

**HOUSE BILL No. 2282**

By Representatives Schreiber, Ballard, Carmichael, Clark, Concannon, Cox, Curtis, Dierks, Dietrich, Eplee, Henderson, Hibbard, Highberger, Hodge, Horn, Houser, Kessinger, Kuether, Long, Moore, Murnan, Neighbor, Ohaebosim, Parker, Probst, A. Smith, Stogsdill, Sutton, Wasinger, Winn, Wolfe Moore and Xu

2-12

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to abolition of the death penalty; creating the crime of aggravated  
3 murder; sentences of imprisonment for life without the possibility of  
4 parole; amending K.S.A. 65-5117 and 72-2165 and K.S.A. 2018 Supp.  
5 21-5301, 21-5402, 21-5419, 21-6328, 21-6614, 21-6618, 21-6620, 21-  
6 6622, 21-6628, 21-6629, 21-6806, 22-2512, 22-3717, 22-4902, 22-  
7 4906, 23-3222, 38-2255, 38-2271, 38-2303, 38-2312, 38-2365, 39-970,  
8 39-2009 and 75-52,148 and repealing the existing sections; also  
9 repealing K.S.A. 2018 Supp. 21-5401, 21-6617 and 21-6619.

10

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

12 New Section 1. (a) No person shall be sentenced to death for a crime  
13 committed on or after July 1, 2019.

14 (b) Any person who is sentenced to death for a crime committed prior  
15 to July 1, 2019, may be put to death pursuant to the provisions of article 40  
16 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

17 (c) This section shall be part of and supplemental to the Kansas  
18 criminal code.

19 New Sec. 2. (a) Aggravated murder is the:

20 (1) Intentional and premeditated killing of any person in the  
21 commission of kidnapping, as defined in K.S.A. 2018 Supp. 21-5408, and  
22 amendments thereto, or aggravating kidnapping, as defined in K.S.A. 2018  
23 Supp. 21-5408(b), and amendments thereto, when the kidnapping or  
24 aggravated kidnapping was committed with the intent to hold such person  
25 for ransom;

26 (2) intentional and premeditated killing of any person pursuant to a  
27 contract or agreement to kill such person or being a party to the contract or  
28 agreement pursuant to which such person is killed;

29 (3) intentional and premeditated killing of any person by an inmate or  
30 prisoner confined in a state correctional institution, community  
31 correctional institution or jail or while in the custody of an officer or  
32 employee of a state correctional institution, community correctional  
33 institution or jail;

34 (4) intentional and premeditated killing of the victim of one of the

1 following crimes in the commission of, or subsequent to, such crime:  
2 Rape, as defined in K.S.A. 2018 21-5503, and amendments thereto,  
3 criminal sodomy, as defined in K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4),  
4 and amendments thereto, or aggravated criminal sodomy, as defined in  
5 K.S.A. 2018 Supp. 21-5504(b), and amendments thereto, or any attempt  
6 thereof, as defined in K.S.A. 2018 Supp. 21-5301, and amendments  
7 thereto;

8 (5) intentional and premeditated killing of a law enforcement officer;

9 (6) intentional and premeditated killing of more than one person as a  
10 part of the same act or transaction or in two or more acts or transactions  
11 connected together or constituting parts of a common scheme or course of  
12 conduct; or

13 (7) intentional and premeditated killing of a child under the age of 14  
14 in the commission of kidnapping, as defined in K.S.A. 2018 Supp. 21-  
15 5408(a), and amendments thereto, or aggravated kidnapping, as defined in  
16 K.S.A. 2018 Supp. 21-5408(b), and amendments thereto, when the  
17 kidnapping or aggravated kidnapping was committed with intent to  
18 commit a sex offense upon or with the child or with intent that the child  
19 commit or submit to a sex offense.

20 (b) For purposes of this section, "sex offense" means rape, as defined  
21 in K.S.A. 2018 Supp. 21-5503, and amendments thereto, aggravated  
22 indecent liberties with a child, as defined in K.S.A. 2018 Supp. 21-  
23 5506(b), and amendments thereto, aggravated criminal sodomy, as defined  
24 in K.S.A. 2018 Supp. 21-5504(b), and amendments thereto, selling sexual  
25 relations, as defined in K.S.A. 2018 Supp. 21-6419, and amendments  
26 thereto, promoting the sale of sexual relations, as defined in K.S.A. 2018  
27 Supp. 21-6420, and amendments thereto, or sexual exploitation of a child,  
28 as defined in K.S.A. 2018 Supp. 21-5510, and amendments thereto.

29 (c) Notwithstanding K.S.A. 2018 Supp. 21-5109(b)(1) or (b)(2), and  
30 amendments thereto, when the same conduct of a defendant may establish  
31 the commission of aggravated murder and the commission of another  
32 crime under the laws of this state, the defendant may be prosecuted and  
33 sentenced for each of such crimes.

34 (d) Aggravated murder or attempt to commit aggravated murder is an  
35 off-grid person felony.

36 (e) The provisions of K.S.A. 2018 Supp. 21-5301(c), and  
37 amendments thereto, shall not apply to a violation of attempting to commit  
38 the crime of aggravated murder pursuant to this section.

39 (f) This section shall be part of and supplemental to the Kansas  
40 criminal code.

41 New Sec. 3. (a) When it is provided by law that a person shall be  
42 sentenced pursuant to this section, such person shall be sentenced to  
43 imprisonment for life without the possibility of parole. A defendant who is

1 sentenced to imprisonment for life without the possibility of parole shall  
2 spend the remainder of the defendant's natural life incarcerated and in the  
3 custody of the secretary of corrections. A defendant who is sentenced to  
4 imprisonment for life without the possibility of parole shall not be eligible  
5 for commutation of sentence, parole, probation, assignment to a  
6 community correctional services program, conditional release, postrelease  
7 supervision, functional incapacitation release pursuant to K.S.A. 22-3728,  
8 and amendments thereto, or suspension, modification or reduction of  
9 sentence. Upon sentencing a defendant to imprisonment for life without  
10 the possibility of parole, the court shall commit the defendant to the  
11 custody of the secretary of corrections and the court shall state in the  
12 sentencing order of the judgment form or journal entry, whichever is  
13 delivered with the defendant to the correctional institution, that the  
14 defendant has been sentenced to imprisonment for life without the  
15 possibility of parole.

16 (b) This section shall be part of and supplemental to the Kansas  
17 criminal code.

18 Sec. 4. K.S.A. 2018 Supp. 21-5301 is hereby amended to read as  
19 follows: 21-5301. (a) An attempt is any overt act toward the perpetration  
20 of a crime done by a person who intends to commit such crime but fails in  
21 the perpetration thereof or is prevented or intercepted in executing such  
22 crime.

23 (b) It shall not be a defense to a charge of attempt that the  
24 circumstances under which the act was performed or the means employed  
25 or the act itself were such that the commission of the crime was not  
26 possible.

27 (c) (1) An attempt to commit an off-grid felony shall be ranked at  
28 nondrug severity level 1. An attempt to commit any other nondrug felony  
29 shall be ranked on the nondrug scale at two severity levels below the  
30 appropriate level for the underlying or completed crime. The lowest  
31 severity level for an attempt to commit a nondrug felony shall be a severity  
32 level 10.

33 (2) The provisions of this subsection shall not apply to a violation of  
34 attempting to commit the crime of:

35 (A) Aggravated human trafficking, as defined in K.S.A. 2018 Supp.  
36 21-5426(b), and amendments thereto, if the offender is 18 years of age or  
37 older and the victim is less than 14 years of age;

38 (B) terrorism, as defined in K.S.A. 2018 Supp. 21-5421, and  
39 amendments thereto;

40 (C) illegal use of weapons of mass destruction, as defined in K.S.A.  
41 2018 Supp. 21-5422, and amendments thereto;

42 (D) rape, as defined in K.S.A. 2018 Supp. 21-5503(a)(3), and  
43 amendments thereto, if the offender is 18 years of age or older;

1 (E) aggravated indecent liberties with a child, as defined in K.S.A.  
2 2018 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18  
3 years of age or older;

4 (F) aggravated criminal sodomy, as defined in K.S.A. 2018 Supp. 21-  
5 5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of  
6 age or older;

7 (G) commercial sexual exploitation of a child, as defined in K.S.A.  
8 2018 Supp. 21-6422, and amendments thereto, if the offender is 18 years  
9 of age or older and the victim is less than 14 years of age;

10 (H) sexual exploitation of a child, as defined in K.S.A. 2018 Supp.  
11 21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years  
12 of age or older and the child is less than 14 years of age;

13 (I) aggravated internet trading in child pornography, as defined in  
14 K.S.A. 2018 Supp. 21-5514(b), and amendments thereto, if the offender is  
15 18 years of age or older and the child is less than 14 years of age; or

16 (J) ~~capital murder, as defined in K.S.A. 2018 Supp. 21-5401-~~  
17 ~~aggravated murder, as defined in section 2,~~ and amendments thereto.

18 (d) (1) An attempt to commit a felony which prescribes a sentence on  
19 the drug grid shall reduce the prison term prescribed in the drug grid block  
20 for an underlying or completed crime by six months.

21 (2) The provisions of this subsection shall not apply to a violation of  
22 attempting to commit a violation of K.S.A. 2018 Supp. 21-5703, and  
23 amendments thereto.

24 (e) An attempt to commit a class A person misdemeanor is a class B  
25 person misdemeanor. An attempt to commit a class A nonperson  
26 misdemeanor is a class B nonperson misdemeanor.

27 (f) An attempt to commit a class B or C misdemeanor is a class C  
28 misdemeanor.

29 Sec. 5. K.S.A. 2018 Supp. 21-5402 is hereby amended to read as  
30 follows: 21-5402. (a) Murder in the first degree is the killing of a human  
31 being committed:

32 (1) Intentionally, and with premeditation; or

33 (2) in the commission of, attempt to commit, or flight from any  
34 inherently dangerous felony.

35 (b) Murder in the first degree is an off-grid person felony.

36 (c) As used in this section, an "inherently dangerous felony" means:

37 (1) Any of the following felonies, whether such felony is so distinct  
38 from the homicide alleged to be a violation of subsection (a)(2) as not to  
39 be an ingredient of the homicide alleged to be a violation of subsection (a)  
40 (2):

41 (A) Kidnapping, as defined in K.S.A. 2018 Supp. 21-5408(a), and  
42 amendments thereto;

43 (B) aggravated kidnapping, as defined in K.S.A. 2018 Supp. 21-

- 1 5408(b), and amendments thereto;
- 2 (C) robbery, as defined in K.S.A. 2018 Supp. 21-5420(a), and  
3 amendments thereto;
- 4 (D) aggravated robbery, as defined in K.S.A. 2018 Supp. 21-5420(b),  
5 and amendments thereto;
- 6 (E) rape, as defined in K.S.A. 2018 Supp. 21-5503, and amendments  
7 thereto;
- 8 (F) aggravated criminal sodomy, as defined in K.S.A. 2018 Supp. 21-  
9 5504(b), and amendments thereto;
- 10 (G) abuse of a child, as defined in K.S.A. 2018 Supp. 21-5602, and  
11 amendments thereto;
- 12 (H) felony theft of property, as defined in K.S.A. 2018 Supp. 21-  
13 5801(a)(1) or (a)(3), and amendments thereto;
- 14 (I) burglary, as defined in K.S.A. 2018 Supp. 21-5807(a), and  
15 amendments thereto;
- 16 (J) aggravated burglary, as defined in K.S.A. 2018 Supp. 21-5807(b),  
17 and amendments thereto;
- 18 (K) arson, as defined in K.S.A. 2018 Supp. 21-5812(a), and  
19 amendments thereto;
- 20 (L) aggravated arson, as defined in K.S.A. 2018 Supp. 21-5812(b),  
21 and amendments thereto;
- 22 (M) treason, as defined in K.S.A. 2018 Supp. 21-5901, and  
23 amendments thereto;
- 24 (N) any felony offense as provided in K.S.A. 2018 Supp. 21-5703,  
25 21-5705 or 21-5706, and amendments thereto;
- 26 (O) any felony offense as provided in K.S.A. 2018 Supp. 21-6308(a)  
27 or (b), and amendments thereto;
- 28 (P) endangering the food supply, as defined in K.S.A. 2018 Supp. 21-  
29 6317(a), and amendments thereto;
- 30 (Q) aggravated endangering the food supply, as defined in K.S.A.  
31 2018 Supp. 21-6317(b), and amendments thereto;
- 32 (R) fleeing or attempting to elude a police officer, as defined in  
33 K.S.A. 8-1568(b), and amendments thereto;
- 34 (S) aggravated endangering a child, as defined in K.S.A. 2018 Supp.  
35 21-5601(b)(1), and amendments thereto;
- 36 (T) abandonment of a child, as defined in K.S.A. 2018 Supp. 21-  
37 5605(a), and amendments thereto;
- 38 (U) aggravated abandonment of a child, as defined in K.S.A. 2018  
39 Supp. 21-5605(b), and amendments thereto; or
- 40 (V) mistreatment of a dependent adult or mistreatment of an elder  
41 person, as defined in K.S.A. 2018 Supp. 21-5417, and amendments  
42 thereto; and
- 43 (2) any of the following felonies, only when such felony is so distinct

1 from the homicide alleged to be a violation of subsection (a)(2) as to not  
2 be an ingredient of the homicide alleged to be a violation of subsection (a)  
3 (2):

4 (A) Murder in the first degree, as defined in subsection (a)(1);

5 (B) murder in the second degree, as defined in K.S.A. 2018 Supp. 21-  
6 5403(a)(1), and amendments thereto;

7 (C) voluntary manslaughter, as defined in K.S.A. 2018 Supp. 21-  
8 5404(a)(1), and amendments thereto;

9 (D) aggravated assault, as defined in K.S.A. 2018 Supp. 21-5412(b),  
10 and amendments thereto;

11 (E) aggravated assault of a law enforcement officer, as defined in  
12 K.S.A. 2018 Supp. 21-5412(d), and amendments thereto;

13 (F) aggravated battery, as defined in K.S.A. 2018 Supp. 21-5413(b)  
14 (1), and amendments thereto; or

15 (G) aggravated battery against a law enforcement officer, as defined  
16 in K.S.A. 2018 Supp. 21-5413(d), and amendments thereto.

17 (d) Murder in the first degree as defined in subsection (a)(2) is an  
18 alternative method of proving murder in the first degree and is not a  
19 separate crime from murder in the first degree as defined in subsection (a)  
20 (1). The provisions of K.S.A. 2018 Supp. 21-5109, and amendments  
21 thereto, are not applicable to murder in the first degree as defined in  
22 subsection (a)(2). Murder in the first degree as defined in subsection (a)(2)  
23 is not a lesser included offense of murder in the first degree as defined in  
24 subsection (a)(1), and is not a lesser included offense of ~~capital~~  
25 *aggravated* murder as defined in ~~K.S.A. 2018 Supp. 21-5401 section 2,~~  
26 and amendments thereto. As set forth in subsection (b) of K.S.A. 2018  
27 Supp. 21-5109, and amendments thereto, there are no lesser included  
28 offenses of murder in the first degree under subsection (a)(2).

29 (e) The amendments to this section by chapter 96 of the 2013 Session  
30 Laws of Kansas establish a procedural rule for the conduct of criminal  
31 prosecutions and shall be construed and applied retroactively to all cases  
32 currently pending.

33 Sec. 6. K.S.A. 2018 Supp. 21-5419 is hereby amended to read as  
34 follows: 21-5419. (a) As used in this section:

35 (1) "Abortion" means an abortion as defined by K.S.A. 65-6701, and  
36 amendments thereto; and

37 (2) "unborn child" means a living individual organism of the species  
38 homo sapiens, in utero, at any stage of gestation from fertilization to birth.

39 (b) This section shall not apply to:

40 (1) Any act committed by the mother of the unborn child;

41 (2) any medical procedure, including abortion, performed by a  
42 physician or other licensed medical professional at the request of the  
43 pregnant woman or her legal guardian; or

1 (3) the lawful dispensation or administration of lawfully prescribed  
2 medication.

3 (c) As used in K.S.A. 2018 Supp. ~~21-5401~~, 21-5402, 21-5403, 21-  
4 5404, 21-5405, 21-5406 ~~and subsections (a) and (b) of~~, 21-5413(a) and (b)  
5 and section 2, and amendments thereto, "person" and "human being" also  
6 mean an unborn child.

7 (d) This section shall be known as Alexa's law.

8 Sec. 7. K.S.A. 2018 Supp. 21-6328 is hereby amended to read as  
9 follows: 21-6328. As used in the Kansas racketeer influenced and corrupt  
10 organization act:

11 (a) "Beneficial interest" means:

12 (1) The interest of a person as a beneficiary under any trust  
13 arrangement pursuant to which a trustee holds legal or record title to real  
14 property for the benefit of such person; or

15 (2) the interest of a person under any other form of express fiduciary  
16 arrangement pursuant to which any other person holds legal or record title  
17 to real property for the benefit of such person.

18 The term "beneficial interest" does not include the interest of a stock  
19 holder in a corporation or the interest of a partner in either a general  
20 partnership or a limited partnership. A beneficial interest shall be deemed  
21 to be located where the real property owned by the trustee is located.

22 (b) "Covered person" means any person who:

23 (1) Is a criminal street gang member or criminal street gang associate,  
24 as defined in K.S.A. 2018 Supp. 21-6313, and amendments thereto;

25 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.  
26 2018 Supp. 21-5426, and amendments thereto, human trafficking or  
27 aggravated human trafficking, or K.S.A. 2018 Supp. 21-6422, and  
28 amendments thereto, commercial sexual exploitation of a child; or

29 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.  
30 2018 Supp. 21-5703, and amendments thereto, unlawful manufacturing of  
31 controlled substances, or K.S.A. 2018 Supp. 21-5705, and amendments  
32 thereto, unlawful cultivation or distribution of controlled substances.

33 (c) "Documentary material" means any book, paper, document,  
34 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,  
35 computer printout, other data compilation from which information can be  
36 obtained or from which information can be translated into usable form, or  
37 other tangible item.

38 (d) "Enterprise" means any individual, sole proprietorship,  
39 partnership, corporation, business trust, union chartered under the laws of  
40 this state, or other legal entity, or any unchartered union, association, or  
41 group of individuals associated in fact although not a legal entity; and it  
42 includes illicit as well as licit enterprises and governmental, as well as  
43 other, entities. A criminal street gang, as defined in K.S.A. 2018 Supp. 21-

1 6313, and amendments thereto, constitutes an enterprise.

