 Supp. 38-2326, and
13 amendments thereto.

14 (b) "Criminal history record information" means all data initiated or
15 collected by a criminal justice agency on a person pertaining to a
16 reportable event, and any supporting documentation. Criminal history
17 record information does not include:

18 (1) Data contained in intelligence or investigatory files or police
19 work-product records used solely for police investigation purposes;

20 (2) wanted posters, police blotter entries, court records of public
21 judicial proceedings or published court opinions;

22 (3) data pertaining to violations of the traffic laws of the state or any
23 other traffic law or ordinance, other than vehicular homicide; or

24 (4) presentence investigation and other reports prepared for use by a
25 court in the exercise of criminal jurisdiction or by the governor in the
26 exercise of the power of pardon, reprieve or commutation.

27 (c) "Criminal justice agency" means any government agency or
28 subdivision of any such agency which is authorized by law to exercise the
29 power of arrest, detention, prosecution, adjudication, correctional
30 supervision, rehabilitation or release of persons suspected, charged or
31 convicted of a crime and which allocates a substantial portion of its annual
32 budget to any of these functions. The term includes, but is not limited to,
33 the following agencies, when exercising jurisdiction over criminal matters
34 or criminal history record information:

35 (1) State, county, municipal and railroad police departments, sheriffs'
36 offices and countywide law enforcement agencies, correctional facilities,
37 jails and detention centers;

38 (2) the offices of the attorney general, county or district attorneys and
39 any other office in which are located persons authorized by law to
40 prosecute persons accused of criminal offenses;

41 (3) the district courts, the court of appeals, the supreme court, the
42 municipal courts and the offices of the clerks of these courts;

43 (4) the Kansas sentencing commission;

1 (5) the ~~Kansas parole~~ *prisoner review* board; and

2 (6) the juvenile justice authority.

3 (d) "Criminal justice information system" means the equipment
4 (including computer hardware and software), facilities, procedures,
5 agreements and personnel used in the collection, processing, preservation
6 and dissemination of criminal history record information.

7 (e) "Director" means the director of the Kansas bureau of
8 investigation.

9 (f) "Disseminate" means to transmit criminal history record
10 information in any oral or written form. The term does not include:

11 (1) The transmittal of such information within a criminal justice
12 agency;

13 (2) the reporting of such information as required by this act; or

14 (3) the transmittal of such information between criminal justice
15 agencies in order to permit the initiation of subsequent criminal justice
16 proceedings against a person relating to the same offense.

17 (g) "Reportable event" means an event specified or provided for in
18 K.S.A. 22-4705, and amendments thereto.

19 Sec. 25. K.S.A. 2011 Supp. 59-29a02 is hereby amended to read as
20 follows: 59-29a02. As used in this act:

21 (a) "Sexually violent predator" means any person who has been
22 convicted of or charged with a sexually violent offense and who suffers
23 from a mental abnormality or personality disorder which makes the person
24 likely to engage in repeat acts of sexual violence.

25 (b) "Mental abnormality" means a congenital or acquired condition
26 affecting the emotional or volitional capacity which predisposes the person
27 to commit sexually violent offenses in a degree constituting such person a
28 menace to the health and safety of others.

29 (c) "Likely to engage in repeat acts of sexual violence" means the
30 person's propensity to commit acts of sexual violence is of such a degree
31 as to pose a menace to the health and safety of others.

32 (d) "Sexually motivated" means that one of the purposes for which
33 the defendant committed the crime was for the purpose of the defendant's
34 sexual gratification.

35 (e) "Sexually violent offense" means:

36 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
37 2011 Supp. 21-5503, and amendments thereto;

38 (2) indecent liberties with a child as defined in K.S.A. 21-3503, prior
39 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5506, and
40 amendments thereto;

41 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-
42 3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506,
43 and amendments thereto;

- 1 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of
2 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) and (a)(4) of
3 K.S.A. 2011 Supp. 21-5504, and amendments thereto;
- 4 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
5 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and
6 amendments thereto;
- 7 (6) indecent solicitation of a child as defined in K.S.A. 21-3510, prior
8 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and
9 amendments thereto;
- 10 (7) aggravated indecent solicitation of a child as defined in K.S.A.
11 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
12 5508, and amendments thereto;
- 13 (8) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
14 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;
- 15 (9) aggravated sexual battery as defined in K.S.A. 21-3518, prior to
16 its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5505, and
17 amendments thereto;
- 18 (10) aggravated incest as defined in K.S.A. 21-3603, prior to its
19 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments
20 thereto;
- 21 (11) any conviction for a felony offense in effect at any time prior to
22 the effective date of this act, that is comparable to a sexually violent
23 offense as defined in subparagraphs (1) through (11) or any federal or
24 other state conviction for a felony offense that under the laws of this state
25 would be a sexually violent offense as defined in this section;
- 26 (12) an attempt, conspiracy or criminal solicitation, as defined in
27 K.S.A. 21-3301, 21-3302 and 21-3303, prior to their repeal, or K.S.A.
28 2011 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
29 sexually violent offense as defined in this subsection; or
- 30 (13) any act which either at the time of sentencing for the offense or
31 subsequently during civil commitment proceedings pursuant to this act,
32 has been determined beyond a reasonable doubt to have been sexually
33 motivated.
- 34 (f) "Agency with jurisdiction" means that agency which releases upon
35 lawful order or authority a person serving a sentence or term of
36 confinement and includes the department of corrections, the department of
37 social and rehabilitation services and the ~~Kansas parole~~ *prisoner review*
38 board.
- 39 (g) "Person" means an individual who is a potential or actual subject
40 of proceedings under this act.
- 41 (h) "Treatment staff" means the persons, agencies or firms employed
42 by or contracted with the secretary to provide treatment, supervision or
43 other services at the sexually violent predator facility.

1 (i) "Transitional release" means any halfway house, work release,
2 sexually violent predator treatment facility or other placement designed to
3 assist the person's adjustment and reintegration into the community once
4 released from commitment.

5 (j) "Secretary" means the secretary of the department of social and
6 rehabilitation services.

7 Sec. 26. K.S.A. 60-4305 is hereby amended to read as follows: 60-
8 4305. Records or information in the custody of the ~~Kansas parole prisoner~~
9 *review board, the secretary of corrections*, any community correctional
10 service program or any district court regarding the financial assets, income
11 or employment of a criminal offender shall be subject to disclosure to any
12 victim to whom such offender has been ordered to pay restitution, or to
13 anyone acting on behalf of such victim to collect the ordered restitution,
14 until such time as all restitution is paid in full.