2 (e) "Pattern of racketeering activity" means engaging in at least two  
3 incidents of racketeering activity that have the same or similar intents,  
4 results, accomplices, victims or methods of commission or that otherwise  
5 are interrelated by distinguishing characteristics and are not isolated  
6 incidents, provided at least one of such incidents occurred after the  
7 effective date of this act and that the last of such incidents occurred within  
8 5 years, excluding any period of imprisonment, after a prior incident of  
9 racketeering activity.

10 (f) "Racketeering activity" means to commit, attempt to commit,  
11 conspire to commit or to solicit, coerce or intimidate another person to  
12 commit:

13 (1) Any felony or misdemeanor violation of: The felony provisions of  
14 K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a  
15 police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas  
16 money transmitter act; article 12a of chapter 17 of the Kansas Statutes  
17 Annotated, and amendments thereto, Kansas uniform securities act; ~~K.S.A.~~  
18 ~~2018 Supp. 21-5401~~ *section 2*, and amendments thereto, ~~capital~~  
19 *aggravated murder*; K.S.A. 2018 Supp. 21-5402, and amendments thereto,  
20 murder in the first degree; K.S.A. 2018 Supp. 21-5403, and amendments  
21 thereto, murder in the second degree; K.S.A. 2018 Supp. 21-5408, and  
22 amendments thereto, kidnapping or aggravated kidnapping; K.S.A. 2018  
23 Supp. 21-5412, and amendments thereto; K.S.A. 2018 Supp. 21-5413, and  
24 amendments thereto; K.S.A. 2018 Supp. 21-5414, and amendments  
25 thereto, domestic battery; K.S.A. 2018 Supp. 21-5415, and amendments  
26 thereto, criminal threat or aggravated criminal threat; K.S.A. 2018 Supp.  
27 21-5420, and amendments thereto, robbery or aggravated robbery; K.S.A.  
28 2018 Supp. 21-5421, and amendments thereto, terrorism; K.S.A. 2018  
29 Supp. 21-5422, and amendments thereto, illegal use of weapons of mass  
30 destruction; K.S.A. 2018 Supp. 21-5423, and amendments thereto; K.S.A.  
31 2018 Supp. 21-5426, and amendments thereto, human trafficking or  
32 aggravated human trafficking; K.S.A. 2018 Supp. 21-5428, and  
33 amendments thereto, blackmail; K.S.A. 2018 Supp. 21-5510, and  
34 amendments thereto, sexual exploitation of a child; K.S.A. 2018 Supp. 21-  
35 5601, and amendments thereto, endangering a child or aggravated  
36 endangering a child; K.S.A. 2018 Supp. 21-5602, and amendments thereto,  
37 abuse of a child; K.S.A. 2018 Supp. 21-5603, and amendments thereto,  
38 contributing to a child's misconduct or deprivation; K.S.A. 2018 Supp. 21-  
39 5607(b), and amendments thereto, furnishing alcoholic beverages to a  
40 minor for illicit purposes; article 57 of chapter 21 of the Kansas Statutes  
41 Annotated, and amendments thereto, crimes involving controlled  
42 substances; K.S.A. 2018 Supp. 21-5801, and amendments thereto, theft;  
43 K.S.A. 2018 Supp. 21-5803, and amendments thereto, criminal deprivation



1 of property; K.S.A. 2018 Supp. 21-5805, and amendments thereto; K.S.A.  
2 2018 Supp. 21-5807, and amendments thereto, burglary or aggravated  
3 burglary; K.S.A. 2018 Supp. 21-5812, and amendments thereto, arson or  
4 aggravated arson; K.S.A. 2018 Supp. 21-5813, and amendments thereto,  
5 criminal damage to property; K.S.A. 2018 Supp. 21-5814, and  
6 amendments thereto, criminal use of an explosive; K.S.A. 2018 Supp. 21-  
7 5818, and amendments thereto, tampering with a pipeline; K.S.A. 2018  
8 Supp. 21-5821, and amendments thereto, giving a worthless check; K.S.A.  
9 2018 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2018 Supp.  
10 21-5824, and amendments thereto, making false information; K.S.A. 2018  
11 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2018  
12 Supp. 21-5826, and amendments thereto, destroying written instrument;  
13 K.S.A. 2018 Supp. 21-5828, and amendments thereto, criminal use of a  
14 financial card; K.S.A. 2018 Supp. 21-5838, and amendments thereto,  
15 conducting a pyramid promotional scheme; K.S.A. 2018 Supp. 21-5839,  
16 and amendments thereto; K.S.A. 2018 Supp. 21-5903, and amendments  
17 thereto, perjury; K.S.A. 2018 Supp. 21-5904, and amendments thereto,  
18 interference with law enforcement; K.S.A. 2018 Supp. 21-5905, and  
19 amendments thereto, interference with the judicial process; K.S.A. 2018  
20 Supp. 21-5909, and amendments thereto, intimidation of a witness or  
21 victim or aggravated intimidation of a witness or victim; K.S.A. 2018  
22 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2018  
23 Supp. 21-5913, and amendments thereto, obstructing apprehension or  
24 prosecution; K.S.A. 2018 Supp. 21-5918, and amendments thereto; K.S.A.  
25 2018 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2018 Supp.  
26 21-6002, and amendments thereto, official misconduct; K.S.A. 2018 Supp.  
27 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2018  
28 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon;  
29 K.S.A. 2018 Supp. 21-6303, and amendments thereto, criminal  
30 distribution of firearms to a felon; K.S.A. 2018 Supp. 21-6304, and  
31 amendments thereto, criminal possession of a firearm by a convicted felon;  
32 K.S.A. 2018 Supp. 21-6305, and amendments thereto, aggravated weapons  
33 violation by a convicted felon; K.S.A. 2018 Supp. 21-6306, and  
34 amendments thereto, defacing identification marks of a firearm; K.S.A.  
35 2018 Supp. 21-6308, and amendments thereto, criminal discharge of a  
36 firearm; K.S.A. 2018 Supp. 21-6310, and amendments thereto, unlawful  
37 endangerment; K.S.A. 2018 Supp. 21-6312, and amendments thereto;  
38 K.S.A. 2018 Supp. 21-6314 and 21-6315, and amendments thereto; K.S.A.  
39 2018 Supp. 21-6401, and amendments thereto, promoting obscenity or  
40 promoting obscenity to minors; K.S.A. 2018 Supp. 21-6404, and  
41 amendments thereto, gambling; K.S.A. 2018 Supp. 21-6405, and  
42 amendments thereto, illegal bingo operation; K.S.A. 2018 Supp. 21-6406,  
43 and amendments thereto, commercial gambling; K.S.A. 2018 Supp. 21-

1 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2018  
 2 Supp. 21-6408, and amendments thereto; K.S.A. 2018 Supp. 21-6409, and  
 3 amendments thereto, installing communication facilities for gamblers;  
 4 K.S.A. 2018 Supp. 21-6414(a) or (b), and amendments thereto, unlawful  
 5 conduct of dog fighting or unlawful possession of dog fighting  
 6 paraphernalia; K.S.A. 2018 Supp. 21-6417(a) or (b), and amendments  
 7 thereto, unlawful conduct of cockfighting or unlawful possession of  
 8 cockfighting paraphernalia; K.S.A. 2018 Supp. 21-6419, and amendments  
 9 thereto, selling sexual relations; K.S.A. 2018 Supp. 21-6420, and  
 10 amendments thereto, promoting the sale of sexual relations; K.S.A. 2018  
 11 Supp. 21-6422, and amendments thereto, commercial sexual exploitation  
 12 of a child; K.S.A. 2018 Supp. 21-6501, and amendments thereto,  
 13 extortion; K.S.A. 2018 Supp. 21-6502, and amendments thereto, debt  
 14 adjusting; K.S.A. 2018 Supp. 21-6504, and amendments thereto, equity  
 15 skimming; K.S.A. 2018 Supp. 21-6506, and amendments thereto,  
 16 commercial bribery; K.S.A. 2018 Supp. 21-6507, and amendments thereto,  
 17 sports bribery; K.S.A. 2018 Supp. 21-6508, and amendments thereto,  
 18 tampering with a sports contest; K.S.A. 39-720, and amendments thereto,  
 19 social welfare service fraud; K.S.A. 40-2,118, and amendments thereto,  
 20 fraudulent insurance acts; K.S.A. 41-101 et seq., and amendments thereto,  
 21 Kansas liquor control act; K.S.A. 44-5,125, and amendments thereto,  
 22 workers' compensation act; K.S.A. 65-1657, and amendments thereto,  
 23 nonresident pharmacy registration; K.S.A. 65-3441, and amendments  
 24 thereto, hazardous waste; K.S.A. 65-4167, and amendments thereto,  
 25 trafficking in counterfeit drugs; article 88 of chapter 74 of the Kansas  
 26 Statutes Annotated, and amendments thereto, Kansas parimutuel racing  
 27 act; or K.S.A. 79-3321, and amendments thereto, Kansas cigarette and  
 28 tobacco products act; or

29 (2) any conduct defined as "racketeering activity" under 18 U.S.C. §  
 30 1961(1).

31 (g) "Real property" means any real property or any interest in such  
 32 real property, including, but not limited to, any lease of or mortgage upon  
 33 such real property.

34 (h) "Trustee" means:

35 (1) Any person acting as trustee pursuant to a trust in which the  
 36 trustee holds legal or record title to real property;

37 (2) any person who holds legal or record title to real property in  
 38 which any other person has a beneficial interest; or

39 (3) any successor trustee or trustees to any or all of the foregoing  
 40 persons.

41 The term "trustee" does not include any person appointed or acting as a  
 42 personal representative as defined in K.S.A. 59-102, and amendments  
 43 thereto, or appointed or acting as a trustee of any testamentary trust or as a

1 trustee of any indenture of trust under which any bonds have been or are to  
2 be issued.

3 (i) "Unlawful debt" means any money or other thing of value  
4 constituting principal or interest of a debt that is legally unenforceable in  
5 this state in whole or in part because the debt was incurred or contracted:

6 (1) In violation of any of the following provisions of law: Article 88  
7 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,  
8 Kansas parimutuel racing act; K.S.A. 2018 Supp. 21-6404, and  
9 amendments thereto, gambling; K.S.A. 2018 Supp. 21-6405, and  
10 amendments thereto, illegal bingo operation; K.S.A. 2018 Supp. 21-6406,  
11 and amendments thereto, commercial gambling; K.S.A. 2018 Supp. 21-  
12 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2018  
13 Supp. 21-6408, and amendments thereto, unlawful possession of a  
14 gambling device; or K.S.A. 2018 Supp. 21-6409, and amendments thereto,  
15 installing communication facilities for gamblers; or

16 (2) in gambling activity in violation of federal law or in the business  
17 of lending money at a rate usurious under state or federal law.

18 Sec. 8. K.S.A. 2018 Supp. 21-6614 is hereby amended to read as  
19 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)  
20 and (f), any person convicted in this state of a traffic infraction, cigarette  
21 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes  
22 committed on or after July 1, 1993, any nongrid felony or felony ranked in  
23 severity levels 6 through 10 of the nondrug grid, or for crimes committed  
24 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in  
25 severity level 4 of the drug grid, or for crimes committed on or after July  
26 1, 2012, any felony ranked in severity level 5 of the drug grid may petition  
27 the convicting court for the expungement of such conviction or related  
28 arrest records if three or more years have elapsed since the person: (A)  
29 Satisfied the sentence imposed; or (B) was discharged from probation, a  
30 community correctional services program, parole, postrelease supervision,  
31 conditional release or a suspended sentence.

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

37 (b) Any person convicted of prostitution, as defined in K.S.A. 21-  
38 3512, prior to its repeal, convicted of a violation of K.S.A. 2018 Supp. 21-  
39 6419, and amendments thereto, or who entered into a diversion agreement  
40 in lieu of further criminal proceedings for such violation, may petition the  
41 convicting court for the expungement of such conviction or diversion  
42 agreement and related arrest records if:

43 (1) One or more years have elapsed since the person satisfied the

1 sentence imposed or the terms of a diversion agreement or was discharged  
2 from probation, a community correctional services program, parole,  
3 postrelease supervision, conditional release or a suspended sentence; and

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

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

22 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its  
23 repeal, or K.S.A. 2018 Supp. 21-5406, and amendments thereto, or as  
24 prohibited by any law of another state which is in substantial conformity  
25 with that statute;

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

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

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

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

39 (6) failing to stop at the scene of an accident and perform the duties  
40 required by K.S.A. 8-1602, 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 (d) (1) No person may petition for expungement until five or more  
4 years have elapsed since the person satisfied the sentence imposed or the  
5 terms of a diversion agreement or was discharged from probation, a  
6 community correctional services program, parole, postrelease supervision,  
7 conditional release or a suspended sentence, if such person was convicted  
8 of a first violation of K.S.A. 8-1567, and amendments thereto, including  
9 any diversion for such violation.

10 (2) No person may petition for expungement until 10 or more years  
11 have elapsed since the person satisfied the sentence imposed or was  
12 discharged from probation, a community correctional services program,  
13 parole, postrelease supervision, conditional release or a suspended  
14 sentence, if such person was convicted of a second or subsequent violation  
15 of K.S.A. 8-1567, and amendments thereto.

16 (3) Except as provided further, the provisions of this subsection shall  
17 apply to all violations committed on or after July 1, 2006. The provisions  
18 of subsection (d)(2) shall not apply to violations committed on or after  
19 July 1, 2014, but prior to July 1, 2015.

20 (e) There shall be no expungement of convictions for the following  
21 offenses or of convictions for an attempt to commit any of the following  
22 offenses:

23 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
24 2018 Supp. 21-5503, and amendments thereto;

25 (2) indecent liberties with a child or aggravated indecent liberties  
26 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,  
27 or K.S.A. 2018 Supp. 21-5506, and amendments thereto;

28 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
29 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and  
30 amendments thereto;

31 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
32 to its repeal, or K.S.A. 2018 Supp. 21-5504, and amendments thereto;

33 (5) indecent solicitation of a child or aggravated indecent solicitation  
34 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,  
35 or K.S.A. 2018 Supp. 21-5508, and amendments thereto;

36 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
37 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;

38 (7) internet trading in child pornography or aggravated internet  
39 trading in child pornography, as defined in K.S.A. 2018 Supp. 21-5514,  
40 and amendments thereto;

41 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
42 repeal, or K.S.A. 2018 Supp. 21-5604, and amendments thereto;

43 (9) endangering a child or aggravated endangering a child, as defined

- 1 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2018 Supp.  
 2 21-5601, and amendments thereto;
- 3 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,  
 4 or K.S.A. 2018 Supp. 21-5602, and amendments thereto;
- 5 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
 6 or K.S.A. 2018 Supp. 21-5401, *prior to its repeal*;
- 7 (12) *aggravated murder as defined in section 2*, and amendments  
 8 thereto;
- 9 ~~(12)~~(13) murder in the first degree, as defined in K.S.A. 21-3401,  
 10 prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments  
 11 thereto;
- 12 ~~(13)~~(14) murder in the second degree, as defined in K.S.A. 21-3402,  
 13 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments  
 14 thereto;
- 15 ~~(14)~~(15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior  
 16 to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;
- 17 ~~(15)~~(16) involuntary manslaughter, as defined in K.S.A. 21-3404,  
 18 prior to its repeal, or K.S.A. 2018 Supp. 21-5405, and amendments  
 19 thereto;
- 20 ~~(16)~~(17) sexual battery, as defined in K.S.A. 21-3517, prior to its  
 21 repeal, or K.S.A. 2018 Supp. 21-5505, and amendments thereto, when the  
 22 victim was less than 18 years of age at the time the crime was committed;
- 23 ~~(17)~~(18) aggravated sexual battery, as defined in K.S.A. 21-3518,  
 24 prior to its repeal, or K.S.A. 2018 Supp. 21-5505, and amendments  
 25 thereto;
- 26 ~~(18)~~(19) a violation of K.S.A. 8-2,144, and amendments thereto,  
 27 including any diversion for such violation; or
- 28 ~~(19)~~(20) any conviction for any offense in effect at any time prior to  
 29 July 1, 2011, that is comparable to any offense as provided in this  
 30 subsection.
- 31 (f) Notwithstanding any other law to the contrary, for any offender  
 32 who is required to register as provided in the Kansas offender registration  
 33 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no  
 34 expungement of any conviction or any part of the offender's criminal  
 35 record while the offender is required to register as provided in the Kansas  
 36 offender registration act.
- 37 (g) (1) When a petition for expungement is filed, the court shall set a  
 38 date for a hearing of such petition and shall cause notice of such hearing to  
 39 be given to the prosecutor and the arresting law enforcement agency. The  
 40 petition shall state the:
- 41 (A) Defendant's full name;
- 42 (B) full name of the defendant at the time of arrest, conviction or  
 43 diversion, if different than the defendant's current name;

- 1 (C) defendant's sex, race and date of birth;  
2 (D) crime for which the defendant was arrested, convicted or  
3 diverted;  
4 (E) date of the defendant's arrest, conviction or diversion; and  
5 (F) identity of the convicting court, arresting law enforcement  
6 authority or diverting authority.

7 (2) Except as otherwise provided by law, a petition for expungement  
8 shall be accompanied by a docket fee in the amount of \$176. On and after  
9 July 1, 2017, through June 30, 2019, the supreme court may impose a  
10 charge, not to exceed \$19 per case, to fund the costs of non-judicial  
11 personnel. The charge established in this section shall be the only fee  
12 collected or moneys in the nature of a fee collected for the case. Such  
13 charge shall only be established by an act of the legislature and no other  
14 authority is established by law or otherwise to collect a fee.

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

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

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

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

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

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

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

1 sentence to be imposed;

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

4 (A) In any application for licensure as a private detective, private  
5 detective agency, certification as a firearms trainer pursuant to K.S.A.  
6 2018 Supp. 75-7b21, and amendments thereto, or employment as a  
7 detective with a private detective agency, as defined by K.S.A. 75-7b01,  
8 and amendments thereto; as security personnel with a private patrol  
9 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with  
10 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of  
11 the Kansas department for aging and disability services;

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

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

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

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

29 (F) upon application for a commercial driver's license under K.S.A.  
30 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

41 (K) for applications received on and after July 1, 2006, to aid in  
42 determining the petitioner's qualifications for a license to carry a concealed  
43 weapon pursuant to the personal and family protection act, K.S.A. 2018



1 Supp. 75-7c01 et seq., and amendments thereto; or

2 (L) for applications received on and after July 1, 2017, to aid in  
3 determining the petitioner's qualifications for a license to act as a bail  
4 enforcement agent pursuant to K.S.A. 2018 Supp. 75-7e01 through 75-  
5 7e09 and K.S.A. 2018 Supp. 50-6,141, and amendments thereto;

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

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

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

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

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

27 (2) Notwithstanding the provisions of subsection (k)(1), and except as  
28 provided in K.S.A. 2018 Supp. 21-6304(a)(3)(A), and amendments  
29 thereto, the expungement of a prior felony conviction does not relieve the  
30 individual of complying with any state or federal law relating to the use,  
31 shipment, transportation, receipt or possession of firearms by persons  
32 previously convicted of a felony.