15 Sec. 27. K.S.A. 2011 Supp. 74-4911f is hereby amended to read as
16 follows: 74-4911f. (a) Subject to procedures or limitations prescribed by
17 the governor, any person who is not an employee and who becomes a state
18 officer may elect to not become a member of the system. The election to
19 not become a member of the system must be filed within 90 days of
20 assuming the position of state officer. Such election shall be irrevocable. If
21 such election is not filed by such state officer, such state officer shall be a
22 member of the system.

23 (b) Any such state officer who is a member of the Kansas public
24 employees retirement system, on or after the effective date of this act, may
25 elect to not be a member by filing an election with the office of the
26 retirement system. The election to not become a member of the system
27 must be filed within 90 days of assuming the position of state officer. If
28 such election is not filed by such state officer, such state officer shall be a
29 member of the system.

30 (c) Subject to limitations prescribed by the board, the state agency
31 employing any employee who has filed an election as provided under
32 subsection (a) or (b) and who has entered into an employee participation
33 agreement, as provided in K.S.A. 2011 Supp. 74-49b10, and amendments
34 thereto, for deferred compensation pursuant to the Kansas public
35 employees deferred compensation plan shall contribute to such plan on
36 such employee's behalf an amount equal to 8% of the employee's salary, as
37 such salary has been approved pursuant to K.S.A. 75-2935b, and
38 amendments thereto, or as otherwise prescribed by law. With regard to a
39 state officer who is a member of the legislature who has retired pursuant to
40 the Kansas public employees retirement system and who files an election
41 as provided in this section, employee's salary means per diem
42 compensation as provided by law as a member of the legislature.

43 (d) As used in this section and K.S.A. 74-4927k, and amendments

1 thereto, "state officer" means the secretary of administration, secretary on
2 aging, secretary of commerce, secretary of corrections, secretary of health
3 and environment, secretary of labor, secretary of revenue, secretary of
4 social and rehabilitation services, secretary of transportation, secretary of
5 wildlife ~~and parks~~, *parks and tourism*, superintendent of the Kansas
6 highway patrol, secretary of agriculture, executive director of the Kansas
7 lottery, executive director of the Kansas racing commission, president of
8 the Kansas development finance authority, state fire marshal, state
9 librarian, securities commissioner, adjutant general, judges and chief
10 hearing officer of the state court of tax appeals, ~~members of the Kansas~~
11 ~~parole board~~, members of the state corporation commission, any
12 unclassified employee on the staff of officers of both houses of the
13 legislature, any unclassified employee appointed to the governor's or
14 lieutenant governor's staff, any person employed by the legislative branch
15 of the state of Kansas, other than any such person receiving service
16 credited under the Kansas public employees retirement system or any
17 other retirement system of the state of Kansas therefor, who elected to be
18 covered by the provisions of this section as provided in subsection (e) of
19 K.S.A. 46-1302, and amendments thereto, or who is first employed on or
20 after July 1, 1996, by the legislative branch of the state of Kansas and any
21 member of the legislature who has retired pursuant to the Kansas public
22 employees retirement system.

23 (e) The provisions of this section shall not apply to any state officer
24 who has elected to remain eligible for assistance by the state board of
25 regents as provided in subsection (a) of K.S.A. 74-4925, and amendments
26 thereto.

27 Sec. 28. K.S.A. 74-7320 is hereby amended to read as follows: 74-
28 7320. Upon the receipt of any moneys pursuant to K.S.A. 74-7319, and
29 amendments thereto, the crime victims compensation board shall deposit
30 the entire amount in a separate escrow account to be used only as follows:

31 (a) Upon dismissal of charges against the accused person or upon
32 acquittal of the accused person, the board shall promptly pay the entire
33 amount to such person, or such person's representatives or assignees.

34 (b) Upon conviction of the accused person or if the accused person
35 has already been convicted, the board shall promptly distribute the entire
36 amount and any future moneys paid to the board under K.S.A. 74-7319,
37 and amendments thereto, as follows:

38 (1) First, to pay any restitution ordered by the court or by the ~~Kansas~~
39 ~~parole prisoner review~~ board to be paid by the convicted person to the
40 person directed by the court or *prisoner review* board;

41 (2) if any moneys remain after payment pursuant to subsection (b)(1),
42 to repay any amount expended by the state board of indigents' defense
43 services on behalf of the convicted person in defending prosecution for the

1 crime, including appeals;

2 (3) if any moneys remain after payment pursuant to subsections (b)
3 (1) and (2), to pay any court costs assessed against the convicted person in
4 proceedings for prosecution for the crime, including appellate proceedings;

5 (4) if any moneys remain after payment pursuant to subsections (b)
6 (1), (2) and (3), to pay compensation pursuant to K.S.A. 74-7321, and
7 amendments thereto; and

8 (5) if any moneys remain after payment pursuant to subsections (b)
9 (1), (2), (3) and (4), to pay crime victims compensation pursuant to K.S.A.
10 74-7301 through 74-7318, and amendments thereto, for which purpose
11 such moneys shall be deposited in the state treasury and credited to the
12 state general fund.

13 Sec. 29. K.S.A. 74-7321 is hereby amended to read as follows: 74-
14 7321. (a) When moneys are to be distributed pursuant to subsection (b) of
15 K.S.A. 74-7320, and amendments thereto, the victim of the crime, and the
16 victim's dependents, heirs, representatives or assignees, may apply to the
17 crime victims compensation board for compensation for losses arising
18 from the convicted person's crime. To the extent that moneys received by
19 the board pursuant to K.S.A. 74-7319, and amendments thereto are
20 sufficient, such compensation shall be in an amount equal to the
21 applicant's actual loss, as determined by the board, less any restitution paid
22 pursuant to order of a court or order of the ~~Kansas parole~~ *prisoner review*
23 board and any compensation paid by the crime victims compensation
24 board pursuant to K.S.A. 74-7301 *et seq.*, and amendments thereto. If
25 moneys received by the board pursuant to K.S.A. 74-7319, and
26 amendments thereto, are not sufficient to pay compensation as otherwise
27 provided under this subsection (a), such moneys shall be prorated among
28 all applicants eligible to receive compensation for losses arising from the
29 convicted person's crime on the basis that the amount each applicant is
30 entitled to receive under this subsection (a) bears to the total amount all
31 such applicants would be entitled to receive under this subsection (a).

32 (b) The limitations provided by K.S.A. 74-7301 *et seq.*, and
33 amendments thereto, shall not apply to compensation paid pursuant to this
34 section.

35 (c) The crime victims compensation board shall adopt such rules and
36 regulations as necessary to administer the provisions of K.S.A. 74-7319,
37 74-7320 and 74-7321, and amendments thereto.

38 Sec. 30. K.S.A. 2011 Supp. 74-9101 is hereby amended to read as
39 follows: 74-9101. (a) There is hereby established the Kansas sentencing
40 commission.

41 (b) The commission shall:

42 (1) Develop a sentencing guideline model or grid based on fairness
43 and equity and shall provide a mechanism for linking justice and

1 corrections policies. The sentencing guideline model or grid shall establish
2 rational and consistent sentencing standards which reduce sentence
3 disparity, to include, but not be limited to, racial and regional biases which
4 may exist under current sentencing practices. The guidelines shall specify
5 the circumstances under which imprisonment of an offender is appropriate
6 and a presumed sentence for offenders for whom imprisonment is
7 appropriate, based on each appropriate combination of reasonable offense
8 and offender characteristics. In developing its recommended sentencing
9 guidelines, the commission shall take into substantial consideration current
10 sentencing and release practices and correctional resources, including but
11 not limited to the capacities of local and state correctional facilities. In its
12 report, the commission shall make recommendations regarding whether
13 there is a continued need for and what is the projected role of, if any, the
14 ~~Kansas parole~~ *prisoner review* board and whether the policy of allocating
15 good time credits for the purpose of determining an inmate's eligibility for
16 parole or conditional release should be continued;

17 (2) consult with and advise the legislature with reference to the
18 implementation, management, monitoring, maintenance and operations of
19 the sentencing guidelines system;

20 (3) direct implementation of the sentencing guidelines system;

21 (4) assist in the process of training judges, county and district
22 attorneys, court services officers, state parole officers, correctional
23 officers, law enforcement officials and other criminal justice groups. For
24 these purposes, the sentencing commission shall develop an
25 implementation policy and shall construct an implementation manual for
26 use in its training activities;

27 (5) receive presentence reports and journal entries for all persons who
28 are sentenced for crimes committed on or after July 1, 1993, to develop
29 post-implementation monitoring procedures and reporting methods to
30 evaluate guideline sentences. In developing the evaluative criteria, the
31 commission shall take into consideration rational and consistent
32 sentencing standards which reduce sentence disparity to include, but not be
33 limited to, racial and regional biases;

34 (6) advise and consult with the secretary of corrections and members
35 of the legislature in developing a mechanism to link guidelines sentence
36 practices with correctional resources and policies, including but not
37 limited to the capacities of local and state correctional facilities. Such
38 linkage shall include a review and determination of the impact of the
39 sentencing guidelines on the state's prison population, review of
40 corrections programs and a study of ways to more effectively utilize
41 correction dollars and to reduce prison population;

42 (7) make recommendations relating to modification to the sentencing
43 guidelines as provided in K.S.A. 2011 Supp. 21-6822, and amendments

1 thereto;

2 (8) prepare and submit fiscal impact and correctional resource
3 statement as provided in K.S.A. 74-9106, and amendments thereto;

4 (9) make recommendations to those responsible for developing a
5 working philosophy of sentencing guideline consistency and rationality;

6 (10) develop prosecuting standards and guidelines to govern the
7 conduct of prosecutors when charging persons with crimes and when
8 engaging in plea bargaining;

9 (11) analyze problems in criminal justice, identify alternative
10 solutions and make recommendations for improvements in criminal law,
11 prosecution, community and correctional placement, programs, release
12 procedures and related matters including study and recommendations
13 concerning the statutory definition of crimes and criminal penalties and
14 review of proposed criminal law changes;

15 (12) perform such other criminal justice studies or tasks as may be
16 assigned by the governor or specifically requested by the legislature,
17 department of corrections, the chief justice or the attorney general;

18 (13) develop a program plan which includes involvement of business
19 and industry in the public or other social or fraternal organizations for
20 admitting back into the mainstream those offenders who demonstrate both
21 the desire and ability to reconstruct their lives during their incarceration or
22 during conditional release;

23 (14) appoint a task force to make recommendations concerning the
24 consolidation of probation, parole and community corrections services;

25 (15) produce official inmate population projections annually on or
26 before six weeks following the date of receipt of the data from the
27 department of corrections. When the commission's projections indicate
28 that the inmate population will exceed available prison capacity within two
29 years of the date of the projection, the commission shall identify and
30 analyze the impact of specific options for (A) reducing the number of
31 prison admissions; or (B) adjusting sentence lengths for specific groups of
32 offenders. Options for reducing the number of prison admissions shall
33 include, but not be limited to, possible modification of both sentencing
34 grids to include presumptive intermediate dispositions for certain
35 categories of offenders. Intermediate sanction dispositions shall include,
36 but not be limited to: intensive supervision; short-term jail sentences;
37 halfway houses; community-based work release; electronic monitoring and
38 house arrest; substance abuse treatment; and pre-revocation incarceration.
39 Intermediate sanction options shall include, but not be limited to,
40 mechanisms to explicitly target offenders that would otherwise be placed
41 in prison. Analysis of each option shall include an assessment of such
42 options impact on the overall size of the prison population, the effect on
43 public safety and costs. In preparing the assessment, the commission shall

1 review the experience of other states and shall review available research
2 regarding the effectiveness of such option. The commission's findings
3 relative to each sentencing policy option shall be presented to the governor
4 and the joint committee on corrections and juvenile justice oversight no
5 later than November 1;

6 (16) at the request of the governor or the joint committee on
7 corrections and juvenile justice oversight, initiate and complete an analysis
8 of other sentencing policy adjustments not otherwise evaluated by the
9 commission;

10 (17) develop information relating to the number of offenders on
11 postrelease supervision and subject to electronic monitoring for the
12 duration of the person's natural life;

13 (18) determine the effect the mandatory sentencing established in
14 K.S.A. 21-4642 and 21-4643, prior to their repeal, or K.S.A. 2011 Supp.
15 21-6626 and 21-6627, and amendments thereto, would have on the number
16 of offenders civilly committed to a treatment facility as a sexually violent
17 predator as provided pursuant to K.S.A. 59-29a01 *et seq.*, and amendments
18 thereto;

19 (19) assume the designation and functions of the state statistical
20 analysis center. All criminal justice agencies, as defined in subsection (c)
21 of K.S.A. 22-4701, and amendments thereto, and the juvenile justice
22 authority shall provide any data or information, including juvenile offender
23 information, requested by the commission to facilitate the function of the
24 state statistical analysis center; and

25 (20) subject to the provisions of appropriation acts and the
26 availability of funds therefor, produce official juvenile correctional facility
27 population projections annually on or before November 1, not more than
28 six weeks following the receipt of the data from the juvenile justice
29 authority and develop bed impacts regarding legislation that may affect
30 juvenile correctional facility population.