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

38 (1) The person whose record was expunged;

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

43 (3) a court, upon a showing of a subsequent conviction of the person

1 whose record has been expunged;

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

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

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

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

43 (13) the Kansas securities commissioner or a designee of the

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

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

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

14 (16) the attorney general and the request is accompanied by a  
 15 statement that the request is being made to aid in determining  
 16 qualifications for a license to:

17 (A) Carry a concealed weapon pursuant to the personal and family  
 18 protection act; or

19 (B) act as a bail enforcement agent pursuant to K.S.A. 2018 Supp.  
 20 75-7e01 through 75-7e09 and K.S.A. 2018 Supp. 50-6,141, and  
 21 amendments thereto; or

22 (17) the Kansas bureau of investigation for the purposes of:

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

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

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

31 Sec. 9. K.S.A. 2018 Supp. 21-6618 is hereby amended to read as  
 32 follows: 21-6618. Upon conviction of a defendant of ~~capital aggravated~~  
 33 murder and a finding that the defendant was less than 18 years of age at  
 34 the time of the commission thereof, the court shall sentence the defendant  
 35 as otherwise provided by law, and no sentence of ~~death or~~ life without the  
 36 possibility of parole shall be imposed ~~hereunder~~.

37 Sec. 10. K.S.A. 2018 Supp. 21-6620 is hereby amended to read as  
 38 follows: 21-6620. (a) (1) Except as provided in subsection (a)(2) and  
 39 K.S.A. 2018 Supp. 21-6618 and 21-6622, and amendments thereto, if a  
 40 defendant is convicted of the crime of ~~capital murder and a sentence of~~  
 41 ~~death is not imposed pursuant to K.S.A. 2018 Supp. 21-6617(c), and~~  
 42 ~~amendments thereto, or requested pursuant to K.S.A. 2018 Supp. 21-~~  
 43 ~~6617(a) or (b), and amendments thereto aggravated murder~~, the defendant

1 shall be sentenced to life without the possibility of parole *pursuant to*  
2 *section 3, and amendments thereto.*

3 (2) (A) Except as provided in subsection (a)(2)(B), a defendant  
4 convicted of attempt to commit the crime of ~~capital~~ *aggravated* murder  
5 shall be sentenced to imprisonment for life and shall not be eligible for  
6 probation or suspension, modification or reduction of sentence. In  
7 addition, the defendant shall not be eligible for parole prior to serving 25  
8 years' imprisonment, and such 25 years' imprisonment shall not be reduced  
9 by the application of good time credits. No other sentence shall be  
10 permitted.

11 (B) The provisions of subsection (a)(2)(A) requiring the court to  
12 impose a mandatory minimum term of imprisonment of 25 years shall not  
13 apply if the court finds the defendant, because of the defendant's criminal  
14 history classification, would be subject to presumptive imprisonment  
15 pursuant to the sentencing guidelines grid for nondrug crimes and the  
16 sentencing range would exceed 300 months if the sentence established for  
17 a severity level 1 crime was imposed. In such case, the defendant is  
18 required to serve a mandatory minimum term equal to the sentence  
19 established for a severity level 1 crime pursuant to the sentencing range.  
20 The defendant shall not be eligible for parole prior to serving such  
21 mandatory minimum term of imprisonment, and such mandatory minimum  
22 term of imprisonment shall not be reduced by the application of good time  
23 credits. No other sentence shall be permitted.

24 (b) The provisions of this subsection shall apply only to the crime of  
25 murder in the first degree as described in K.S.A. 2018 Supp. 21-5402(a)  
26 (2), and amendments thereto, committed on or after July 1, 2014.

27 (1) Except as provided in subsection (b)(2), a defendant convicted of  
28 murder in the first degree as described in K.S.A. 2018 Supp. 21-5402(a)  
29 (2), and amendments thereto, shall be sentenced to imprisonment for life  
30 and shall not be eligible for probation or suspension, modification or  
31 reduction of sentence. In addition, the defendant shall not be eligible for  
32 parole prior to serving 25 years' imprisonment, and such 25 years'  
33 imprisonment shall not be reduced by the application of good time credits.  
34 No other sentence shall be permitted.

35 (2) The provisions of subsection (b)(1) requiring the court to impose  
36 a mandatory minimum term of imprisonment of 25 years shall not apply if  
37 the court finds the defendant, because of the defendant's criminal history  
38 classification, would be subject to presumptive imprisonment pursuant to  
39 the sentencing guidelines grid for nondrug crimes and the sentencing range  
40 would exceed 300 months if the sentence established for a severity level 1  
41 crime was imposed. In such case, the defendant is required to serve a  
42 mandatory minimum term equal to the sentence established for a severity  
43 level 1 crime pursuant to the sentencing range. The defendant shall not be

1 eligible for parole prior to serving such mandatory minimum term of  
2 imprisonment, and such mandatory minimum term of imprisonment shall  
3 not be reduced by the application of good time credits. No other sentence  
4 shall be permitted.

5 (c) The provisions of this subsection shall apply only to the crime of  
6 murder in the first degree based upon the finding of premeditated murder  
7 committed on or after July 1, 2014.

8 (1) (A) Except as provided in subsection (c)(1)(B), a defendant  
9 convicted of murder in the first degree based upon the finding of  
10 premeditated murder shall be sentenced pursuant to K.S.A. 2018 Supp. 21-  
11 6623, and amendments thereto, unless the sentencing judge finds  
12 substantial and compelling reasons, following a review of mitigating  
13 circumstances, to impose the sentence specified in subsection (c)(2).

14 (B) The provisions of subsection (c)(1)(A) requiring the court to  
15 impose the mandatory minimum term of imprisonment required by K.S.A.  
16 2018 Supp. 21-6623, and amendments thereto, shall not apply if the court  
17 finds the defendant, because of the defendant's criminal history  
18 classification, would be subject to presumptive imprisonment pursuant to  
19 the sentencing guidelines grid for nondrug crimes and the sentencing range  
20 would exceed 600 months if the sentence established for a severity level 1  
21 crime was imposed. In such case, the defendant is required to serve a  
22 mandatory minimum term equal to the sentence established for a severity  
23 level 1 crime pursuant to the sentencing range. The defendant shall not be  
24 eligible for parole prior to serving such mandatory minimum term of  
25 imprisonment, and such mandatory minimum term of imprisonment shall  
26 not be reduced by the application of good time credits. No other sentence  
27 shall be permitted.

28 (2) (A) If the sentencing judge does not impose the mandatory  
29 minimum term of imprisonment required by K.S.A. 2018 Supp. 21-6623,  
30 and amendments thereto, the judge shall state on the record at the time of  
31 sentencing the substantial and compelling reasons therefor, and, except as  
32 provided in subsection (c)(2)(B), the defendant shall be sentenced to  
33 imprisonment for life and shall not be eligible for probation or suspension,  
34 modification or reduction of sentence. In addition, the defendant shall not  
35 be eligible for parole prior to serving 25 years' imprisonment, and such 25  
36 years' imprisonment shall not be reduced by the application of good time  
37 credits. No other sentence shall be permitted.

38 (B) The provisions of subsection (c)(2)(A) requiring the court to  
39 impose a mandatory minimum term of imprisonment of 25 years shall not  
40 apply if the court finds the defendant, because of the defendant's criminal  
41 history classification, would be subject to presumptive imprisonment  
42 pursuant to the sentencing guidelines grid for nondrug crimes and the  
43 sentencing range would exceed 300 months if the sentence established for

1 a severity level 1 crime was imposed. In such case, the defendant is  
2 required to serve a mandatory minimum term equal to the sentence  
3 established for a severity level 1 crime pursuant to the sentencing range.  
4 The defendant shall not be eligible for parole prior to serving such  
5 mandatory minimum term of imprisonment, and such mandatory minimum  
6 term of imprisonment shall not be reduced by the application of good time  
7 credits. No other sentence shall be permitted.

8 (d) The provisions of this subsection shall apply only to the crime of  
9 murder in the first degree based upon the finding of premeditated murder  
10 committed on or after September 6, 2013, but prior to July 1, 2014.

11 (1) If a defendant is convicted of murder in the first degree based  
12 upon the finding of premeditated murder, upon reasonable notice by the  
13 prosecuting attorney, the court shall determine, in accordance with this  
14 subsection, whether the defendant shall be required to serve a mandatory  
15 minimum term of imprisonment of 50 years or sentenced as otherwise  
16 provided by law.

17 (2) The court shall conduct a separate proceeding following the  
18 determination of the defendant's guilt for the jury to determine whether  
19 one or more aggravating circumstances exist. Such proceeding shall be  
20 conducted by the court before a jury as soon as practicable. If any person  
21 who served on the trial jury is unable to serve on the jury for the  
22 proceeding, the court shall substitute an alternate juror who has been  
23 impaneled for the trial jury. If there are insufficient alternate jurors to  
24 replace trial jurors who are unable to serve at the proceeding, the court  
25 may conduct such proceeding before a jury ~~which~~ *that* may have 12 or ~~less~~  
26 *fewer* jurors, but at no time less than six jurors. If the jury has been  
27 discharged prior to the proceeding, a new jury shall be impaneled. Any  
28 decision of the jury regarding the existence of an aggravating circumstance  
29 shall be beyond a reasonable doubt. Jury selection procedures,  
30 qualifications of jurors and grounds for exemption or challenge of  
31 prospective jurors in criminal trials shall be applicable to the selection of  
32 such jury. The jury at the proceeding may be waived in the manner  
33 provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial  
34 jury. If the jury at the proceeding has been waived, such proceeding shall  
35 be conducted by the court.

36 (3) In the proceeding, evidence may be presented concerning any  
37 matter relating to any of the aggravating circumstances enumerated in  
38 K.S.A. 2018 Supp. 21-6624, and amendments thereto. Only such evidence  
39 of aggravating circumstances as the prosecuting attorney has made known  
40 to the defendant prior to the proceeding shall be admissible and no  
41 evidence secured in violation of the constitution of the United States or of  
42 the state of Kansas shall be admissible. No testimony by the defendant at  
43 the time of the proceeding shall be admissible against the defendant at any

1 subsequent criminal proceeding. At the conclusion of the evidentiary  
2 presentation, the court shall allow the parties a reasonable period of time in  
3 which to present oral argument.

4 (4) At the conclusion of the evidentiary portion of the proceeding, the  
5 court shall provide oral and written instructions to the jury to guide its  
6 deliberations. If the prosecuting attorney relies on K.S.A. 2018 Supp. 21-  
7 6624(a), and amendments thereto, as an aggravating circumstance, and the  
8 court finds that one or more of the defendant's prior convictions satisfy  
9 such subsection, the jury shall be instructed that a certified journal entry of  
10 a prior conviction is presumed to prove the existence of such prior  
11 conviction or convictions beyond a reasonable doubt.

12 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt  
13 that one or more of the aggravating circumstances enumerated in K.S.A.  
14 2018 Supp. 21-6624, and amendments thereto, exist, the jury shall  
15 designate, in writing, signed by the foreman of the jury, the statutory  
16 aggravating circumstances ~~which~~ that it found. If, after a reasonable time  
17 for deliberation, the jury is unable to reach a unanimous sentencing  
18 decision, the court shall dismiss the jury and the defendant shall be  
19 sentenced as provided by law. In nonjury cases, the court shall designate,  
20 in writing, the specific circumstance or circumstances ~~which~~ that the court  
21 found beyond a reasonable doubt.

22 (6) If one or more of the aggravating circumstances enumerated in  
23 K.S.A. 2018 Supp. 21-6624, and amendments thereto, are found to exist  
24 beyond a reasonable doubt pursuant to this subsection, the defendant shall  
25 be sentenced pursuant to K.S.A. 2018 Supp. 21-6623, and amendments  
26 thereto, unless the sentencing judge finds substantial and compelling  
27 reasons, following a review of mitigating circumstances, to impose the  
28 sentence specified in this paragraph. If the sentencing judge does not  
29 impose the mandatory minimum term of imprisonment required by K.S.A.  
30 2018 Supp. 21-6623, and amendments thereto, the judge shall state on the  
31 record at the time of sentencing the substantial and compelling reasons  
32 therefor, and the defendant shall be sentenced to imprisonment for life and  
33 shall not be eligible for probation or suspension, modification or reduction  
34 of sentence. In addition, the defendant shall not be eligible for parole prior  
35 to serving 25 years' imprisonment, and such 25 years' imprisonment shall  
36 not be reduced by the application of good time credits. No other sentence  
37 shall be permitted.

38 (e) The provisions of this subsection shall apply only to the crime of  
39 murder in the first degree based upon the finding of premeditated murder  
40 committed prior to September 6, 2013.

41 (1) If a defendant is convicted of murder in the first degree based  
42 upon the finding of premeditated murder, upon reasonable notice by the  
43 prosecuting attorney, the court shall conduct a separate sentencing

1 proceeding in accordance with this subsection to determine whether the  
2 defendant shall be required to serve a mandatory minimum term of  
3 imprisonment of 40 years or for crimes committed on and after July 1,  
4 1999, a mandatory minimum term of imprisonment of 50 years or  
5 sentenced as otherwise provided by law.

6 (2) The sentencing proceeding shall be conducted by the court before  
7 a jury as soon as practicable. If the trial jury has been discharged prior to  
8 sentencing, a new jury shall be impaneled. Any decision to impose a  
9 mandatory minimum term of imprisonment of 40 or 50 years shall be by a  
10 unanimous jury. Jury selection procedures, qualifications of jurors and  
11 grounds for exemption or challenge of prospective jurors in criminal trials  
12 shall be applicable to the selection of such jury. The jury at the sentencing  
13 proceeding may be waived in the manner provided by K.S.A. 22-3403, and  
14 amendments thereto, for waiver of a trial jury. If the jury at the sentencing  
15 proceeding has been waived, such proceeding shall be conducted by the  
16 court.

17 (3) In the sentencing proceeding, evidence may be presented  
18 concerning any matter that the court deems relevant to the question of  
19 sentence and shall include matters relating to any of the aggravating  
20 circumstances enumerated in K.S.A. 2018 Supp. 21-6624, and  
21 amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.  
22 21-4636, prior to its repeal, and any mitigating circumstances. Any such  
23 evidence—~~which~~ that the court deems to have probative value may be  
24 received regardless of its admissibility under the rules of evidence,  
25 provided that the defendant is accorded a fair opportunity to rebut any  
26 hearsay statements. Only such evidence of aggravating circumstances as  
27 the prosecuting attorney has made known to the defendant prior to the  
28 sentencing proceeding shall be admissible and no evidence secured in  
29 violation of the constitution of the United States or of the state of Kansas  
30 shall be admissible. Only such evidence of mitigating circumstances  
31 subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto,  
32 that the defendant has made known to the prosecuting attorney prior to the  
33 sentencing proceeding shall be admissible. No testimony by the defendant  
34 at the time of sentencing shall be admissible against the defendant at any  
35 subsequent criminal proceeding. At the conclusion of the evidentiary  
36 presentation, the court shall allow the parties a reasonable period of time in  
37 which to present oral argument.

38 (4) At the conclusion of the evidentiary portion of the sentencing  
39 proceeding, the court shall provide oral and written instructions to the jury  
40 to guide its deliberations. If the prosecuting attorney relies on K.S.A. 2018  
41 Supp. 21-6624(a), and amendments thereto, or for crimes committed prior  
42 to July 1, 2011, K.S.A. 21-4636(a), prior to its repeal, as an aggravating  
43 circumstance, and the court finds that one or more of the defendant's prior



1 convictions satisfy such subsection, the jury shall be instructed that a  
2 certified journal entry of a prior conviction is presumed to prove the  
3 existence of such prior conviction or convictions beyond a reasonable  
4 doubt.

5 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt  
6 that one or more of the aggravating circumstances enumerated in K.S.A.  
7 2018 Supp. 21-6624, and amendments thereto, or for crimes committed  
8 prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further,  
9 that the existence of such aggravating circumstances is not outweighed by  
10 any mitigating circumstances ~~which~~ *that* are found to exist, the defendant  
11 shall be sentenced pursuant to K.S.A. 2018 Supp. 21-6623, and  
12 amendments thereto; otherwise, the defendant shall be sentenced as  
13 provided by law. The sentencing jury shall designate, in writing, signed by  
14 the foreman of the jury, the statutory aggravating circumstances ~~which~~  
15 *that* it found. ~~The trier of fact may make the findings required by this~~  
16 ~~subsection for the purpose of determining whether to sentence a defendant~~  
17 ~~pursuant to K.S.A. 2018 Supp. 21-6623, and amendments thereto,~~  
18 ~~notwithstanding contrary findings made by the jury or court pursuant to~~  
19 ~~K.S.A. 2018 Supp. 21-6617(e), and amendments thereto, for the purpose~~  
20 ~~of determining whether to sentence such defendant to death.~~ If, after a  
21 reasonable time for deliberation, the jury is unable to reach a unanimous  
22 sentencing decision, the court shall dismiss the jury and the defendant  
23 shall be sentenced as provided by law. In nonjury cases, the court shall  
24 designate in writing the specific circumstance or circumstances ~~which~~ *that*  
25 the court found beyond a reasonable doubt.

26 (f) The amendments to subsection (e) by chapter 1 of the 2013  
27 Session Laws of Kansas (Special Session):

28 (1) Establish a procedural rule for sentencing proceedings, and as  
29 such shall be construed and applied retroactively to all crimes committed  
30 prior to the effective date of this act, except as provided further in this  
31 subsection; (2) shall not apply to cases in which the defendant's conviction  
32 and sentence were final prior to June 17, 2013, unless the conviction or  
33 sentence has been vacated in a collateral proceeding, including, but not  
34 limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3)  
35 shall apply only in sentencing proceedings otherwise authorized by law.

36 (g) Notwithstanding the provisions of subsection (h), for all cases on  
37 appeal on or after September 6, 2013, if a sentence imposed under this  
38 section, prior to amendment by chapter 1 of the 2013 Session Laws of  
39 Kansas (Special Session), or under K.S.A. 21-4635, prior to its repeal, is  
40 vacated for any reason other than sufficiency of the evidence as to all  
41 aggravating circumstances, resentencing shall be required under this  
42 section, as amended by chapter 1 of the 2013 Session Laws of Kansas  
43 (Special Session), unless the prosecuting attorney chooses not to pursue

1 such a sentence.

2 (h) In the event any sentence imposed under this section is held to be  
3 unconstitutional, the court having jurisdiction over a person previously  
4 sentenced shall cause such person to be brought before the court and shall  
5 sentence such person to the maximum term of imprisonment otherwise  
6 provided by law.