31 Sec. 31. K.S.A. 74-9102 is hereby amended to read as follows: 74-
32 9102. (a) The Kansas sentencing commission shall consist of 17 members,
33 as follows:

34 (1) The chief justice of the supreme court or the chief justice's
35 designee;

36 (2) two district court judges appointed by the chief justice of the
37 supreme court;

38 (3) the attorney general or the attorney general's designee;

39 (4) one public defender appointed by the governor;

40 (5) one private defense counsel appointed by the governor;

41 (6) one county attorney or district attorney appointed by the governor;

42 (7) the secretary of corrections or the secretary's designee;

43 (8) the chairperson of the ~~Kansas parole prisoner review~~ board or

1 such chairperson's designee;

2 (9) two members of the general public, at least one of whom shall be
3 a member of a racial minority group, appointed by the governor;

4 (10) a director of a community corrections program appointed by the
5 governor; and

6 (11) a court services officer appointed by the chief justice of the
7 supreme court. Not more than three members of the commission
8 appointed by the governor shall be of the same political party.

9 (b) In addition to the members appointed pursuant to subsection (a),
10 four members of the legislature shall serve as voting members of the
11 commission. Such members shall be appointed as follows: One shall be
12 appointed by the president of the senate, one shall be appointed by the
13 minority leader of the senate, one shall be appointed by the speaker of the
14 house of representatives and one shall be appointed by the minority leader
15 of the house of representatives.

16 (c) The governor shall appoint a chairperson from the two district
17 court judges appointed by the chief justice of the supreme court or the
18 chief justice of the supreme court. The members of the commission
19 appointed pursuant to subsection (a) shall elect any additional officers
20 from among its members necessary to discharge its duties.

21 (d) The commission shall meet upon call of its chairperson as
22 necessary to carry out its duties under this act.

23 (e) Each appointed member of the commission shall be appointed for
24 a term of two years and shall continue to serve during that time as long as
25 the member occupies the position which made the member eligible for the
26 appointment. Each member shall continue in office until a successor is
27 appointed and qualifies. Members shall be eligible for reappointment, and
28 appointment may be made to fill an unexpired term.

29 (f) Each member of the commission shall receive compensation,
30 subsistence allowances, mileage and other expenses as provided for in
31 K.S.A. 75-3223, and amendments thereto, except that the public members
32 of the commission shall receive compensation in the amount provided for
33 legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each
34 day or part thereof actually spent on commission activities.

35 Sec. 32. K.S.A. 2011 Supp. 75-4318 is hereby amended to read as
36 follows: 75-4318. (a) Subject to the provisions of subsection (g), all
37 meetings for the conduct of the affairs of, and the transaction of business
38 by, all legislative and administrative bodies and agencies of the state and
39 political and taxing subdivisions thereof, including boards, commissions,
40 authorities, councils, committees, subcommittees and other subordinate
41 groups thereof, receiving or expending and supported in whole or in part
42 by public funds shall be open to the public and no binding action by such
43 bodies shall be by secret ballot. Meetings of task forces, advisory

1 committees or subcommittees of advisory committees created pursuant to
2 a governor's executive order shall be open to the public in accordance with
3 this act.

4 (b) Notice of the date, time and place of any regular or special
5 meeting of a public body designated hereinabove shall be furnished to any
6 person requesting such notice, except that:

7 (1) If notice is requested by petition, the petition shall designate one
8 person to receive notice on behalf of all persons named in the petition, and
9 notice to such person shall constitute notice to all persons named in the
10 petition;

11 (2) if notice is furnished to an executive officer of an employees'
12 organization or trade association, such notice shall be deemed to have been
13 furnished to the entire membership of such organization or association;
14 and

15 (3) the public body may require that a request to receive notice must
16 be submitted again to the body prior to the commencement of any
17 subsequent fiscal year of the body during which the person wishes to
18 continue receiving notice, but, prior to discontinuing notice to any person,
19 the public body must notify the person that notice will be discontinued
20 unless the person resubmits a request to receive notice.

21 (c) It shall be the duty of the presiding officer or other person calling
22 the meeting, if the meeting is not called by the presiding officer, to furnish
23 the notice required by subsection (b).

24 (d) Prior to any meeting hereinabove mentioned, any agenda relating
25 to the business to be transacted at such meeting shall be made available to
26 any person requesting the agenda.

27 (e) The use of cameras, photographic lights and recording devices
28 shall not be prohibited at any meeting mentioned by subsection (a), but
29 such use shall be subject to reasonable rules designed to insure the orderly
30 conduct of the proceedings at such meeting.

31 (f) Except as provided by section 22 of article 2 of the constitution of
32 the state of Kansas, interactive communications in a series shall be open if
33 they collectively involve a majority of the membership of the body or
34 agency, share a common topic of discussion concerning the business or
35 affairs of the body or agency, and are intended by any or all of the
36 participants to reach agreement on a matter that would require binding
37 action to be taken by the body or agency.

38 (g) The provisions of the open meetings law shall not apply:

39 (1) To any administrative body that is authorized by law to exercise
40 quasi-judicial functions when such body is deliberating matters relating to
41 a decision involving such quasi-judicial functions;

42 (2) to the ~~parole~~ *parole prisoner review* board when conducting parole
43 hearings or parole violation hearings held at a correctional institution;

1 (3) to any impeachment inquiry or other impeachment matter referred
2 to any committee of the house of representatives prior to the report of such
3 committee to the full house of representatives; and

4 (4) if otherwise provided by state or federal law or by rules of the
5 Kansas senate or house of representatives.

6 Sec. 33. K.S.A. 2011 Supp. 75-4319 is hereby amended to read as
7 follows: 75-4319. (a) Upon formal motion made, seconded and carried, all
8 bodies and agencies subject to the open meetings act may recess, but not
9 adjourn, open meetings for closed or executive meetings. Any motion to
10 recess for a closed or executive meeting shall include a statement of (1) the
11 justification for closing the meeting, (2) the subjects to be discussed during
12 the closed or executive meeting and (3) the time and place at which the
13 open meeting shall resume. Such motion, including the required statement,
14 shall be recorded in the minutes of the meeting and shall be maintained as
15 a part of the permanent records of the body or agency. Discussion during
16 the closed or executive meeting shall be limited to those subjects stated in
17 the motion.