7 (i) If any provision or provisions of this section or the application  
8 thereof to any person or circumstance is held invalid, the invalidity shall  
9 not affect other provisions or applications of this section ~~which~~ that can be  
10 given effect without the invalid provision or provisions or application, and  
11 to this end the provisions of this section are severable.

12 Sec. 11. K.S.A. 2018 Supp. 21-6622 is hereby amended to read as  
13 follows: 21-6622. (a) ~~If, under K.S.A. 2018 Supp. 21-6617, and~~  
14 ~~amendments thereto, the county or district attorney has filed a notice of~~  
15 ~~intent to request a separate sentencing proceeding to determine whether~~  
16 ~~the defendant should be sentenced to death and the defendant is convicted~~  
17 ~~of the crime of capital murder, the defendant's counsel or the warden of the~~  
18 ~~correctional institution or sheriff having custody of the defendant may~~  
19 ~~request a determination by the court of whether the defendant is a person~~  
20 ~~with intellectual disability. If the court determines that there is not~~  
21 ~~sufficient reason to believe that the defendant is a person with intellectual~~  
22 ~~disability, the court shall so find and the defendant shall be sentenced in~~  
23 ~~accordance with K.S.A. 2018 Supp. 21-6617, 21-6619, 21-6624, 21-6625,~~  
24 ~~21-6628 and 21-6629, and amendments thereto. If the court determines~~  
25 ~~that there is sufficient reason to believe that the defendant is a person with~~  
26 ~~intellectual disability, the court shall conduct a hearing to determine~~  
27 ~~whether the defendant is a person with intellectual disability.~~

28 (b) ~~If a defendant is convicted of the crime of capital murder and a~~  
29 ~~sentence of death is not imposed~~ *aggravated murder*, or if a defendant is  
30 convicted of the crime of murder in the first degree based upon the finding  
31 of premeditated murder, the defendant's counsel or the warden of the  
32 correctional institution or sheriff having custody of the defendant may  
33 request a determination by the court of whether the defendant is a person  
34 with intellectual disability. If the court determines that there is not  
35 sufficient reason to believe that the defendant is a person with intellectual  
36 disability, the court shall so find and the defendant shall be sentenced in  
37 accordance with K.S.A. 2018 Supp. 21-6620, 21-6623, 21-6624 and 21-  
38 6625, and amendments thereto. If the court determines that there is  
39 sufficient reason to believe that the defendant is a person with intellectual  
40 disability, the court shall conduct a hearing to determine whether the  
41 defendant is a person with intellectual disability.

42 (e)(b) At the hearing, the court shall determine whether the defendant  
43 is a person with intellectual disability. The court shall order a psychiatric

1 or psychological examination of the defendant. For that purpose, the court  
2 shall appoint two licensed physicians or licensed psychologists, or one of  
3 each, qualified by training and practice to make such examination, to  
4 examine the defendant and report their findings in writing to the judge  
5 within 14 days after the order of examination is issued. The defendant  
6 shall have the right to present evidence and cross-examine any witnesses at  
7 the hearing. No statement made by the defendant in the course of any  
8 examination provided for by this section, whether or not the defendant  
9 consents to the examination, shall be admitted in evidence against the  
10 defendant in any criminal proceeding.

11 ~~(d) If, at the conclusion of a hearing pursuant to subsection (a), the~~  
12 ~~court determines that the defendant is not a person with intellectual~~  
13 ~~disability, the defendant shall be sentenced in accordance with K.S.A.~~  
14 ~~2018 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629,~~  
15 ~~and amendments thereto.~~

16 ~~(e)(c) If, at the conclusion of a hearing pursuant to subsection (b) this~~  
17 ~~section, the court determines that the defendant is not a person with~~  
18 ~~intellectual disability, the defendant shall be sentenced in accordance with~~  
19 ~~K.S.A. 2018 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and~~  
20 ~~amendments thereto.~~

21 ~~(f)(d) If, at the conclusion of a hearing pursuant to this section, the~~  
22 ~~court determines that the defendant is a person with intellectual disability,~~  
23 ~~the court shall sentence the defendant as otherwise provided by law, and~~  
24 ~~no sentence of death, life without the possibility of parole, or mandatory~~  
25 ~~term of imprisonment pursuant to K.S.A. 2018 Supp. 21-6623, 21-6624~~  
26 ~~and 21-6625, and amendments thereto, shall be imposed hereunder.~~

27 ~~(g) Unless otherwise ordered by the court for good cause shown, the~~  
28 ~~provisions of subsection (b) shall not apply if it has been determined,~~  
29 ~~pursuant to a hearing granted under the provisions of subsection (a), that~~  
30 ~~the defendant is not a person with intellectual disability.~~

31 ~~(h)(e) As used in this section, "intellectual disability" means having~~  
32 ~~significantly subaverage general intellectual functioning, as defined by~~  
33 ~~K.S.A. 76-12b01, and amendments thereto, to an extent which~~  
34 ~~substantially impairs one's capacity to appreciate the criminality of one's~~  
35 ~~conduct or to conform one's conduct to the requirements of law.~~

36 Sec. 12. K.S.A. 2018 Supp. 21-6628 is hereby amended to read as  
37 follows: 21-6628. (a) In the event the term of imprisonment for life  
38 without the possibility of parole or any provision of K.S.A. 2018 Supp. 21-  
39 6626 or 21-6627, and amendments thereto, authorizing such term is held to  
40 be unconstitutional by the supreme court of Kansas or the United States  
41 supreme court, the court having jurisdiction over a person previously  
42 sentenced shall cause such person to be brought before the court and shall  
43 modify the sentence to require no term of imprisonment for life without

1 the possibility of parole and shall sentence the defendant to the maximum  
2 term of imprisonment otherwise provided by law.

3 ~~(b) In the event a sentence of death or any provision of chapter 252 of~~  
4 ~~the 1994 Session Laws of Kansas authorizing such sentence is held to be~~  
5 ~~unconstitutional by the supreme court of Kansas or the United States~~  
6 ~~supreme court, the court having jurisdiction over a person previously~~  
7 ~~sentenced shall cause such person to be brought before the court and shall~~  
8 ~~modify the sentence and resentence the defendant as otherwise provided~~  
9 ~~by law.~~

10 (e) In the event the mandatory term of imprisonment or any provision  
11 of chapter 341 of the 1994 Session Laws of Kansas authorizing such  
12 mandatory term is held to be unconstitutional by the supreme court of  
13 Kansas or the United States supreme court, the court having jurisdiction  
14 over a person previously sentenced shall cause such person to be brought  
15 before the court and shall modify the sentence to require no mandatory  
16 term of imprisonment and shall sentence the defendant as otherwise  
17 provided by law.

18 Sec. 13. K.S.A. 2018 Supp. 21-6629 is hereby amended to read as  
19 follows: 21-6629. (a) The provisions of K.S.A. 21-4622 through 21-4630,  
20 as they existed immediately prior to July 1, 1994, shall be applicable only  
21 to persons convicted of crimes committed on or after July 1, 1990, and  
22 before July 1, 1994.

23 (b) The provisions of K.S.A. 21-4622 through 21-4627 and 21-4629  
24 and 21-4630, as amended on July 1, 1994 and prior to their repeal, and  
25 K.S.A. 2018 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-  
26 6625 and ~~subsection (b) of 21-6628(b), and amendments thereto as they~~  
27 ~~existed immediately prior to July 1, 2019,~~ shall be applicable only to  
28 persons convicted of crimes committed on or after July 1, 1994, *and*  
29 *before July 1, 2019.*

30 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.  
31 2018 Supp. 21-6620 through 21-6625 and ~~subsection (e) of 21-6628(c),~~  
32 ~~and amendments thereto as they existed immediately prior to July 1, 2019,~~  
33 shall be applicable only to persons convicted of crimes committed on or  
34 after July 1, 1994, *and before July 1, 2019.*

35 (d) *The provisions of K.S.A. 2018 Supp. 21-6618, 21-6620, 21-6622*  
36 *and 21-6628, as amended on July 1, 2019, and K.S.A. 2018 Supp. 21-*  
37 *6621, 21-6623, 21-6624 and 21-6625, and amendments thereto, shall be*  
38 *applicable only to persons convicted of crimes committed on or after July*  
39 *1, 2019.*

40 Sec. 14. K.S.A. 2018 Supp. 21-6806 is hereby amended to read as  
41 follows: 21-6806. (a) Sentences of imprisonment shall represent the time a  
42 person shall actually serve, subject to a reduction of the primary sentence  
43 for good time as authorized by K.S.A. 2018 Supp. 21-6821, and

1 amendments thereto.

2 (b) The sentencing court shall pronounce sentence in all felony cases.

3 (c) Violations of K.S.A. 2018 Supp. ~~21-5401~~, 21-5402, 21-5421, 21-  
4 5422 and 21-5901, and amendments thereto, are off-grid crimes for the  
5 purpose of sentencing. Except as otherwise provided by K.S.A. 2018  
6 Supp. ~~21-6617~~, 21-6618, ~~21-6619~~, 21-6622, 21-6624, 21-6625, 21-6628  
7 and 21-6629, and amendments thereto, the sentence shall be imprisonment  
8 for life and shall not be subject to statutory provisions for suspended  
9 sentence, community service or probation.

10 (d) As identified in K.S.A. 2018 Supp. 21-5426, 21-5503, 21-5504,  
11 21-5506, 21-5510, 21-5514 and 21-6422, and amendments thereto, if the  
12 offender is 18 years of age or older and the victim is under 14 years of age,  
13 such violations are off-grid crimes for the purposes of sentencing. Except  
14 as provided in K.S.A. 2018 Supp. 21-6626, and amendments thereto, the  
15 sentence shall be imprisonment for life pursuant to K.S.A. 2018 Supp. 21-  
16 6627, and amendments thereto.

17 (e) *A violation of section 2, and amendments thereto, is an off-grid*  
18 *crime for the purposes of sentencing. Except as provided in K.S.A. 2018*  
19 *Supp. 21-6618 and 21-6622, and amendments thereto, the sentence shall*  
20 *be imprisonment for life without the possibility of parole pursuant to*  
21 *section 3, and amendments thereto.*

22 Sec. 15. K.S.A. 2018 Supp. 22-2512 is hereby amended to read as  
23 follows: 22-2512. (a) Property seized under a search warrant or validly  
24 seized without a warrant shall be safely kept by the officer seizing the  
25 same unless otherwise directed by the magistrate, and shall be so kept as  
26 long as necessary for the purpose of being produced as evidence on any  
27 trial. The property seized may not be taken from the officer having it in  
28 custody so long as it is or may be required as evidence in any trial. The  
29 officer seizing the property shall give a receipt to the person detained or  
30 arrested particularly describing each article of property being held and  
31 shall file a copy of such receipt with the magistrate before whom the  
32 person detained or arrested is taken. Where seized property is no longer  
33 required as evidence in the prosecution of any indictment or information,  
34 the court which has jurisdiction of such property may transfer the same to  
35 the jurisdiction of any other court, including courts of another state or  
36 federal courts, where it is shown to the satisfaction of the court that such  
37 property is required as evidence in any prosecution in such other court.

38 (b) (1) Notwithstanding the provisions of subsection (a) and with the  
39 approval of the affected court, any law enforcement officer who seizes  
40 hazardous materials as evidence related to a criminal investigation may  
41 collect representative samples of such hazardous materials, and lawfully  
42 destroy or dispose of, or direct another person to lawfully destroy or  
43 dispose of the remaining quantity of such hazardous materials.

1 (2) In any prosecution, representative samples of hazardous materials  
2 accompanied by photographs, videotapes, laboratory analysis reports or  
3 other means used to verify and document the identity and quantity of the  
4 material shall be deemed competent evidence of such hazardous materials  
5 and shall be admissible in any proceeding, hearing or trial as if such  
6 materials had been introduced as evidence.

7 (3) As used in this section, the term "hazardous materials" means any  
8 substance which is capable of posing an unreasonable risk to health, safety  
9 and property. It shall include any substance which by its nature is  
10 explosive, flammable, corrosive, poisonous, radioactive, a biological  
11 hazard or a material which may cause spontaneous combustion. It shall  
12 include, but not be limited to, substances listed in the table of hazardous  
13 materials contained in the code of federal regulations title 49 and national  
14 fire protection association's fire protection guide on hazardous materials.

15 (4) The provisions of this subsection shall not apply to ammunition  
16 and components thereof.

17 (c) When property seized is no longer required as evidence, it shall be  
18 disposed of as follows:

19 (1) Property stolen, embezzled, obtained by false pretenses, or  
20 otherwise obtained unlawfully from the rightful owner thereof shall be  
21 restored to the owner;

22 (2) money shall be restored to the owner unless it was contained in a  
23 slot machine or otherwise used in unlawful gambling or lotteries, in which  
24 case it shall be forfeited, and shall be paid to the state treasurer pursuant to  
25 K.S.A. 20-2801, and amendments thereto;

26 (3) property which is unclaimed or the ownership of which is  
27 unknown shall be sold at public auction to be held by the sheriff and the  
28 proceeds, less the cost of sale and any storage charges incurred in  
29 preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-  
30 2801, and amendments thereto;

31 (4) articles of contraband shall be destroyed, except that any such  
32 articles the disposition of which is otherwise provided by law shall be  
33 dealt with as so provided and any such articles the disposition of which is  
34 not otherwise provided by law and which may be capable of innocent use  
35 may in the discretion of the court be sold and the proceeds disposed of as  
36 provided in subsection (c)(3);

37 (5) explosives, bombs and like devices, which have been used in the  
38 commission of crime, may be returned to the rightful owner, or in the  
39 discretion of the court having jurisdiction of the property, destroyed or  
40 forfeited to the Kansas bureau of investigation;

41 (6) (A) except as provided in subsections (c)(6)(B) and (d), any  
42 weapon or ammunition, in the discretion of the court having jurisdiction of  
43 the property, shall be:

1 (i) Forfeited to the law enforcement agency seizing the weapon for  
2 use within such agency, for sale to a properly licensed federal firearms  
3 dealer, for trading to a properly licensed federal firearms dealer for other  
4 new or used firearms or accessories for use within such agency or for  
5 trading to another law enforcement agency for that agency's use;

6 (ii) forfeited to the Kansas bureau of investigation for law  
7 enforcement, testing or comparison by the Kansas bureau of investigation  
8 forensic laboratory;

9 (iii) forfeited to a county regional forensic science center, or other  
10 county forensic laboratory for testing, comparison or other forensic  
11 science purposes; or

12 (iv) forfeited to the Kansas department of wildlife, parks and tourism  
13 for use pursuant to the conditions set forth in K.S.A. 32-1047, and  
14 amendments thereto.

15 (B) Except as provided in subsection (d), any weapon which cannot  
16 be forfeited pursuant to subsection (c)(6)(A) due to the condition of the  
17 weapon, and any weapon which was used in the commission of a felony as  
18 described in K.S.A. 2018 Supp. 21-5401, *prior to its repeal*, K.S.A. 2018  
19 *Supp. 21-5402, 21-5403, 21-5404—~~or~~, 21-5405 or section 2*, and  
20 amendments thereto, shall be destroyed.

21 (7) controlled substances forfeited for violations of K.S.A. 2018  
22 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt  
23 with as provided under K.S.A. 60-4101 through 60-4126, and amendments  
24 thereto;

25 (8) unless otherwise provided by law, all other property shall be  
26 disposed of in such manner as the court in its sound discretion shall direct.

27 (d) If a weapon is seized from an individual and the individual is not  
28 convicted of or adjudicated as a juvenile offender for the violation for  
29 which the weapon was seized, then within 30 days after the declination or  
30 conclusion of prosecution of the case against the individual, including any  
31 period of appeal, the law enforcement agency that seized the weapon shall  
32 verify that the weapon is not stolen, and upon such verification shall notify  
33 the person from whom it was seized that the weapon may be retrieved.  
34 Such notification shall include the location where such weapon may be  
35 retrieved.

36 (e) If weapons are sold as authorized by subsection (c)(6)(A), the  
37 proceeds of the sale shall be credited to the asset seizure and forfeiture  
38 fund of the seizing agency.

39 (f) For purposes of this section, the term "weapon" means a weapon  
40 described in K.S.A. 2018 Supp. 21-6301, and amendments thereto.

41 Sec. 16. K.S.A. 2018 Supp. 22-3717 is hereby amended to read as  
42 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.  
43 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through

1 21-4638 and 21-4642, prior to their repeal; K.S.A. 2018 Supp. 21-6617,  
2 *prior to its repeal*, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and  
3 amendments thereto; and K.S.A. 8-1567, and amendments thereto; *section*  
4 *3, and amendments thereto*, an inmate, including an inmate sentenced  
5 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2018 Supp. 21-  
6 6707, and amendments thereto, shall be eligible for parole after serving the  
7 entire minimum sentence imposed by the court, less good time credits.

8 (b) (1) An inmate sentenced to imprisonment for life without the  
9 possibility of parole pursuant to K.S.A. 2018 Supp. 21-6617, and  
10 amendments thereto, shall not be eligible for parole.

11 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to  
12 their repeal, and K.S.A. 2018 Supp. 21-6620, 21-6623, 21-6624 and 21-  
13 6625, and amendments thereto, an inmate sentenced to imprisonment for  
14 the crime of: (A) Capital murder committed on or after July 1, 1994, shall  
15 be eligible for parole after serving 25 years of confinement, without  
16 deduction of any good time credits; (B) murder in the first degree based  
17 upon a finding of premeditated murder committed on or after July 1, 1994,  
18 but prior to July 1, 2014, shall be eligible for parole after serving 25 years  
19 of confinement, without deduction of any good time credits; and (C)  
20 murder in the first degree as described in K.S.A. 2018 Supp. 21-5402(a)  
21 (2), and amendments thereto, committed on or after July 1, 2014, shall be  
22 eligible for parole after serving 25 years of confinement, without  
23 deduction of any good time credits.

24 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),  
25 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through  
26 21-4638, prior to their repeal, and K.S.A. 2018 Supp. 21-6620, 21-6623,  
27 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to  
28 imprisonment for an off-grid offense committed on or after July 1, 1993,  
29 but prior to July 1, 1999, shall be eligible for parole after serving 15 years  
30 of confinement, without deduction of any good time credits and an inmate  
31 sentenced to imprisonment for an off-grid offense committed on or after  
32 July 1, 1999, shall be eligible for parole after serving 20 years of  
33 confinement without deduction of any good time credits.

34 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its  
35 repeal, an inmate sentenced for a class A felony committed before July 1,  
36 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to  
37 its repeal, or K.S.A. 2018 Supp. 21-6707, and amendments thereto, shall  
38 be eligible for parole after serving 15 years of confinement, without  
39 deduction of any good time credits.