18 (b) No subjects shall be discussed at any closed or executive meeting,
19 except the following:

20 (1) Personnel matters of nonelected personnel;

21 (2) consultation with an attorney for the body or agency which would
22 be deemed privileged in the attorney-client relationship;

23 (3) matters relating to employer-employee negotiations whether or
24 not in consultation with the representative or representatives of the body or
25 agency;

26 (4) confidential data relating to financial affairs or trade secrets of
27 corporations, partnerships, trusts, and individual proprietorships;

28 (5) matters relating to actions adversely or favorably affecting a
29 person as a student, patient or resident of a public institution, except that
30 any such person shall have the right to a public hearing if requested by the
31 person;

32 (6) preliminary discussions relating to the acquisition of real
33 property;

34 (7) matters permitted to be discussed in a closed or executive meeting
35 pursuant to K.S.A. 74-8804, and amendments thereto;

36 (8) matters permitted to be discussed in a closed or executive meeting
37 pursuant to subsection (d)(1) of K.S.A. 38-1507, and amendments thereto,
38 or subsection (e) of K.S.A. 38-1508, and amendments thereto;

39 (9) matters permitted to be discussed in a closed or executive meeting
40 pursuant to subsection (j) of K.S.A. 22a-243, and amendments thereto;

41 (10) matters permitted to be discussed in a closed or executive
42 meeting pursuant to subsection (e) of K.S.A. 44-596, and amendments
43 thereto;

1 (11) matters permitted to be discussed in a closed or executive
2 meeting pursuant to subsection (g) of K.S.A. 39-7,119, and amendments
3 thereto;

4 (12) matters required to be discussed in a closed or executive meeting
5 pursuant to a tribal-state gaming compact;

6 (13) matters relating to security measures, if the discussion of such
7 matters at an open meeting would jeopardize such security measures, that
8 protect: (A) Systems, facilities or equipment used in the production,
9 transmission or distribution of energy, water or communications services;
10 (B) transportation and sewer or wastewater treatment systems, facilities or
11 equipment; (C) a public body or agency, public building or facility or the
12 information system of a public body or agency; or (D) private property or
13 persons, if the matter is submitted to the agency for purposes of this
14 paragraph. For purposes of this paragraph, security means measures that
15 protect against criminal acts intended to intimidate or coerce the civilian
16 population, influence government policy by intimidation or coercion or to
17 affect the operation of government by disruption of public services, mass
18 destruction, assassination or kidnapping. Security measures include, but
19 are not limited to, intelligence information, tactical plans, resource
20 deployment and vulnerability assessments;

21 (14) matters permitted to be discussed in a closed or executive
22 meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments
23 thereto;

24 (15) matters permitted to be discussed in a closed or executive
25 meeting pursuant to K.S.A. 2011 Supp. 75-7427, and amendments thereto;
26 and

27 (16) matters permitted to be discussed in a closed or executive
28 meeting pursuant to K.S.A. 2011 Supp. 46-3801, and amendments thereto.

29 (c) No binding action shall be taken during closed or executive
30 recesses, and such recesses shall not be used as a subterfuge to defeat the
31 purposes of this act.

32 (d) (1) Any confidential records or information relating to security
33 measures provided or received under the provisions of subsection (b)(13),
34 shall not be subject to subpoena, discovery or other demand in any
35 administrative, criminal or civil action.

36 (2) (A) Except as otherwise provided by law, any confidential
37 documents, records or reports relating to the ~~parole~~ *prisoner review* board
38 provided or received under the provisions of subsection (b)(16) shall not
39 be subject to subpoena, discovery or other demand in any administrative,
40 criminal or civil action.

41 (B) Notwithstanding any other provision of law to the contrary, any
42 summary statement provided or received under the provisions of
43 subsection (b)(16) shall not be subject to subpoena, discovery or other

1 demand in any administrative, criminal or civil action.

2 Sec. 34. K.S.A. 75-5202 is hereby amended to read as follows: 75-
3 5202. As used in K.S.A. 75-5201 *et seq.*, and amendments thereto, unless
4 the context clearly requires otherwise:

5 (a) "Secretary" means the secretary of corrections.

6 (b) "~~Parole~~ Prisoner review board" means the ~~Kansas parole prisoner~~
7 *review* board established by K.S.A. ~~22-3707~~ 2011 *Supp.* 75-52,152, and
8 amendments thereto.

9 (c) "Inmate" means any person incarcerated in any correctional
10 institution of the state of Kansas.

11 (d) "Correctional institution" means the Lansing correctional facility,
12 Hutchinson correctional facility, Topeka correctional facility, Norton
13 correctional facility, Ellsworth correctional facility, Winfield correctional
14 facility, Osawatomie correctional facility, Larned correctional mental
15 health facility, Toronto correctional work facility, Stockton correctional
16 facility, Wichita work release facility, El Dorado correctional facility, and
17 any other correctional institution established by the state for the
18 confinement of offenders under control of the secretary of corrections.

19 (e) "Warden" means the person in charge of the operation and
20 supervision of a correctional institution.

21 (f) "Corrections officer" means a full-time, salaried officer or
22 employee under the jurisdiction of the secretary, whose duties include the
23 receipt, custody, control, maintenance, discipline, security and
24 apprehension of persons convicted of criminal offense in this state and
25 sentenced to a term of imprisonment under the custody of the secretary.

26 (g) "Parole officer" means a full-time salaried officer or employee
27 under the jurisdiction of the secretary whose duties include:

28 (1) Investigation, supervision, arrest and control of persons on parole
29 or postrelease supervision and the enforcement of the conditions of parole
30 or postrelease supervision; and

31 (2) services which relate to probationers, parolees or persons on
32 postrelease supervision and are required by the uniform act for out-of-state
33 parolee supervision.