40 (5) An inmate sentenced to imprisonment for a violation of K.S.A.  
41 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but  
42 prior to July 1, 1999, shall be eligible for parole after serving 10 years of  
43 confinement without deduction of any good time credits.



1 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-  
2 4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments  
3 thereto, committed on or after July 1, 2006, shall be eligible for parole  
4 after serving the mandatory term of imprisonment without deduction of  
5 any good time credits.

6 (7) *An inmate sentenced to imprisonment for life without the*  
7 *possibility of parole pursuant to section 3, and amendments thereto, shall*  
8 *not be eligible for parole.*

9 (c) (1) Except as provided in subsection (e), if an inmate is sentenced  
10 to imprisonment for more than one crime and the sentences run  
11 consecutively, the inmate shall be eligible for parole after serving the total  
12 of:

13 (A) The aggregate minimum sentences, as determined pursuant to  
14 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2018 Supp. 21-6606, and  
15 amendments thereto, less good time credits for those crimes ~~which~~ *that* are  
16 not class A felonies; and

17 (B) an additional 15 years, without deduction of good time credits,  
18 for each crime ~~which~~ *that* is a class A felony.

19 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-  
20 4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments  
21 thereto, for crimes committed on or after July 1, 2006, the inmate shall be  
22 eligible for parole after serving the mandatory term of imprisonment.

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

28 (A) Except as provided in subparagraphs (D) and (E), persons  
29 sentenced for nondrug severity levels 1 through 4 crimes, drug severity  
30 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July  
31 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after  
32 July 1, 2012, must serve 36 months on postrelease supervision.

33 (B) Except as provided in subparagraphs (D) and (E), persons  
34 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3  
35 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and  
36 drug severity level 4 crimes committed on or after July 1, 2012, must serve  
37 24 months on postrelease supervision.

38 (C) Except as provided in subparagraphs (D) and (E), persons  
39 sentenced for nondrug severity levels 7 through 10 crimes, drug severity  
40 level 4 crimes committed on or after July 1, 1993, but prior to July 1,  
41 2012, and drug severity level 5 crimes committed on or after July 1, 2012,  
42 must serve 12 months on postrelease supervision.

43 (D) Persons sentenced to a term of imprisonment that includes a

1 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and  
2 amendments thereto, committed on or after July 1, 1993, but prior to July  
3 1, 2006, a sexually motivated crime—~~in~~ *for* which the offender has been  
4 ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and  
5 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its  
6 repeal, or K.S.A. 2018 Supp. 21-5509, and amendments thereto, or  
7 unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A.  
8 2018 Supp. 21-5512, and amendments thereto, shall serve the period of  
9 postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or  
10 (d)(1)(C), plus the amount of good time and program credit earned and  
11 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2018  
12 Supp. 21-6821, and amendments thereto, on postrelease supervision.

13 (i) If the sentencing judge finds substantial and compelling reasons to  
14 impose a departure based upon a finding that the current crime of  
15 conviction was sexually motivated, departure may be imposed to extend  
16 the postrelease supervision to a period of up to 60 months.

17 (ii) If the sentencing judge departs from the presumptive postrelease  
18 supervision period, the judge shall state on the record at the time of  
19 sentencing the substantial and compelling reasons for the departure.  
20 Departures in this section are subject to appeal pursuant to K.S.A. 21-  
21 4721, prior to its repeal, or K.S.A. 2018 Supp. 21-6820, and amendments  
22 thereto.

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

25 (a) Written briefs or oral arguments submitted by either the defendant  
26 or the state;

27 (b) any evidence received during the proceeding;

28 (c) the presentence report, the victim's impact statement and any  
29 psychological evaluation as ordered by the court pursuant to K.S.A. 21-  
30 4714(e), prior to its repeal, or K.S.A. 2018 Supp. 21-6813(e), and  
31 amendments thereto; and

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

33 (iv) The sentencing judge may order that a psychological evaluation  
34 be prepared and the recommended programming be completed by the  
35 offender. The department of corrections or the prisoner review board shall  
36 ensure that court ordered sex offender treatment be carried out.

37 (v) In carrying out the provisions of subsection (d)(1)(D), the court  
38 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2018 Supp. 21-  
39 6817, and amendments thereto.

40 (vi) Upon petition and payment of any restitution ordered pursuant to  
41 K.S.A. 2018 Supp. 21-6604, and amendments thereto, the prisoner review  
42 board may provide for early discharge from the postrelease supervision  
43 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of

1 court ordered programs and completion of the presumptive postrelease  
2 supervision period, as determined by the crime of conviction, pursuant to  
3 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from  
4 postrelease supervision is at the discretion of the board.

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

8 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their  
9 repeal, or K.S.A. 2018 Supp. 21-5508, and amendments thereto, shall be  
10 required to participate in a treatment program for sex offenders during the  
11 postrelease supervision period.

12 (E) The period of postrelease supervision provided in subparagraphs  
13 (A) and (B) may be reduced by up to 12 months and the period of  
14 postrelease supervision provided in subparagraph (C) may be reduced by  
15 up to six months based on the offender's compliance with conditions of  
16 supervision and overall performance while on postrelease supervision. The  
17 reduction in the supervision period shall be on an earned basis pursuant to  
18 rules and regulations adopted by the secretary of corrections.

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

24 (G) (i) Except as provided in subsection (u), persons sentenced to  
25 imprisonment for a sexually violent crime committed on or after July 1,  
26 2006, when the offender was 18 years of age or older, and who are  
27 released from prison, shall be released to a mandatory period of  
28 postrelease supervision for the duration of the person's natural life.

29 (ii) Persons sentenced to imprisonment for a sexually violent crime  
30 committed on or after the effective date of this act, when the offender was  
31 under 18 years of age, and who are released from prison, shall be released  
32 to a mandatory period of postrelease supervision for 60 months, plus the  
33 amount of good time and program credit earned and retained pursuant to  
34 K.S.A. 21-4722, prior to its repeal, or K.S.A. 2018 Supp. 21-6821, and  
35 amendments thereto.

36 (2) Persons serving a period of postrelease supervision pursuant to  
37 subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner  
38 review board for early discharge. Upon payment of restitution, the prisoner  
39 review board may provide for early discharge.

40 (3) Persons serving a period of incarceration for a supervision  
41 violation shall not have the period of postrelease supervision modified  
42 until such person is released and returned to postrelease supervision.

43 (4) Offenders whose crime of conviction was committed on or after

1 July 1, 2013, and whose probation, assignment to a community  
2 correctional services program, suspension of sentence or nonprison  
3 sanction is revoked pursuant to K.S.A. 22-3716(c), and amendments  
4 thereto, or whose underlying prison term expires while serving a sanction  
5 pursuant to K.S.A. 22-3716(c)(1)(C) or (c)(1)(D), and amendments  
6 thereto, shall serve a period of postrelease supervision upon the  
7 completion of the underlying prison term.

8 (5) As used in this subsection, "sexually violent crime" means:

9 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp.  
10 21-5503, and amendments thereto;

11 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,  
12 or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;

13 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior  
14 to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and amendments thereto;

15 (D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its  
16 repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) and (a)(4), and amendments  
17 thereto;

18 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,  
19 or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;

20 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,  
21 or K.S.A. 2018 Supp. 21-5508(a), and amendments thereto;

22 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior  
23 to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments thereto;

24 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,  
25 or K.S.A. 2018 Supp. 21-5510, and amendments thereto;

26 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or  
27 K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;

28 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A.  
29 2018 Supp. 21-5604(b), and amendments thereto;

30 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,  
31 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments  
32 thereto, if committed in whole or in part for the purpose of the sexual  
33 gratification of the defendant or another;

34 (L) internet trading in child pornography, as defined in K.S.A. 2018  
35 Supp. 21-5514(a), and amendments thereto;

36 (M) aggravated internet trading in child pornography, as defined in  
37 K.S.A. 2018 Supp. 21-5514(b), and amendments thereto;

38 (N) commercial sexual exploitation of a child, as defined in K.S.A.  
39 2018 Supp. 21-6422, and amendments thereto; or

40 (O) an attempt, conspiracy or criminal solicitation, as defined in  
41 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018  
42 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a  
43 sexually violent crime as defined in this section.

1 (6) As used in this subsection, "sexually motivated" means that one of  
2 the purposes for which the defendant committed the crime was for the  
3 purpose of the defendant's sexual gratification.

4 (e) If an inmate is sentenced to imprisonment for a crime committed  
5 while on parole or conditional release, the inmate shall be eligible for  
6 parole as provided by subsection (c), except that the prisoner review board  
7 may postpone the inmate's parole eligibility date by assessing a penalty not  
8 exceeding the period of time ~~which~~ *that* could have been assessed if the  
9 inmate's parole or conditional release had been violated for reasons other  
10 than conviction of a crime.

11 (f) If a person is sentenced to prison for a crime committed on or after  
12 July 1, 1993, while on probation, parole, conditional release or in a  
13 community corrections program, for a crime committed prior to July 1,  
14 1993, and the person is not eligible for retroactive application of the  
15 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-  
16 4724, prior to its repeal, the new sentence shall not be aggregated with the  
17 old sentence, but shall begin when the person is paroled or reaches the  
18 conditional release date on the old sentence. If the offender was past the  
19 offender's conditional release date at the time the new offense was  
20 committed, the new sentence shall not be aggregated with the old sentence  
21 but shall begin when the person is ordered released by the prisoner review  
22 board or reaches the maximum sentence expiration date on the old  
23 sentence, whichever is earlier. The new sentence shall then be served as  
24 otherwise provided by law. The period of postrelease supervision shall be  
25 based on the new sentence, except that those offenders whose old sentence  
26 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.  
27 21-4628, prior to its repeal, or an indeterminate sentence with a maximum  
28 term of life imprisonment, for which there is no conditional release or  
29 maximum sentence expiration date, shall remain on postrelease  
30 supervision for life or until discharged from supervision by the prisoner  
31 review board.

32 (g) Subject to the provisions of this section, the prisoner review board  
33 may release on parole those persons confined in institutions who are  
34 eligible for parole when: (1) The board believes that the inmate should be  
35 released for hospitalization, deportation or to answer the warrant or other  
36 process of a court and is of the opinion that there is reasonable probability  
37 that the inmate can be released without detriment to the community or to  
38 the inmate; or (2) the secretary of corrections has reported to the board in  
39 writing that the inmate has satisfactorily completed the programs required  
40 by any agreement entered under K.S.A. 75-5210a, and amendments  
41 thereto, or any revision of such agreement, and the board believes that the  
42 inmate is able and willing to fulfill the obligations of a law abiding citizen  
43 and is of the opinion that there is reasonable probability that the inmate

1 can be released without detriment to the community or to the inmate.  
2 Parole shall not be granted as an award of clemency and shall not be  
3 considered a reduction of sentence or a pardon.

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

1 inmate has served to the sentence a person would receive under the Kansas  
2 sentencing guidelines for the conduct that resulted in the inmate's  
3 incarceration; and capacity of state correctional institutions.

4 (i) In those cases involving inmates sentenced for a crime committed  
5 after July 1, 1993, the prisoner review board will review the inmate's  
6 proposed release plan. The board may schedule a hearing if they desire.  
7 The board may impose any condition they deem necessary to insure public  
8 safety, aid in the reintegration of the inmate into the community, or items  
9 not completed under the agreement entered into under K.S.A. 75-5210a,  
10 and amendments thereto. The board may not advance or delay an inmate's  
11 release date. Every inmate while on postrelease supervision shall remain in  
12 the legal custody of the secretary of corrections and is subject to the orders  
13 of the secretary.

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

1 deferral. In such case, the board may defer subsequent parole hearings for  
2 up to three years but any such deferral by the board shall require the board  
3 to state the basis for its findings. If parole is denied for an inmate  
4 sentenced for a class A or class B felony or an off-grid felony, the board  
5 shall hold another parole hearing for the inmate not later than three years  
6 after the denial unless the board finds that it is not reasonable to expect  
7 that parole would be granted at a hearing if held in the next 10 years or  
8 during the interim period of a deferral. In such case, the board may defer  
9 subsequent parole hearings for up to 10 years, but any such deferral shall  
10 require the board to state the basis for its findings.

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

19 (k) (1) Parolees and persons on postrelease supervision shall be  
20 assigned, upon release, to the appropriate level of supervision pursuant to  
21 the criteria established by the secretary of corrections.

22 (2) Parolees and persons on postrelease supervision are, and shall  
23 agree in writing to be, subject to searches of the person and the person's  
24 effects, vehicle, residence and property by a parole officer or a department  
25 of corrections enforcement, apprehension and investigation officer, at any  
26 time of the day or night, with or without a search warrant and with or  
27 without cause. Nothing in this subsection shall be construed to authorize  
28 such officers to conduct arbitrary or capricious searches or searches for the  
29 sole purpose of harassment.

30 (3) Parolees and persons on postrelease supervision are, and shall  
31 agree in writing to be, subject to searches of the person and the person's  
32 effects, vehicle, residence and property by any law enforcement officer  
33 based on reasonable suspicion of the person violating conditions of parole  
34 or postrelease supervision or reasonable suspicion of criminal activity. Any  
35 law enforcement officer who conducts such a search shall submit a written  
36 report to the appropriate parole officer no later than the close of the next  
37 business day after such search. The written report shall include the facts  
38 leading to such search, the scope of such search and any findings resulting  
39 from such search.

40 (l) The prisoner review board shall promulgate rules and regulations  
41 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not  
42 inconsistent with the law and as it may deem proper or necessary, with  
43 respect to the conduct of parole hearings, postrelease supervision reviews,



1 revocation hearings, orders of restitution, reimbursement of expenditures  
2 by the state board of indigents' defense services and other conditions to be  
3 imposed upon parolees or releasees. Whenever an order for parole or  
4 postrelease supervision is issued it shall recite the conditions thereof.

5 (m) Whenever the prisoner review board orders the parole of an  
6 inmate or establishes conditions for an inmate placed on postrelease  
7 supervision, the board:

8 (1) Unless it finds compelling circumstances ~~which~~ *that* would render  
9 a plan of payment unworkable, shall order as a condition of parole or  
10 postrelease supervision that the parolee or the person on postrelease  
11 supervision pay any transportation expenses resulting from returning the  
12 parolee or the person on postrelease supervision to this state to answer  
13 criminal charges or a warrant for a violation of a condition of probation,  
14 assignment to a community correctional services program, parole,  
15 conditional release or postrelease supervision;

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

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

25 (4) may order the parolee or person on postrelease supervision to pay  
26 the administrative fee imposed pursuant to K.S.A. 22-4529, and  
27 amendments thereto, unless the board finds compelling circumstances  
28 ~~which~~ *that* would render payment unworkable;

29 (5) unless it finds compelling circumstances ~~which~~ *that* would render  
30 a plan of payment unworkable, shall order that the parolee or person on  
31 postrelease supervision reimburse the state for all or part of the  
32 expenditures by the state board of indigents' defense services to provide  
33 counsel and other defense services to the person. In determining the  
34 amount and method of payment of such sum, the prisoner review board  
35 shall take account of the financial resources of the person and the nature of  
36 the burden that the payment of such sum will impose. Such amount shall  
37 not exceed the amount claimed by appointed counsel on the payment  
38 voucher for indigents' defense services or the amount prescribed by the  
39 board of indigents' defense services reimbursement tables as provided in  
40 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any  
41 previous payments for such services;

42 (6) shall order that the parolee or person on postrelease supervision  
43 agree in writing to be subject to searches of the person and the person's

1 effects, vehicle, residence and property by a parole officer or a department  
2 of corrections enforcement, apprehension and investigation officer, at any  
3 time of the day or night, with or without a search warrant and with or  
4 without cause. Nothing in this subsection shall be construed to authorize  
5 such officers to conduct arbitrary or capricious searches or searches for the  
6 sole purpose of harassment; and

7 (7) shall order that the parolee or person on postrelease supervision  
8 agree in writing to be subject to searches of the person and the person's  
9 effects, vehicle, residence and property by any law enforcement officer  
10 based on reasonable suspicion of the person violating conditions of parole  
11 or postrelease supervision or reasonable suspicion of criminal activity.

12 (n) If the court ~~which that~~ sentenced an inmate specified at the time  
13 of sentencing the amount and the recipient of any restitution ordered as a  
14 condition of parole or postrelease supervision, the prisoner review board  
15 shall order as a condition of parole or postrelease supervision that the  
16 inmate pay restitution in the amount and manner provided in the journal  
17 entry unless the board finds compelling circumstances ~~which that~~ would  
18 render a plan of restitution unworkable.

19 (o) Whenever the prisoner review board grants the parole of an  
20 inmate, the board, within 14 days of the date of the decision to grant  
21 parole, shall give written notice of the decision to the county or district  
22 attorney of the county where the inmate was sentenced.

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

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

30 (r) An inmate who is allocated regular good time credits as provided  
31 in K.S.A. 22-3725, and amendments thereto, may receive meritorious  
32 good time credits in increments of not more than 90 days per meritorious  
33 act. These credits may be awarded by the secretary of corrections when an  
34 inmate has acted in a heroic or outstanding manner in coming to the  
35 assistance of another person in a life threatening situation, preventing  
36 injury or death to a person, preventing the destruction of property or taking  
37 actions ~~which that~~ result in a financial savings to the state.

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

40 (t) For offenders sentenced prior to July 1, 2014, who are eligible for  
41 modification of their postrelease supervision obligation, the department of  
42 corrections shall modify the period of postrelease supervision as provided  
43 for by this section:

- 1 (1) On or before September 1, 2013, for offenders convicted of:  
2 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid  
3 for nondrug crimes;  
4 (B) severity level 4 crimes on the sentencing guidelines grid for drug  
5 crimes committed prior to July 1, 2012; and  
6 (C) severity level 5 crimes on the sentencing guidelines grid for drug  
7 crimes committed on and after July 1, 2012;
- 8 (2) on or before November 1, 2013, for offenders convicted of:  
9 (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines  
10 grid for nondrug crimes;  
11 (B) level 3 crimes on the sentencing guidelines grid for drug crimes  
12 committed prior to July 1, 2012; and  
13 (C) level 4 crimes on the sentencing guidelines grid for drug crimes  
14 committed on or after July 1, 2012; and
- 15 (3) on or before January 1, 2014, for offenders convicted of:  
16 (A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing  
17 guidelines grid for nondrug crimes;  
18 (B) severity levels 1 and 2 crimes on the sentencing guidelines grid  
19 for drug crimes committed at any time; and  
20 (C) severity level 3 crimes on the sentencing guidelines grid for drug  
21 crimes committed on or after July 1, 2012.
- 22 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-  
23 4643, prior to its repeal, or K.S.A. 2018 Supp. 21-6627, and amendments  
24 thereto, for crimes committed on or after July 1, 2006, shall be placed on  
25 parole for life and shall not be discharged from supervision by the prisoner  
26 review board. When the board orders the parole of an inmate pursuant to  
27 this subsection, the board shall order as a condition of parole that the  
28 inmate be electronically monitored for the duration of the inmate's natural  
29 life.
- 30 (v) Whenever the prisoner review board orders a person to be  
31 electronically monitored pursuant to this section, or the court orders a  
32 person to be electronically monitored pursuant to K.S.A. 2018 Supp. 21-  
33 6604(r), and amendments thereto, the board shall order the person to  
34 reimburse the state for all or part of the cost of such monitoring. In  
35 determining the amount and method of payment of such sum, the board  
36 shall take account of the financial resources of the person and the nature of  
37 the burden that the payment of such sum will impose.
- 38 (w) (1) On and after July 1, 2012, for any inmate who is a sex  
39 offender, as defined in K.S.A. 22-4902, and amendments thereto,  
40 whenever the prisoner review board orders the parole of such inmate or  
41 establishes conditions for such inmate placed on postrelease supervision,  
42 such inmate shall agree in writing to not possess pornographic materials.
- 43 (A) As used in this subsection, "pornographic materials" means any

1 obscene material or performance depicting sexual conduct, sexual contact  
 2 or a sexual performance; and any visual depiction of sexually explicit  
 3 conduct.

4 (B) As used in this subsection, all other terms have the meanings  
 5 provided by K.S.A. 2018 Supp. 21-5510, and amendments thereto.

6 (2) The provisions of this subsection shall be applied retroactively to  
 7 every sex offender, as defined in K.S.A. 22-4902, and amendments  
 8 thereto, who is on parole or postrelease supervision on July 1, 2012. The  
 9 prisoner review board shall obtain the written agreement required by this  
 10 subsection from such offenders as soon as practicable.

11 Sec. 17. K.S.A. 2018 Supp. 22-4902 is hereby amended to read as  
 12 follows: 22-4902. As used in the Kansas offender registration act, unless  
 13 the context otherwise requires:

14 (a) "Offender" means:

15 (1) A sex offender;

16 (2) a violent offender;

17 (3) a drug offender;

18 (4) any person who has been required to register under out-of-state  
 19 law or is otherwise required to be registered; and

20 (5) any person required by court order to register for an offense not  
 21 otherwise required as provided in the Kansas offender registration act.

22 (b) "Sex offender" includes any person who:

23 (1) On or after April 14, 1994, is convicted of any sexually violent  
 24 crime;

25 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for  
 26 an act which if committed by an adult would constitute the commission of  
 27 a sexually violent crime, unless the court, on the record, finds that the act  
 28 involved non-forcible sexual conduct, the victim was at least 14 years of  
 29 age and the offender was not more than four years older than the victim;

30 (3) has been determined to be a sexually violent predator;

31 (4) on or after July 1, 1997, is convicted of any of the following  
 32 crimes when one of the parties involved is less than 18 years of age:

33 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or  
 34 K.S.A. 2018 Supp. 21-5511, and amendments thereto;

35 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its  
 36 repeal, or K.S.A. 2018 Supp. 21-5504(a)(1) or (a)(2), and amendments  
 37 thereto;

38 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
 39 repeal, or K.S.A. 2018 Supp. 21-6420, prior to its amendment by section  
 40 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

41 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its  
 42 repeal, or K.S.A. 2018 Supp. 21-6421, prior to its amendment by section  
 43 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

- 1 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior  
2 to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments thereto;
- 3 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior  
4 to its repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto;
- 5 (6) is convicted of an attempt, conspiracy or criminal solicitation, as  
6 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
7 K.S.A. 2018 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,  
8 of an offense defined in this subsection; or
- 9 (7) has been convicted of an offense that is comparable to any crime  
10 defined in this subsection, or any out-of-state conviction for an offense that  
11 under the laws of this state would be an offense defined in this subsection.
- 12 (c) "Sexually violent crime" means:
- 13 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
14 2018 Supp. 21-5503, and amendments thereto;
- 15 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior  
16 to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;
- 17 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
18 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and  
19 amendments thereto;
- 20 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
21 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and  
22 amendments thereto;
- 23 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
24 to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;
- 25 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
26 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments  
27 thereto;
- 28 (7) aggravated indecent solicitation of a child, as defined in K.S.A.  
29 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and  
30 amendments thereto;
- 31 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
32 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;
- 33 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
34 its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;
- 35 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
36 repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;
- 37 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its  
38 repeal, and K.S.A. 2018 Supp. 21-5509, and amendments thereto;
- 39 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to  
40 its repeal, or K.S.A. 2018 Supp. 21-5512, and amendments thereto;
- 41 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,  
42 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments  
43 thereto, if committed in whole or in part for the purpose of the sexual

- 1 gratification of the defendant or another;
- 2 (14) commercial sexual exploitation of a child, as defined in K.S.A.
- 3 2018 Supp. 21-6422, and amendments thereto;
- 4 (15) promoting the sale of sexual relations, as defined in K.S.A. 2018
- 5 Supp. 21-6420, and amendments thereto;
- 6 (16) any conviction or adjudication for an offense that is comparable
- 7 to a sexually violent crime as defined in this subsection, or any out-of-state
- 8 conviction or adjudication for an offense that under the laws of this state
- 9 would be a sexually violent crime as defined in this subsection;
- 10 (17) an attempt, conspiracy or criminal solicitation, as defined in
- 11 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018
- 12 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
- 13 violent crime, as defined in this subsection; or
- 14 (18) any act ~~which~~ *that* has been determined beyond a reasonable
- 15 doubt to have been sexually motivated, unless the court, on the record,
- 16 finds that the act involved non-forcible sexual conduct, the victim was at
- 17 least 14 years of age and the offender was not more than four years older
- 18 than the victim. As used in this paragraph, "sexually motivated" means that
- 19 one of the purposes for which the defendant committed the crime was for
- 20 the purpose of the defendant's sexual gratification.
- 21 (d) "Sexually violent predator" means any person who, on or after
- 22 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
- 23 59-29a01 et seq., and amendments thereto.
- 24 (e) "Violent offender" includes any person who:
- 25 (1) On or after July 1, 1997, is convicted of any of the following
- 26 crimes:
- 27 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
- 28 or K.S.A. 2018 Supp. 21-5401, ~~and amendments thereto~~ *prior to its repeal*;
- 29 (B) *aggravated murder, as defined in section 2, and amendments*
- 30 *thereto*;
- 31 (C) murder in the first degree, as defined in K.S.A. 21-3401, prior to
- 32 its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments thereto;
- 33 ~~(D)~~ (D) murder in the second degree, as defined in K.S.A. 21-3402,
- 34 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments
- 35 thereto;
- 36 ~~(D)~~ (E) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
- 37 its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;
- 38 ~~(E)~~ (F) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
- 39 to its repeal, or K.S.A. 2018 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
- 40 amendments thereto. The provisions of this paragraph shall not apply to
- 41 violations of K.S.A. 2018 Supp. 21-5405(a)(3), and amendments thereto,
- 42 which occurred on or after July 1, 2011, through July 1, 2013;
- 43 ~~(F)~~ (G) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,

1 or K.S.A. 2018 Supp. 21-5408(a), and amendments thereto;  
 2 ~~(G)~~*(H)* aggravated kidnapping, as defined in K.S.A. 21-3421, prior to  
 3 its repeal, or K.S.A. 2018 Supp. 21-5408(b), and amendments thereto;  
 4 ~~(H)~~*(I)* criminal restraint, as defined in K.S.A. 21-3424, prior to its  
 5 repeal, or K.S.A. 2018 Supp. 21-5411, and amendments thereto, except by  
 6 a parent, and only when the victim is less than 18 years of age; or  
 7 ~~(I)~~*(J)* aggravated human trafficking, as defined in K.S.A. 21-3447,  
 8 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments  
 9 thereto, if not committed in whole or in part for the purpose of the sexual  
 10 gratification of the defendant or another;  
 11 (2) on or after July 1, 2006, is convicted of any person felony and the  
 12 court makes a finding on the record that a deadly weapon was used in the  
 13 commission of such person felony;  
 14 (3) has been convicted of an offense that is comparable to any crime  
 15 defined in this subsection, any out-of-state conviction for an offense that  
 16 under the laws of this state would be an offense defined in this subsection;  
 17 or  
 18 (4) is convicted of an attempt, conspiracy or criminal solicitation, as  
 19 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
 20 K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and amendments  
 21 thereto, of an offense defined in this subsection.  
 22 (f) "Drug offender" includes any person who, on or after July 1, 2007:  
 23 (1) Is convicted of any of the following crimes:  
 24 (A) Unlawful manufacture or attempting such of any controlled  
 25 substance or controlled substance analog, as defined in K.S.A. 65-4159,  
 26 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or  
 27 K.S.A. 2018 Supp. 21-5703, and amendments thereto;  
 28 (B) possession of ephedrine, pseudoephedrine, red phosphorus,  
 29 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized  
 30 ammonia or phenylpropanolamine, or their salts, isomers or salts of  
 31 isomers with intent to use the product to manufacture a controlled  
 32 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010  
 33 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2018 Supp. 21-5709(a),  
 34 and amendments thereto;  
 35 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-  
 36 36a05(a)(1), prior to its transfer, or K.S.A. 2018 Supp. 21-5705(a)(1), and  
 37 amendments thereto. The provisions of this paragraph shall not apply to  
 38 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)  
 39 ~~which~~ *that* occurred on or after July 1, 2009, through April 15, 2010;  
 40 (2) has been convicted of an offense that is comparable to any crime  
 41 defined in this subsection, any out-of-state conviction for an offense that  
 42 under the laws of this state would be an offense defined in this subsection;  
 43 or

1 (3) is or has been convicted of an attempt, conspiracy or criminal  
2 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to  
3 their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and  
4 amendments thereto, of an offense defined in this subsection.

5 (g) Convictions or adjudications—~~which~~ *that* result from or are  
6 connected with the same act, or result from crimes committed at the same  
7 time, shall be counted for the purpose of this section as one conviction or  
8 adjudication. Any conviction or adjudication set aside pursuant to law is  
9 not a conviction or adjudication for purposes of this section. A conviction  
10 or adjudication from any out-of-state court shall constitute a conviction or  
11 adjudication for purposes of this section.

12 (h) "School" means any public or private educational institution,  
13 including, but not limited to, postsecondary school, college, university,  
14 community college, secondary school, high school, junior high school,  
15 middle school, elementary school, trade school, vocational school or  
16 professional school providing training or education to an offender for three  
17 or more consecutive days or parts of days, or for 10 or more  
18 nonconsecutive days in a period of 30 consecutive days.

19 (i) "Employment" means any full-time, part-time, transient, day-labor  
20 employment or volunteer work, with or without compensation, for three or  
21 more consecutive days or parts of days, or for 10 or more nonconsecutive  
22 days in a period of 30 consecutive days.

23 (j) "Reside" means to stay, sleep or maintain with regularity or  
24 temporarily one's person and property in a particular place other than a  
25 location where the offender is incarcerated. It shall be presumed that an  
26 offender resides at any and all locations where the offender stays, sleeps or  
27 maintains the offender's person for three or more consecutive days or parts  
28 of days, or for ten or more nonconsecutive days in a period of 30  
29 consecutive days.

30 (k) "Residence" means a particular and definable place where an  
31 individual resides. Nothing in the Kansas offender registration act shall be  
32 construed to state that an offender may only have one residence for the  
33 purpose of such act.

34 (l) "Transient" means having no fixed or identifiable residence.

35 (m) "Law enforcement agency having initial jurisdiction" means the  
36 registering law enforcement agency of the county or location of  
37 jurisdiction where the offender expects to most often reside upon the  
38 offender's discharge, parole or release.

39 (n) "Registering law enforcement agency" means the sheriff's office  
40 or tribal police department responsible for registering an offender.

41 (o) "Registering entity" means any person, agency or other  
42 governmental unit, correctional facility or registering law enforcement  
43 agency responsible for obtaining the required information from, and



1 explaining the required registration procedures to, any person required to  
2 register pursuant to the Kansas offender registration act. "Registering  
3 entity" shall include, but not be limited to, sheriff's offices, tribal police  
4 departments and correctional facilities.

5 (p) "Treatment facility" means any public or private facility or  
6 institution providing inpatient mental health, drug or alcohol treatment or  
7 counseling, but does not include a hospital, as defined in K.S.A. 65-425,  
8 and amendments thereto.

9 (q) "Correctional facility" means any public or private correctional  
10 facility, juvenile detention facility, prison or jail.

11 (r) "Out-of-state" means: the District of Columbia; any federal,  
12 military or tribal jurisdiction, including those within this state; any foreign  
13 jurisdiction; or any state or territory within the United States, other than  
14 this state.

15 (s) "Duration of registration" means the length of time during which  
16 an offender is required to register for a specified offense or violation.

17 (t) (1) Notwithstanding any other provision of this section, "offender"  
18 shall not include any person who is:

19 (A) Convicted of unlawful transmission of a visual depiction of a  
20 child, as defined in K.S.A. 2018 Supp. 21-5611(a), and amendments  
21 thereto, aggravated unlawful transmission of a visual depiction of a child,  
22 as defined in K.S.A. 2018 Supp. 21-5611(b), and amendments thereto, or  
23 unlawful possession of a visual depiction of a child, as defined in K.S.A.  
24 2018 Supp. 21-5610, and amendments thereto; or

25 (B) adjudicated as a juvenile offender for an act which if committed  
26 by an adult would constitute the commission of a crime defined in  
27 subsection (t)(1)(A).

28 (2) Notwithstanding any other provision of law, a court shall not  
29 order any person to register under the Kansas offender registration act for  
30 the offenses described in subsection (t)(1).

31 Sec. 18. K.S.A. 2018 Supp. 22-4906 is hereby amended to read as  
32 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted  
33 of any of the following offenses, an offender's duration of registration shall  
34 be, if confined, 15 years after the date of parole, discharge or release,  
35 whichever date is most recent, or, if not confined, 15 years from the date of  
36 conviction:

37 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,  
38 or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto;

39 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or  
40 K.S.A. 2018 Supp. 21-5511, and amendments thereto, when one of the  
41 parties involved is less than 18 years of age;

42 (C) promoting the sale of sexual relations, as defined in K.S.A. 2018  
43 Supp. 21-6420, and amendments thereto;

- 1 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its  
 2 repeal, or K.S.A. 2018 Supp. 21-6421, prior to its amendment by section  
 3 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013,  
 4 when one of the parties involved is less than 18 years of age;
- 5 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior  
 6 to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments thereto,  
 7 when one of the parties involved is less than 18 years of age;
- 8 (F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
 9 or K.S.A. 2018 Supp. 21-5401, ~~and amendments thereto prior to its repeal~~;
- 10 (G) aggravated murder, as defined in section 2, and amendments  
 11 thereto;
- 12 ~~(G)~~(H) murder in the first degree, as defined in K.S.A. 21-3401, prior  
 13 to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments thereto;
- 14 ~~(H)~~(I) murder in the second degree, as defined in K.S.A. 21-3402,  
 15 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments  
 16 thereto;
- 17 ~~(I)~~(J) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to  
 18 its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;
- 19 ~~(J)~~(K) involuntary manslaughter, as defined in K.S.A. 21-3404, prior  
 20 to its repeal, or K.S.A. 2018 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and  
 21 amendments thereto;
- 22 ~~(K)~~(L) criminal restraint, as defined in K.S.A. 21-3424, prior to its  
 23 repeal, or K.S.A. 2018 Supp. 21-5411, and amendments thereto, except by  
 24 a parent, and only when the victim is less than 18 years of age;
- 25 ~~(L)~~(M) any act ~~which~~-that has been determined beyond a reasonable  
 26 doubt to have been sexually motivated, unless the court, on the record,  
 27 finds that the act involved non-forcible sexual conduct, the victim was at  
 28 least 14 years of age and the offender was not more than four years older  
 29 than the victim;
- 30 ~~(M)~~(N) conviction of any person required by court order to register  
 31 for an offense not otherwise required as provided in the Kansas offender  
 32 registration act;
- 33 ~~(N)~~(O) conviction of any person felony and the court makes a finding  
 34 on the record that a deadly weapon was used in the commission of such  
 35 person felony;
- 36 ~~(O)~~(P) unlawful manufacture or attempting such of any controlled  
 37 substance or controlled substance analog, as defined in K.S.A. 65-4159,  
 38 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or  
 39 K.S.A. 2018 Supp. 21-5703, and amendments thereto;
- 40 ~~(P)~~(Q) possession of ephedrine, pseudoephedrine, red phosphorus,  
 41 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized  
 42 ammonia or phenylpropanolamine, or their salts, isomers or salts of  
 43 isomers with intent to use the product to manufacture a controlled

1 substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.  
 2 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2018 Supp. 21-  
 3 5709(a), and amendments thereto;

4 ~~(Q)~~(R) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-  
 5 36a05(a)(1), prior to its transfer, or K.S.A. 2018 Supp. 21-5705(a)(1), and  
 6 amendments thereto; or

7 ~~(R)~~(S) any attempt, conspiracy or criminal solicitation, as defined in  
 8 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018  
 9 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an  
 10 offense defined in this subsection.

11 (2) Except as otherwise provided by the Kansas offender registration  
 12 act, the duration of registration terminates, if not confined, at the  
 13 expiration of 15 years from the date of conviction. Any period of time  
 14 ~~during which~~ *when* any offender is incarcerated in any jail or correctional  
 15 facility or ~~during which~~ *when* the offender does not comply with any and  
 16 all requirements of the Kansas offender registration act shall not count  
 17 toward the duration of registration.

18 (b) (1) Except as provided in subsection (c), if convicted of any of the  
 19 following offenses, an offender's duration of registration shall be, if  
 20 confined, 25 years after the date of parole, discharge or release, whichever  
 21 date is most recent, or, if not confined, 25 years from the date of  
 22 conviction:

23 (A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its  
 24 repeal, or K.S.A. 2018 Supp. 21-5504(a)(1) or (a)(2), and amendments  
 25 thereto, when one of the parties involved is less than 18 years of age;

26 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
 27 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments  
 28 thereto;

29 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its  
 30 repeal, or K.S.A. 2018 Supp. 21-5509, and amendments thereto;

31 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
 32 repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;

33 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior  
 34 to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;

35 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to  
 36 its repeal, or K.S.A. 2018 Supp. 21-5512, and amendments thereto;

37 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
 38 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto, if  
 39 the victim is 14 or more years of age but less than 18 years of age;

40 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
 41 its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;

42 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
 43 repeal, or K.S.A. 2018 Supp. 21-6420, prior to its amendment by section

1 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if  
2 the person selling sexual relations is 14 or more years of age but less than  
3 18 years of age; or

4 (J) any attempt, conspiracy or criminal solicitation, as defined in  
5 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018  
6 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an  
7 offense defined in this subsection.