34 Sec. 35. K.S.A. 2011 *Supp.* 75-5210a is hereby amended to read as
35 follows: 75-5210a. (a) Within a reasonable time after a defendant is
36 committed to the custody of the secretary of corrections, for service of a
37 sentence for an indeterminate or off grid crime, the secretary shall enter
38 into a written agreement with the inmate specifying those educational,
39 vocational, mental health or other programs which the secretary
40 determines the inmate must satisfactorily complete in order to be prepared
41 for release on parole supervision. To the extent practicable, the agreement
42 shall require the inmate to have made progress towards or to have
43 successfully completed the equivalent of a secondary education before

1 release on parole if the inmate has not previously completed such
2 educational equivalent and is capable of doing so. The agreement shall be
3 conditioned on the inmate's satisfactory conduct, employment and attitude
4 while incarcerated. If the secretary determines that the inmate's conduct,
5 employment, attitude or needs require modifications or additions to those
6 programs which are set forth in the agreement, the secretary shall revise
7 the requirements. The secretary shall agree that, when the inmate
8 satisfactorily completes the programs required by the agreement, or any
9 revision thereof, the secretary shall report that fact in writing to the ~~Kansas~~
10 ~~parole prisoner review~~ board. If the inmate becomes eligible for parole
11 before satisfactorily completing such programs, the secretary shall report
12 in writing to the ~~Kansas parole~~ board the programs which are not
13 completed.

14 (b) A copy of any agreement and any revisions thereof shall be
15 entered into the inmate's record.

16 Sec. 36. K.S.A. 2011 Supp. 75-5217 is hereby amended to read as
17 follows: 75-5217. (a) At any time during release on parole, conditional
18 release or postrelease supervision, the secretary of corrections may issue a
19 warrant for the arrest of a released inmate for violation of any of the
20 conditions of release, or a notice to appear to answer to a charge of
21 violation. Such notice shall be served personally upon the released inmate.
22 The warrant shall authorize any law enforcement officer to arrest and
23 deliver the released inmate to a place as provided by subsection (g). Any
24 parole officer may arrest such released inmate without a warrant, or may
25 deputize any other officer with power of arrest to do so by giving such
26 officer a written or verbal arrest and detain order setting forth that the
27 released inmate, in the judgment of the parole officer, has violated the
28 conditions of the inmate's release. A written arrest and detain order
29 delivered to the official in charge of the institution or place to which the
30 released inmate is brought for detention shall be sufficient warrant for
31 detaining the inmate. After making an arrest the parole officer shall present
32 to the detaining authorities a similar arrest and detain order and statement
33 of the circumstances of violation. Pending a hearing, as provided in this
34 section, upon any charge of violation the released inmate shall remain
35 incarcerated in the institution or place to which the inmate is taken for
36 detention.

37 (b) Upon such arrest and detention, the parole officer shall notify the
38 secretary of corrections, or the secretary's designee, within five days and
39 shall submit in writing a report showing in what manner the released
40 inmate had violated the conditions of release. After such notification is
41 given to the secretary of corrections, or upon an arrest by warrant as herein
42 provided, and the finding of probable cause pursuant to procedures
43 established by the secretary of a violation of the released inmate's

1 conditions of release, the secretary or the secretary's designee may cause
2 the released inmate to be brought before the ~~Kansas parole~~ *prisoner review*
3 board, its designee or designees, for a hearing on the violation charged,
4 under such rules and regulations as the board may adopt, or may dismiss
5 the charges that the released inmate has violated the conditions of release
6 and order the released inmate to remain on parole, conditional release or
7 post release supervision. It is within the discretion of the ~~Kansas parole~~
8 board whether such hearing requires the released inmate to appear
9 personally before the board when such inmate's violation results from a
10 conviction for a new felony or misdemeanor. An offender under
11 determinative sentencing whose violation does not result from a conviction
12 of a new felony or misdemeanor may waive the right to a final revocation
13 hearing before the ~~Kansas parole~~ board under such conditions and terms as
14 may be prescribed by rules and regulations promulgated by the ~~Kansas~~
15 ~~parole board~~ *secretary of corrections*. Relevant written statements made
16 under oath shall be admitted and considered by the ~~Kansas parole~~ board,
17 its designee or designees, along with other evidence presented at the
18 hearing. If the violation is established to the satisfaction of the ~~Kansas~~
19 ~~parole~~ board, the board may continue or revoke the parole or conditional
20 release, or enter such other order as the board may see fit. The revocation
21 of release of inmates who are on a specified period of postrelease
22 supervision shall be for a six-month period of confinement from the date
23 of the revocation hearing before the board or the effective date of waiver
24 of such hearing by the offender pursuant to rules and regulations
25 promulgated by the ~~Kansas parole~~ board, if the violation does not result
26 from a conviction for a new felony or misdemeanor. Such period of
27 confinement may be reduced by not more than three months based on the
28 inmate's conduct, work and program participation during the incarceration
29 period. The reduction in the incarceration period shall be on an earned
30 basis pursuant to rules and regulations adopted by the secretary of
31 corrections.

32 (c) If the violation results from a conviction for a new felony, upon
33 revocation, the inmate shall serve the entire remaining balance of the
34 period of postrelease supervision even if the new conviction did not result
35 in the imposition of a new term of imprisonment.

36 (d) If the violation results from a conviction for a new misdemeanor,
37 upon revocation, the inmate shall serve a period of confinement, to be
38 determined by the ~~Kansas parole~~ *prisoner review* board, which shall not
39 exceed the remaining balance of the period of postrelease supervision.

40 (e) In the event the released inmate reaches conditional release date
41 as provided by K.S.A. 22-3718, and amendments thereto, after a finding of
42 probable cause, pursuant to procedures established by the secretary of
43 corrections of a violation of the released inmate's conditions of release, but

1 prior to a hearing before the ~~Kansas parole~~ *prisoner review* board, the
2 secretary of corrections shall be authorized to detain the inmate until the
3 hearing by the ~~Kansas parole~~ board. The secretary shall then enforce the
4 order issued by the ~~Kansas parole~~ board.

5 (f) If the secretary of corrections issues a warrant for the arrest of a
6 released inmate for violation of any of the conditions of release and the
7 released inmate is subsequently arrested in the state of Kansas, either
8 pursuant to the warrant issued by the secretary of corrections or for any
9 other reason, the released inmate's sentence shall not be credited with the
10 period of time from the date of the issuance of the secretary's warrant to
11 the date of the released inmate's arrest.