8 (2) Except as otherwise provided by the Kansas offender registration  
9 act, the duration of registration terminates, if not confined, at the  
10 expiration of 25 years from the date of conviction. Any period of time  
11 ~~during which~~ when any offender is incarcerated in any jail or correctional  
12 facility or ~~during which~~ when the offender does not comply with any and  
13 all requirements of the Kansas offender registration act shall not count  
14 toward the duration of registration.

15 (c) Upon a second or subsequent conviction of an offense requiring  
16 registration, an offender's duration of registration shall be for such  
17 offender's lifetime.

18 (d) The duration of registration for any offender who has been  
19 convicted of any of the following offenses shall be for such offender's  
20 lifetime:

21 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
22 2018 Supp. 21-5503, and amendments thereto;

23 (2) aggravated indecent solicitation of a child, as defined in K.S.A.  
24 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and  
25 amendments thereto;

26 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
27 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and  
28 amendments thereto;

29 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
30 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and  
31 amendments thereto;

32 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
33 to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;

34 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior  
35 to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments thereto;

36 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
37 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto, if  
38 the victim is less than 14 years of age;

39 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
40 repeal, or K.S.A. 2018 Supp. 21-6420, prior to its amendment by section  
41 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if  
42 the person selling sexual relations is less than 14 years of age;

43 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or

1 K.S.A. 2018 Supp. 21-5408(a), and amendments thereto;

2 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its  
3 repeal, or K.S.A. 2018 Supp. 21-5408(b), and amendments thereto;

4 (11) commercial sexual exploitation of a child, as defined in K.S.A.  
5 2018 Supp. 21-6422, and amendments thereto; or

6 (12) any attempt, conspiracy or criminal solicitation, as defined in  
7 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018  
8 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an  
9 offense defined in this subsection.

10 (e) Any person who has been declared a sexually violent predator  
11 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall  
12 register for such person's lifetime.

13 (f) Notwithstanding any other provisions of this section, for an  
14 offender less than 14 years of age who is adjudicated as a juvenile offender  
15 for an act which if committed by an adult would constitute a sexually  
16 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the  
17 court shall:

18 (1) Require registration until such offender reaches 18 years of age, at  
19 the expiration of five years from the date of adjudication or, if confined,  
20 from release from confinement, whichever date occurs later. Any period of  
21 time ~~during which~~ when the offender is incarcerated in any jail, juvenile  
22 facility or correctional facility or ~~during which~~ when the offender does not  
23 comply with any and all requirements of the Kansas offender registration  
24 act shall not count toward the duration of registration;

25 (2) not require registration if the court, on the record, finds substantial  
26 and compelling reasons therefor; or

27 (3) require registration, but such registration information shall not be  
28 open to inspection by the public or posted on any internet website, as  
29 provided in K.S.A. 22-4909, and amendments thereto. If the court requires  
30 registration but such registration is not open to the public, such offender  
31 shall provide a copy of such court order to the registering law enforcement  
32 agency at the time of registration. The registering law enforcement agency  
33 shall forward a copy of such court order to the Kansas bureau of  
34 investigation.

35 If such offender violates a condition of release during the term of the  
36 conditional release, the court may require such offender to register  
37 pursuant to ~~paragraph~~ subsection (f)(1).

38 (g) Notwithstanding any other provisions of this section, for an  
39 offender 14 years of age or more who is adjudicated as a juvenile offender  
40 for an act which if committed by an adult would constitute a sexually  
41 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and  
42 such crime is not an off-grid felony or a felony ranked in severity level 1  
43 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or

1 K.S.A. 2018 Supp. 21-6804, and amendments thereto, the court shall:

2 (1) Require registration until such offender reaches 18 years of age, at  
3 the expiration of five years from the date of adjudication or, if confined,  
4 from release from confinement, whichever date occurs later. Any period of  
5 ~~time during which~~ *when* the offender is incarcerated in any jail, juvenile  
6 facility or correctional facility or ~~during which~~ *when* the offender does not  
7 comply with any and all requirements of the Kansas offender registration  
8 act shall not count toward the duration of registration;

9 (2) not require registration if the court, on the record, finds substantial  
10 and compelling reasons therefor; or

11 (3) require registration, but such registration information shall not be  
12 open to inspection by the public or posted on any internet website, as  
13 provided in K.S.A. 22-4909, and amendments thereto. If the court requires  
14 registration but such registration is not open to the public, such offender  
15 shall provide a copy of such court order to the registering law enforcement  
16 agency at the time of registration. The registering law enforcement agency  
17 shall forward a copy of such court order to the Kansas bureau of  
18 investigation.

19 If such offender violates a condition of release during the term of the  
20 conditional release, the court may require such offender to register  
21 pursuant to ~~paragraph~~ *subsection (g)(1)*.

22 (h) Notwithstanding any other provisions of this section, an offender  
23 14 years of age or more who is adjudicated as a juvenile offender for an  
24 act which if committed by an adult would constitute a sexually violent  
25 crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such  
26 crime is an off-grid felony or a felony ranked in severity level 1 of the  
27 nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A.  
28 2018 Supp. 21-6804, and amendments thereto, shall be required to register  
29 for such offender's lifetime.

30 (i) Notwithstanding any other provision of law, if a diversionary  
31 agreement or probation order, either adult or juvenile, or a juvenile  
32 offender sentencing order, requires registration under the Kansas offender  
33 registration act for an offense that would not otherwise require registration  
34 as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all  
35 provisions of the Kansas offender registration act shall apply, except that  
36 the duration of registration shall be controlled by such diversionary  
37 agreement, probation order or juvenile offender sentencing order.

38 (j) The duration of registration does not terminate if the convicted or  
39 adjudicated offender again becomes liable to register as provided by the  
40 Kansas offender registration act during the required period of registration.

41 (k) For any person moving to Kansas who has been convicted or  
42 adjudicated in an out-of-state court, or who was required to register under  
43 an out-of-state law, the duration of registration shall be the length of time

1 required by the out-of-state jurisdiction or by the Kansas offender  
2 registration act, whichever length of time is longer. The provisions of this  
3 subsection shall apply to convictions or adjudications prior to June 1,  
4 2006, and to persons who moved to Kansas prior to June 1, 2006, and to  
5 convictions or adjudications on or after June 1, 2006, and to persons who  
6 moved to Kansas on or after June 1, 2006.

7 (l) For any person residing, maintaining employment or attending  
8 school in this state who has been convicted or adjudicated by an out-of-  
9 state court of an offense that is comparable to any crime requiring  
10 registration pursuant to the Kansas offender registration act, but who was  
11 not required to register in the jurisdiction of conviction or adjudication, the  
12 duration of registration shall be the duration required for the comparable  
13 offense pursuant to the Kansas offender registration act.

14 Sec. 19. K.S.A. 2018 Supp. 23-3222 is hereby amended to read as  
15 follows: 23-3222. (a) Except as provided in subsection (d), a parent  
16 entitled to legal custody or residency of or parenting time with a child  
17 under this article shall give written notice to the other parent not less than  
18 30 days prior to: (1) Changing the residence of the child; or (2) removing  
19 the child from this state for a period of time exceeding 90 days. Such  
20 notice shall be sent by restricted mail, return receipt requested, to the last  
21 known address of the other parent.

22 (b) Failure to give notice as required by subsection (a) is an indirect  
23 civil contempt punishable as provided by law. In addition, the court may  
24 assess, against the parent required to give notice, reasonable attorney fees  
25 and any other expenses incurred by the other parent by reason of the  
26 failure to give notice.

27 (c) A change of the residence or the removal of a child as described in  
28 subsection (a) may be considered a material change of circumstances  
29 which justifies modification of a prior order of legal custody, residency,  
30 child support or parenting time. In determining any motion seeking a  
31 modification of a prior order based on change of residence or removal as  
32 described in (a), the court shall consider all factors the court deems  
33 appropriate including, but not limited to: (1) The effect of the move on the  
34 best interests of the child; (2) the effect of the move on any party having  
35 rights granted under this article; and (3) the increased cost the move will  
36 impose on any party seeking to exercise rights granted under this article.

37 (d) A parent entitled to the legal custody or residency of a child under  
38 this article shall not be required to give the notice required by this section  
39 to the other parent when the other parent has been convicted of any crime  
40 specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes  
41 Annotated, *or K.S.A. 2018 Supp. 21-5401*, prior to their repeal, or K.S.A.  
42 2018 Supp. ~~21-5401~~ 21-5402 through 21-5609, *section 2*, 21-6104, 21-  
43 6325, 21-6326 or 21-6419 through 21-6422, and amendments thereto, in

1 which the child is the victim of such crime.

2 Sec. 20. K.S.A. 2018 Supp. 38-2255 is hereby amended to read as  
3 follows: 38-2255. (a) *Considerations*. Prior to entering an order of  
4 disposition, the court shall give consideration to:

5 (1) The child's physical, mental and emotional condition;

6 (2) the child's need for assistance;

7 (3) the manner in which the parent participated in the abuse, neglect  
8 or abandonment of the child;

9 (4) any relevant information from the intake and assessment process;  
10 and

11 (5) the evidence received at the dispositional hearing.

12 (b) *Custody with a parent*. The court may place the child in the  
13 custody of either of the child's parents subject to terms and conditions  
14 ~~which~~ *that* the court prescribes to assure the proper care and protection of  
15 the child, including, but not limited to:

16 (1) Supervision of the child and the parent by a court services officer;

17 (2) participation by the child and the parent in available programs  
18 operated by an appropriate individual or agency; and

19 (3) any special treatment or care ~~which~~ *that* the child needs for the  
20 child's physical, mental or emotional health and safety.

21 (c) *Removal of a child from custody of a parent*. The court shall not  
22 enter the initial order removing a child from the custody of a parent  
23 pursuant to this section unless the court first finds probable cause that: (1)  
24 (A) The child is likely to sustain harm if not immediately removed from  
25 the home;

26 (B) allowing the child to remain in home is contrary to the welfare of  
27 the child; or

28 (C) immediate placement of the child is in the best interest of the  
29 child; and

30 (2) reasonable efforts have been made to maintain the family unit and  
31 prevent the unnecessary removal of the child from the child's home or that  
32 an emergency exists ~~which~~ *that* threatens the safety to the child.

33 The court shall not enter an order removing a child from the custody of  
34 a parent pursuant to this section based solely on the finding that the parent  
35 is homeless.

36 (d) *Custody of a child removed from the custody of a parent*. If the  
37 court has made the findings required by subsection (c), the court shall  
38 enter an order awarding custody to: A relative of the child or to a person  
39 with whom the child has close emotional ties who shall not be required to  
40 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,  
41 and amendments thereto; any other suitable person; a shelter facility; a  
42 youth residential facility; a staff secure facility, notwithstanding any other  
43 provision of law, if the child has been subjected to human trafficking or



1 aggravated human trafficking, as defined by K.S.A. 2018 Supp. 21-5426,  
2 and amendments thereto, or commercial sexual exploitation of a child, as  
3 defined by K.S.A. 2018 Supp. 21-6422, and amendments thereto, or the  
4 child committed an act which, if committed by an adult, would constitute a  
5 violation of K.S.A. 2018 Supp. 21-6419, and amendments thereto; or, if  
6 the child is 15 years of age or younger, or 16 or 17 years of age if the child  
7 has no identifiable parental or family resources or shows signs of physical,  
8 mental, emotional or sexual abuse, to the secretary. Custody awarded  
9 under this subsection shall continue until further order of the court.

10 (1) When custody is awarded to the secretary, the secretary shall  
11 consider any placement recommendation by the court and notify the court  
12 of the placement or proposed placement of the child within 10 days of the  
13 order awarding custody. After providing the parties or interested parties  
14 notice and opportunity to be heard, the court may determine whether the  
15 secretary's placement or proposed placement is contrary to the welfare or  
16 in the best interests of the child. In making that determination the court  
17 shall consider the health and safety needs of the child and the resources  
18 available to meet the needs of children in the custody of the secretary. If  
19 the court determines that the placement or proposed placement is contrary  
20 to the welfare or not in the best interests of the child, the court shall notify  
21 the secretary, who shall then make an alternative placement.

22 (2) The custodian designated under this subsection shall notify the  
23 court in writing at least 10 days prior to any planned placement with a  
24 parent. The written notice shall state the basis for the custodian's belief that  
25 placement with a parent is no longer contrary to the welfare or best interest  
26 of the child. Upon reviewing the notice, the court may allow the custodian  
27 to proceed with the planned placement or may set the date for a hearing to  
28 determine if the child shall be allowed to return home. If the court sets a  
29 hearing on the matter, the custodian shall not return the child home without  
30 written consent of the court.

31 (3) The court may grant any person reasonable rights to visit the child  
32 upon motion of the person and a finding that the visitation rights would be  
33 in the best interests of the child.

34 (4) The court may enter an order restraining any alleged perpetrator  
35 of physical, mental or emotional abuse or sexual abuse of the child from  
36 residing in the child's home; visiting, contacting, harassing or intimidating  
37 the child, other family member or witness; or attempting to visit, contact,  
38 harass or intimidate the child, other family member or witness. Such  
39 restraining order shall be served by personal service pursuant to K.S.A.  
40 2018 Supp. 38-2237(a), and amendments thereto, on any alleged  
41 perpetrator to whom the order is directed.

42 (5) The court shall provide a copy of any orders entered within 10  
43 days of entering the order to the custodian designated under this

1 subsection.

2 (e) *Further determinations regarding a child removed from the home.*  
3 If custody has been awarded under subsection (d) to a person other than a  
4 parent, a permanency plan shall be provided or prepared pursuant to  
5 K.S.A. 2018 Supp. 38-2264, and amendments thereto. If a permanency  
6 plan is provided at the dispositional hearing, the court may determine  
7 whether reintegration is a viable alternative or, if reintegration is not a  
8 viable alternative, whether the child should be placed for adoption or a  
9 permanent custodian appointed. In determining whether reintegration is a  
10 viable alternative, the court shall consider:

11 (1) Whether a parent has been found by a court to have committed  
12 one of the following crimes or to have violated the law of another state  
13 prohibiting such crimes or to have aided and abetted, attempted, conspired  
14 or solicited the commission of one of these crimes: (A) *Capital murder,*  
15 *K.S.A. 21-3439, prior to its repeal, or K.S.A. Supp. 2018 21-5401, prior to*  
16 *its repeal; (B) aggravated murder, section 2, and amendments thereto; (C)*  
17 *murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A.*  
18 *2018 Supp. 21-5402, and amendments thereto; ~~(B) (D) murder in the~~*  
19 *second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2018 Supp.*  
20 *21-5403, and amendments thereto; ~~(C) capital murder, K.S.A. 21-3439,~~*  
21 *~~prior to its repeal, or K.S.A. 2018 Supp. 21-5401, and amendments~~*  
22 *~~thereto; (D) (E) voluntary manslaughter, K.S.A. 21-3403, prior to its~~*  
23 *repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto; or ~~(E) (F)~~*  
24 *a felony battery that resulted in bodily injury;*

25 (2) whether a parent has subjected the child or another child to  
26 aggravated circumstances;

27 (3) whether a parent has previously been found to be an unfit parent  
28 in proceedings under this code or in comparable proceedings under the  
29 laws of another state or the federal government;

30 (4) whether the child has been in the custody of the secretary and  
31 placed with neither parent for 15 of the most recent 22 months beginning  
32 60 days after the date ~~on which~~ *when* a child in the secretary's custody was  
33 removed from the child's home;

34 (5) whether the parents have failed to work diligently toward  
35 reintegration;

36 (6) whether the secretary has provided the family with services  
37 necessary for the safe return of the child to the home; and

38 (7) whether it is reasonable to expect reintegration to occur within a  
39 time frame consistent with the child's developmental needs.

40 (f) *Proceedings if reintegration is not a viable alternative.* If the court  
41 determines that reintegration is not a viable alternative, proceedings to  
42 terminate parental rights and permit placement of the child for adoption or  
43 appointment of a permanent custodian shall be initiated unless the court

1 finds that compelling reasons have been documented in the case plan why  
2 adoption or appointment of a permanent custodian would not be in the best  
3 interests of the child. If compelling reasons have not been documented, the  
4 county or district attorney shall file a motion within 30 days to terminate  
5 parental rights or a motion to appoint a permanent custodian within 30  
6 days and the court shall hold a hearing on the motion within 90 days of its  
7 filing. No hearing is required when the parents voluntarily relinquish  
8 parental rights or consent to the appointment of a permanent custodian.

9 (g) *Additional Orders*. In addition to or in lieu of any other order  
10 authorized by this section:

11 (1) The court may order the child and the parents of any child who  
12 has been adjudicated a child in need of care to attend counseling sessions  
13 as the court directs. The expense of the counseling may be assessed as an  
14 expense in the case. No mental health provider shall charge a greater fee  
15 for court-ordered counseling than the provider would have charged to the  
16 person receiving counseling if the person had requested counseling on the  
17 person's own initiative.

18 (2) If the court has reason to believe that a child is before the court  
19 due, in whole or in part, to the use or misuse of alcohol or a violation of  
20 K.S.A. 2018 Supp. 21-5701 through 21-5717, and amendments thereto, by  
21 the child, a parent of the child, or another person responsible for the care  
22 of the child, the court may order the child, parent of the child or other  
23 person responsible for the care of the child to submit to and complete an  
24 alcohol and drug evaluation by a qualified person or agency and comply  
25 with any recommendations. If the evaluation is performed by a  
26 community-based alcohol and drug safety program certified pursuant to  
27 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or  
28 other person responsible for the care of the child shall pay a fee not to  
29 exceed the fee established by that statute. If the court finds that the child  
30 and those legally liable for the child's support are indigent, the fee may be  
31 waived. In no event shall the fee be assessed against the secretary.

32 (3) If child support has been requested and the parent or parents have  
33 a duty to support the child, the court may order one or both parents to pay  
34 child support and, when custody is awarded to the secretary, the court shall  
35 order one or both parents to pay child support. The court shall determine,  
36 for each parent separately, whether the parent is already subject to an order  
37 to pay support for the child. If the parent is not presently ordered to pay  
38 support for any child who is subject to the jurisdiction of the court and the  
39 court has personal jurisdiction over the parent, the court shall order the  
40 parent to pay child support in an amount determined under K.S.A. 2018  
41 Supp. 38-2277, and amendments thereto. Except for good cause shown,  
42 the court shall issue an immediate income withholding order pursuant to  
43 K.S.A. 2018 Supp. 23-3101 et seq., and amendments thereto, for each

1 parent ordered to pay support under this subsection, regardless of whether  
2 a payor has been identified for the parent. A parent ordered to pay child  
3 support under this subsection shall be notified, at the hearing or otherwise,  
4 that the child support order may be registered pursuant to K.S.A. 2018  
5 Supp. 38-2279, and amendments thereto. The parent shall also be informed  
6 that, after registration, the income withholding order may be served on the  
7 parent's employer without further notice to the parent and the child support  
8 order may be enforced by any method allowed by law. Failure to provide  
9 this notice shall not affect the validity of the child support order.