12 If a released inmate for whom a warrant has been issued by the
13 secretary of corrections for violation of the conditions of release is
14 subsequently arrested in another state, and the released inmate has been
15 authorized as a condition of such inmate's release to reside in or travel to
16 the state in which the released inmate was arrested, and the released
17 inmate has not absconded from supervision, the released inmate's sentence
18 shall not be credited with the period of time from the date of the issuance
19 of the warrant to the date of the released inmate's arrest. If the released
20 inmate for whom a warrant has been issued by the secretary of corrections
21 for violation of the conditions of release is subsequently arrested in
22 another state for reasons other than the secretary's warrant and the released
23 inmate does not have authorization to be in the other state or if authorized
24 to be in the other state has been charged by the secretary with having
25 absconded from supervision, the released inmate's sentence shall not be
26 credited with the period of time from the date of the issuance of the
27 warrant by the secretary to the date the released inmate is first available to
28 be returned to the state of Kansas. If the released inmate for whom a
29 warrant has been issued by the secretary of corrections for violation of a
30 condition of release is subsequently arrested in another state pursuant only
31 to the secretary's warrant, the released inmate's sentence shall not be
32 credited with the period of time from the date of the issuance of the
33 secretary's warrant to the date of the released inmate's arrest, regardless of
34 whether the released inmate's presence in the other state was authorized or
35 the released inmate had absconded from supervision.

36 The secretary may issue a warrant for the arrest of a released inmate for
37 violation of any of the conditions of release and may direct that all
38 reasonable means to serve the warrant and detain such released inmate be
39 employed including but not limited to notifying the federal bureau of
40 investigation of such violation and issuance of warrant and requesting
41 from the federal bureau of investigation any pertinent information it may
42 possess concerning the whereabouts of the released inmate.

43 (g) Law enforcement officers shall execute warrants issued by the

1 secretary of corrections, and shall deliver the inmate named in the warrant
2 to the jail used by the county where the inmate is arrested unless some
3 other place is designated by the secretary, in the same manner as for the
4 execution of any arrest warrant.

5 (h) For the purposes of this section, an inmate or released inmate is an
6 individual under the supervision of the secretary of corrections, including,
7 but not limited to, an individual on parole, conditional release, postrelease
8 supervision, probation granted by another state or an individual supervised
9 under any interstate compact in accordance with the provisions of the
10 uniform act for out-of-state parolee supervision, K.S.A. 22-4101 *et seq.*,
11 and amendments thereto.

12 Sec. 37. K.S.A. 2011 Supp. 75-5266 is hereby amended to read as
13 follows: 75-5266. Psychiatric evaluation reports of correctional facilities
14 shall be privileged and shall not be disclosed directly or indirectly to
15 anyone except as provided herein. The court, the district or county
16 attorney, the attorney for the defendant or inmate, the ~~Kansas parole~~
17 *prisoner review* board and its staff, the wardens and classification
18 committees of the state correctional institutions and those persons
19 authorized by the secretary shall have access to such reports. Such reports
20 may be disclosed to: (1) The defendant or inmate or members of the
21 defendant's or inmate's family; (2) the defendant's or inmate's friends when
22 authorized by the defendant or inmate or the defendant's or inmate's
23 family; or (3) the superintendent or director of any other state institution
24 when authorized by the warden, or secretary of corrections. Employees of
25 the correctional institutions under the supervision of the secretary are
26 expressly forbidden from disclosing the contents of such reports to anyone
27 except as provided herein. Nothing in this section shall be construed as
28 preventing the attorney for the defendant or inmate from discussing such
29 reports with the defendant or inmate.

30 Sec. 38. K.S.A. 2011 Supp. 77-421 is hereby amended to read as
31 follows: 77-421. (a) (1) Except as provided by subsection (a)(2),
32 subsection (a)(3) or subsection (a)(4), prior to the adoption of any
33 permanent rule and regulation or any temporary rule and regulation which
34 is required to be adopted as a temporary rule and regulation in order to
35 comply with the requirements of the statute authorizing the same and after
36 any such rule and regulation has been approved by the secretary of
37 administration and the attorney general, the adopting state agency shall
38 give at least 60 days' notice of its intended action in the Kansas register
39 and to the secretary of state and to the joint committee on administrative
40 rules and regulations established by K.S.A. 77-436, and amendments
41 thereto. The notice shall be provided to the secretary of state and to the
42 chairperson, vice chairperson, ranking minority member of the joint
43 committee and legislative research department and shall be published in

1 the Kansas register. A complete copy of all proposed rules and regulations
2 and the complete economic impact statement required by K.S.A. 77-416,
3 and amendments thereto, shall accompany the notice sent to the secretary
4 of state. The notice shall contain:

5 (A) A summary of the substance of the proposed rules and
6 regulations;

7 (B) a summary of the economic impact statement indicating the
8 estimated economic impact on governmental agencies or units, persons
9 subject to the proposed rules and regulations and the general public;

10 (C) a summary of the environmental benefit statement, if applicable,
11 indicating the need for the proposed rules and regulations;

12 (D) the address where a complete copy of the proposed rules and
13 regulations, the complete economic impact statement, the environmental
14 benefit statement, if applicable, required by K.S.A. 77-416, and
15 amendments thereto, may be obtained;

16 (E) the time and place of the public hearing to be held; the manner in
17 which interested parties may present their views; and

18 (F) a specific statement that the period of 60 days' notice constitutes a
19 public comment period for the purpose of receiving written public
20 comments on the proposed rules and regulations and the address where
21 such comments may be submitted to the state agency. Publication of such
22 notice in the Kansas register shall constitute notice to all parties affected
23 by the rules and regulations.

24 (2) Prior to adopting any rule and regulation which establishes
25 seasons and fixes bag, creel, possession, size or length limits for the taking
26 or possession of wildlife and after such rule and regulation has been
27 approved by the secretary of administration and the attorney general, the
28 secretary of ~~the department of wildlife and parks~~ *wildlife, parks and*
29 *tourism* shall give at least 30 days' notice of its intended action in the
30 Kansas register and to the secretary of state and to the joint committee on
31 administrative rules and regulations created pursuant to K.S.A. 77-436,
32 and amendments thereto. All other provisions of subsection (a)(1) shall
33 apply to such rules and regulations, except that the statement required by
34 subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes
35 a public comment period on such rules and regulations.

36 (3) Prior to adopting any rule and regulation which establishes any
37 permanent prior authorization on a prescription-only drug pursuant to
38 K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or
39 reimbursement for pharmaceuticals under the pharmacy program of the
40 state medicaid plan, and after such rule and regulation has been approved
41 by the secretary of administration and the attorney general, the Kansas
42 health policy authority shall give at least 30 days' notice of its intended
43 action in the Kansas register and to the secretary of state and to the joint

1 committee on administrative rules and regulations created pursuant to
2 K.S.A. 77-436, and amendments thereto. All other provisions of
3 subsection (a)(1) shall apply to such rules and regulations, except that the
4 statement required by subsection (a)(1)(E) shall state that the period of 30
5 days' notice constitutes a public comment period on such rules and
6 regulations.

7 (4) Prior to adopting any rule and regulation pursuant to subsection
8 (c), the state agency shall give at least 30 days' notice of its intended action
9 in the Kansas register and to the secretary of state and to the joint
10 committee on administrative rules and regulations created pursuant to
11 K.S.A. 77-436, and amendments thereto. All other provisions of
12 subsection (a)(1) shall apply to such rules and regulations, except that the
13 statement required by subsection (a)(1)(E) shall state that the period of
14 notice constitutes a public comment period on such rules and regulations.

15 (b) (1) On the date of the hearing, all interested parties shall be given
16 reasonable opportunity to present their views or arguments on adoption of
17 the rule and regulation, either orally or in writing. At the time it adopts or
18 amends a rule and regulation, the state agency shall prepare a concise
19 statement of the principal reasons for adopting the rule and regulation or
20 amendment thereto, including:

21 (A) The agency's reasons for not accepting substantial arguments
22 made in testimony and comments; and

23 (B) the reasons for any substantial change between the text of the
24 proposed adopted or amended rule and regulation contained in the
25 published notice of the proposed adoption or amendment of the rule and
26 regulation and the text of the rule and regulation as finally adopted.

27 (2) Whenever a state agency is required by any other statute to give
28 notice and hold a hearing before adopting, amending, reviving or revoking
29 a rule and regulation, the state agency, in lieu of following the
30 requirements or statutory procedure set out in such other law, may give
31 notice and hold hearings on proposed rules and regulations in the manner
32 prescribed by this section.

33 (3) Notwithstanding the other provisions of this section, ~~the Kansas~~
34 ~~parole board and~~ the secretary of corrections; may give notice or an
35 opportunity to be heard to any inmate in the custody of the secretary of
36 ~~corrections~~ with regard to the adoption of any rule and regulation; ~~but the~~
37 ~~secretary shall not be required to give such notice or opportunity.~~

38 (c) (1) The agency shall initiate new rulemaking proceedings under
39 this act, if a state agency proposes to adopt a final rule and regulation that:

40 (A) Differs in subject matter or effect in any material respect from the
41 rule and regulation as originally proposed; and

42 (B) is not a logical outgrowth of the rule and regulation as originally
43 proposed.

1 (2) In accordance with subsection (a), the period for public comment
2 required by K.S.A. 77-421, and amendments thereto, may be shortened to
3 not less than 30 days.

4 (3) For the purposes of this provision, a rule and regulation is not the
5 logical outgrowth of the rule and regulation as originally proposed if a
6 person affected by the final rule and regulation was not put on notice that
7 such person's interests were affected in the rulemaking.

8 (d) When, pursuant to this or any other statute, a state agency holds a
9 hearing on the adoption of a proposed rule and regulation, the agency shall
10 cause written minutes or other records, including a record maintained on
11 sound recording tape or on any electronically accessed media or any
12 combination of written or electronically accessed media records of the
13 hearing to be made. If the proposed rule and regulation is adopted and
14 becomes effective, the state agency shall maintain, for not less than three
15 years after its effective date, such minutes or other records, together with
16 any recording, transcript or other record made of the hearing and a list of
17 all persons who appeared at the hearing and who they represented, any
18 written testimony presented at the hearing and any written comments
19 submitted during the public comment period.

20 (e) No rule and regulation shall be adopted by a board, commission,
21 authority or other similar body except at a meeting which is open to the
22 public and notwithstanding any other provision of law to the contrary, no
23 rule and regulation shall be adopted by a board, commission, authority or
24 other similar body unless it receives approval by roll call vote of a
25 majority of the total membership thereof.

26 Sec. 39. K.S.A. 2011 Supp. 77-603 is hereby amended to read as
27 follows: 77-603. (a) This act applies to all agencies and all proceedings for
28 judicial review and civil enforcement of agency actions not specifically
29 exempted by statute from the provisions of this act.

30 (b) This act creates only procedural rights and imposes only
31 procedural duties. They are in addition to those created and imposed by
32 other statutes.

33 (c) This act does not apply to agency actions:

34 (1) Of the ~~Kansas parole~~ *prisoner review* board concerning inmates or
35 persons under parole or conditional release supervision;

36 (2) concerning the management, discipline or release of persons in
37 the custody of the secretary of corrections;

38 (3) concerning the management, discipline or release of persons in
39 the custody of the commissioner of juvenile justice;

40 (4) under the election laws contained in chapter 25 of the Kansas
41 Statutes Annotated, and amendments thereto, except as provided by K.S.A.
42 25-4185, and amendments thereto;

43 (5) concerning pardon, commutation of sentence, clemency or

1 extradition;

2 (6) concerning military or naval affairs other than actions relating to
3 armories;

4 (7) governed by the provisions of the open records act and subject to
5 an action for enforcement pursuant to K.S.A. 45-222, and amendments
6 thereto;

7 (8) governed by the provisions of K.S.A. 75-4317 *et seq.*, and
8 amendments thereto, relating to open public meetings, and subject to an
9 action for civil penalties or enforcement pursuant to K.S.A. 75-4320 or 75-
10 4320a, and amendments thereto; or

11 (9) concerning the civil commitment of sexually violent predators
12 pursuant to K.S.A. 59-29a01 *et seq.*, and amendments thereto.

13 Sec. 40. K.S.A. 22-3706, 22-3707a, 22-3708, 22-3709, 22-3710, 22-
14 3711, 22-3712, 22-3713, 22-3718, 22-3719, 22-3720, 22-3722, 22-3726,
15 22-4111, 60-4305, 74-7320, 74-7321, 74-9102 and 75-5202 and K.S.A.
16 2011 Supp. 12-4516, 19-4804, 21-6603, 21-6606, 21-6609, 21-6614, 21-
17 6803, 22-3701, 22-3707, 22-3717, 22-3728, 22-3729, 22-4701, 59-29a02,
18 74-4911f, 74-9101, 75-4318, 75-4319, 75-5210a, 75-5217, 75-5266, 77-
19 421 and 77-603 are hereby repealed.

20 Sec. 41. This act shall take effect and be in force from and after its
21 publication in the statute book.

22