10 Sec. 21. K.S.A. 2018 Supp. 38-2271 is hereby amended to read as  
11 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-  
12 414, and amendments thereto, that a parent is unfit by reason of conduct or  
13 condition ~~which~~ *that* renders the parent unable to fully care for a child, if  
14 the state establishes, by clear and convincing evidence, that:

15 (1) A parent has previously been found to be an unfit parent in  
16 proceedings under K.S.A. 2018 Supp. 38-2266 et seq., and amendments  
17 thereto, or comparable proceedings under the laws of another jurisdiction;

18 (2) a parent has twice before been convicted of a crime specified in  
19 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior  
20 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes  
21 Annotated, or K.S.A. 2018 Supp. 21-6104, 21-6325, 21-6326 or 21-6418  
22 through 21-6421, and amendments thereto, or comparable offenses under  
23 the laws of another jurisdiction, or an attempt or attempts to commit such  
24 crimes and the victim was under the age of 18 years;

25 (3) on two or more prior occasions a child in the physical custody of  
26 the parent has been adjudicated a child in need of care as defined by  
27 K.S.A. 2018 Supp. 38-2202(d)(1), (d)(3), (d)(5) or (d)(11), and  
28 amendments thereto, or comparable proceedings under the laws of another  
29 jurisdiction;

30 (4) the parent has been convicted of causing the death of another  
31 child or stepchild of the parent;

32 (5) the child has been in an out-of-home placement, under court order  
33 for a cumulative total period of one year or longer and the parent has  
34 substantially neglected or willfully refused to carry out a reasonable plan,  
35 approved by the court, directed toward reintegration of the child into the  
36 parental home;

37 (6) (A) the child has been in an out-of-home placement, under court  
38 order for a cumulative total period of two years or longer; (B) the parent  
39 has failed to carry out a reasonable plan, approved by the court, directed  
40 toward reintegration of the child into the parental home; and (C) there is a  
41 substantial probability that the parent will not carry out such plan in the  
42 near future;

43 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,

1 prior to its repeal, or K.S.A. 2018 Supp. 21-5401, *prior to its repeal,*  
2 *aggravated murder, section 2,* and amendments thereto, murder in the first  
3 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2018 Supp. 21-5402,  
4 and amendments thereto, murder in the second degree, K.S.A. 21-3402,  
5 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments  
6 thereto, voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or  
7 K.S.A. 2018 Supp. 21-5404, and amendments thereto, human trafficking  
8 or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their  
9 repeal, or K.S.A. 2018 Supp. 21-5426, and amendments thereto, or  
10 commercial sexual exploitation of a child, K.S.A. 2018 Supp. 21-6422,  
11 and amendments thereto, or comparable proceedings under the laws of  
12 another jurisdiction or, has been adjudicated a juvenile offender because of  
13 an act which if committed by an adult would be an offense as provided in  
14 this subsection, and the victim of such murder was the other parent of the  
15 child;

16 (8) a parent abandoned or neglected the child after having knowledge  
17 of the child's birth or either parent has been granted immunity from  
18 prosecution for abandonment of the child under K.S.A. 21-3604(b), prior  
19 to its repeal, or K.S.A. 2018 Supp. 21-5605(d), and amendments thereto;  
20 or

21 (9) a parent has made no reasonable efforts to support or  
22 communicate with the child after having knowledge of the child's birth;

23 (10) a father, after having knowledge of the pregnancy, failed without  
24 reasonable cause to provide support for the mother during the six months  
25 prior to the child's birth;

26 (11) a father abandoned the mother after having knowledge of the  
27 pregnancy;

28 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its  
29 repeal, or K.S.A. 2018 Supp. 21-5503, and amendments thereto, or  
30 comparable proceedings under the laws of another jurisdiction resulting in  
31 the conception of the child; or

32 (13) a parent has failed or refused to assume the duties of a parent for  
33 two consecutive years next preceding the filing of the petition. In making  
34 this determination the court may disregard incidental visitations, contacts,  
35 communications or contributions.

36 (b) The burden of proof is on the parent to rebut the presumption of  
37 unfitness by a preponderance of the evidence. In the absence of proof that  
38 the parent is presently fit and able to care for the child or that the parent  
39 will be fit and able to care for the child in the foreseeable future, the court  
40 shall terminate parental rights in proceedings pursuant to K.S.A. 2018  
41 Supp. 38-2266 et seq., and amendments thereto.

42 Sec. 22. K.S.A. 2018 Supp. 38-2303 is hereby amended to read as  
43 follows: 38-2303. (a) Proceedings under this code involving acts

1 committed by a juvenile which, if committed by an adult, would constitute  
2 a violation of any of the following statutes may be commenced at any  
3 time: (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
4 2018 Supp. 21-5503, and amendments thereto; (2) aggravated criminal  
5 sodomy as defined in K.S.A. 21-3506, prior to its repeal, or ~~subsection (b)~~  
6 ~~of~~ K.S.A. 2018 Supp. 21-5504(b), and amendments thereto; (3) murder as  
7 described in K.S.A. 21-3401, 21-3402-~~or~~, 21-3439; or K.S.A. 2018 Supp  
8 21-5401, prior to their repeal, or K.S.A. 2018 Supp. ~~21-5401~~, 21-5402-~~or~~,  
9 21-5403 or section 2, and amendments thereto; (4) terrorism as defined in  
10 K.S.A. 21-3449, prior to its repeal, or K.S.A. 2018 Supp. 21-5421, and  
11 amendments thereto; or (5) illegal use of weapons of mass destruction as  
12 defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2018 Supp. 21-  
13 5422, and amendments thereto.

14 (b) Except as provided by subsections (c) and (e), a proceeding under  
15 this code for any act committed by a juvenile which, if committed by an  
16 adult, would constitute a violation of any of the following statutes shall be  
17 commenced within five years after its commission if the victim is less than  
18 16 years of age: (1) Lewd and lascivious behavior as defined in K.S.A. 21-  
19 3508, prior to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments  
20 thereto; (2) unlawful voluntary sexual relations as defined in K.S.A. 21-  
21 3522, prior to its repeal, or K.S.A. 2018 Supp. 21-5507, and amendments  
22 thereto; or (3) aggravated incest as defined in K.S.A. 21-3603, prior to its  
23 repeal, or subsection (b) of K.S.A. 2018 Supp. 21-5604, and amendments  
24 thereto.

25 (c) Except as provided in subsection (e), a proceeding under this code  
26 for any act committed by a juvenile which, if committed by an adult,  
27 would constitute a sexually violent crime as defined in K.S.A. 22-3717,  
28 and amendments thereto:

29 (1) When the victim is 18 years of age or older shall be commenced  
30 within 10 years or one year from the date on which the identity of the  
31 suspect is conclusively established by DNA testing, whichever is later; or

32 (2) when the victim is under 18 years of age shall be commenced  
33 within 10 years of the date the victim turns 18 years of age or one year  
34 from the date on which the identity of the suspect is conclusively  
35 established by DNA testing, whichever is later.

36 (3) For the purposes of this subsection, "DNA" means  
37 deoxyribonucleic acid.

38 (d) Except as provided by subsection (e), proceedings under this code  
39 not governed by subsections (a), (b) or (c) shall be commenced within two  
40 years after the act giving rise to the proceedings is committed.

41 (e) The period within which the proceedings must be commenced  
42 shall not include any period in which:

43 (1) The accused is absent from the state;

1 (2) the accused is so concealed within the state that process cannot be  
2 served upon the accused;

3 (3) the fact of the offense is concealed; or

4 (4) whether or not the fact of the offense is concealed by the active  
5 act or conduct of the accused, there is substantial competent evidence to  
6 believe two or more of the following factors are present: (A) The victim  
7 was a child under 15 years of age at the time of the offense; (B) the victim  
8 was of such age or intelligence that the victim was unable to determine  
9 that the acts constituted an offense; (C) the victim was prevented by a  
10 parent or other legal authority from making known to law enforcement  
11 authorities the fact of the offense whether or not the parent or other legal  
12 authority is the accused; and (D) there is substantial competent expert  
13 testimony indicating the victim psychologically repressed such victim's  
14 memory of the fact of the offense, and in the expert's professional opinion  
15 the recall of such memory is accurate, free of undue manipulation, and  
16 substantial corroborating evidence can be produced in support of the  
17 allegations contained in the complaint or information; but in no event may  
18 a proceeding be commenced as provided in subsection (e)(4) later than the  
19 date the victim turns 28 years of age. Corroborating evidence may include,  
20 but is not limited to, evidence the alleged juvenile offender committed  
21 similar acts against other persons or evidence of contemporaneous  
22 physical manifestations of the offense. Parent or other legal authority shall  
23 include, but not be limited to, natural and stepparents, grandparents, aunts,  
24 uncles or siblings.

25 (f) An offense is committed either when every element occurs, or, if a  
26 legislative purpose to prohibit a continuing offense plainly appears, at the  
27 time when the course of conduct or the alleged juvenile offender's  
28 complicity therein is terminated. Time starts to run on the day after the  
29 offense is committed.

30 (g) A proceeding under this code is commenced when a complaint or  
31 information is filed, or an indictment returned, and a warrant thereon is  
32 delivered to the sheriff or other officer for execution. No such proceeding  
33 shall be deemed to have been commenced if the warrant so issued is not  
34 executed without unreasonable delay.

35 Sec. 23. K.S.A. 2018 Supp. 38-2312 is hereby amended to read as  
36 follows: 38-2312. (a) Except as provided in subsections (b) and (c), any  
37 records or files specified in this code concerning a juvenile may be  
38 expunged upon application to a judge of the court of the county ~~in which~~  
39 *where* the records or files are maintained. The application for expungement  
40 may be made by the juvenile, if 18 years of age or older or, if the juvenile  
41 is less than 18 years of age, by the juvenile's parent or next friend.

42 (b) There shall be no expungement of records or files concerning acts  
43 committed by a juvenile which; if committed by an adult; would constitute

1 a violation of *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2018 Supp. 21-*  
2 *5401, prior to its repeal, capital murder; section 2, and amendments*  
3 *thereto, aggravated murder; K.S.A. 21-3401, prior to its repeal, or K.S.A.*  
4 *2018 Supp. 21-5402, and amendments thereto, murder in the first degree;*  
5 *K.S.A. 21-3402, prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and*  
6 *amendments thereto, murder in the second degree; K.S.A. 21-3403, prior*  
7 *to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto,*  
8 *voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A.*  
9 *2018 Supp. 21-5405, and amendments thereto, involuntary manslaughter;*  
10 ~~*K.S.A. 21-3439, prior to its repeal, or K.S.A. 2018 Supp. 21-5401, and*~~  
11 ~~*amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or*~~  
12 ~~*K.S.A. 2018 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto,*~~  
13 ~~*involuntary manslaughter while driving under the influence of alcohol or*~~  
14 ~~*drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp. 21-5503,*~~  
15 ~~*and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or*~~  
16 ~~*K.S.A. 2018 Supp. 21-5506(a), and amendments thereto, indecent liberties*~~  
17 ~~*with a child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-*~~  
18 ~~*5506(b), and amendments thereto, aggravated indecent liberties with a*~~  
19 ~~*child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2018 Supp. 21-*~~  
20 ~~*5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.*~~  
21 ~~*21-3510, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and*~~  
22 ~~*amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior*~~  
23 ~~*to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments thereto,*~~  
24 ~~*aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its*~~  
25 ~~*repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto, sexual*~~  
26 ~~*exploitation of a child; K.S.A. 2018 Supp. 21-5514(a), and amendments*~~  
27 ~~*thereto, internet trading in child pornography; K.S.A. 2018 Supp. 21-*~~  
28 ~~*5514(b), and amendments thereto, aggravated internet trading in child*~~  
29 ~~*pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2018 Supp. 21-*~~  
30 ~~*5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608,*~~  
31 ~~*prior to its repeal, or K.S.A. 2018 Supp. 21-5601(a), and amendments*~~  
32 ~~*thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.*~~  
33 ~~*2018 Supp. 21-5602, and amendments thereto, abuse of a child; or which*~~  
34 ~~*would constitute an attempt to commit a violation of any of the offenses*~~  
35 ~~*specified in this subsection.*~~

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

42 (d) When a petition for expungement is filed, the court shall set a date  
43 for a hearing on the petition and shall give notice thereof to the county or



1 district attorney. The petition shall state: (1) The juvenile's full name; (2)  
2 the full name of the juvenile as reflected in the court record, if different  
3 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which  
4 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity  
5 of the trial court. Except as otherwise provided by law, a petition for  
6 expungement shall be accompanied by a docket fee in the amount of \$176.  
7 On and after July 1, 2017, through June 30, 2019, the supreme court may  
8 impose a charge, not to exceed \$19 per case, to fund the costs of non-  
9 judicial personnel. All petitions for expungement shall be docketed in the  
10 original action. Any person who may have relevant information about the  
11 petitioner may testify at the hearing. The court may inquire into the  
12 background of the petitioner.

13 (e) (1) After hearing, the court shall order the expungement of the  
14 records and files if the court finds that:

15 (A) (i) The juvenile has reached 23 years of age or that two years  
16 have elapsed since the final discharge;

17 (ii) one year has elapsed since the final discharge for an adjudication  
18 concerning acts committed by a juvenile which, if committed by an adult,  
19 would constitute a violation of K.S.A. 2018 Supp. 21-6419, and  
20 amendments thereto; or

21 (iii) the juvenile is a victim of human trafficking, aggravated human  
22 trafficking or commercial sexual exploitation of a child, the adjudication  
23 concerned acts committed by the juvenile as a result of such victimization,  
24 including, but not limited to, acts which, if committed by an adult, would  
25 constitute a violation of K.S.A. 2018 Supp. 21-6203 or 21-6419, and  
26 amendments thereto, and the hearing on expungement occurred on or after  
27 the date of final discharge. The provisions of this clause shall not allow an  
28 expungement of records or files concerning acts described in subsection  
29 (b);

30 (B) since the final discharge of the juvenile, the juvenile has not been  
31 convicted of a felony or of a misdemeanor other than a traffic offense or  
32 adjudicated as a juvenile offender under the revised Kansas juvenile justice  
33 code and no proceedings are pending seeking such a conviction or  
34 adjudication; and

35 (C) the circumstances and behavior of the petitioner warrant  
36 expungement.

37 (2) The court may require that all court costs, fees and restitution  
38 shall be paid.

39 (f) Upon entry of an order expunging records or files, the offense  
40 ~~which~~ *that* the records or files concern shall be treated as if it never  
41 occurred, except that upon conviction of a crime or adjudication in a  
42 subsequent action under this code the offense may be considered in  
43 determining the sentence to be imposed. The petitioner, the court and all

1 law enforcement officers and other public offices and agencies shall  
2 properly reply on inquiry that no record or file exists with respect to the  
3 juvenile. Inspection of the expunged files or records thereafter may be  
4 permitted by order of the court upon petition by the person who is the  
5 subject thereof. The inspection shall be limited to inspection by the person  
6 who is the subject of the files or records and the person's designees.

7 (g) A certified copy of any order made pursuant to subsection (a) or  
8 (d) shall be sent to the Kansas bureau of investigation, ~~which and the~~  
9 *Kansas bureau of investigation* shall notify every juvenile or criminal  
10 justice agency ~~which~~ that may possess records or files ordered to be  
11 expunged. If the agency fails to comply with the order within a reasonable  
12 time after its receipt, such agency may be adjudged in contempt of court  
13 and punished accordingly.

14 (h) The court shall inform any juvenile who has been adjudicated a  
15 juvenile offender of the provisions of this section.

16 (i) Nothing in this section shall be construed to prohibit the  
17 maintenance of information relating to an offense after records or files  
18 concerning the offense have been expunged if the information is kept in a  
19 manner that does not enable identification of the juvenile.

20 (j) Nothing in this section shall be construed to permit or require  
21 expungement of files or records related to a child support order registered  
22 pursuant to the revised Kansas juvenile justice code.

23 (k) Whenever the records or files of any adjudication have been  
24 expunged under the provisions of this section, the custodian of the records  
25 or files of adjudication relating to that offense shall not disclose the  
26 existence of such records or files, except when requested by:

27 (1) The person whose record was expunged;

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

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

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

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

41 (6) the Kansas lottery, and the request is accompanied by a statement  
42 that the request is being made to aid in determining qualifications for  
43 employment with the Kansas lottery or for work in sensitive areas within

1 the Kansas lottery as deemed appropriate by the executive director of the  
2 Kansas lottery;

3 (7) the governor or the Kansas racing commission, or a designee of  
4 the commission, and the request is accompanied by a statement that the  
5 request is being made to aid in determining qualifications for executive  
6 director of the commission, for employment with the commission, for  
7 work in sensitive areas in parimutuel racing as deemed appropriate by the  
8 executive director of the commission or for licensure, renewal of licensure  
9 or continued licensure by the commission;

10 (8) the Kansas sentencing commission; or

11 (9) the Kansas bureau of investigation, for the purposes of:

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

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

18 (I) The provisions of subsection (k)(9) shall apply to all records  
19 created prior to, on and after July 1, 2011.

20 Sec. 24. K.S.A. 2018 Supp. 38-2365 is hereby amended to read as  
21 follows: 38-2365. (a) When a juvenile offender has been placed in the  
22 custody of the secretary, the secretary shall have a reasonable time to make  
23 a placement. If the juvenile offender has not been placed, any party who  
24 believes that the amount of time elapsed without placement has exceeded a  
25 reasonable time may file a motion for review with the court. In  
26 determining what is a reasonable amount of time, matters considered by  
27 the court shall include, but not be limited to, the nature of the underlying  
28 offense, efforts made for placement of the juvenile offender and the  
29 availability of a suitable placement. The secretary shall notify the court,  
30 the juvenile's attorney of record and the juvenile's parent, in writing, of the  
31 initial placement and any subsequent change of placement as soon as the  
32 placement has been accomplished. The notice to the juvenile offender's  
33 parent shall be sent to such parent's last known address or addresses. The  
34 court shall have no power to direct a specific placement by the secretary,  
35 but may make recommendations to the secretary. The secretary may place  
36 the juvenile offender in an institution operated by the secretary, a youth  
37 residential facility or any other appropriate placement. If the court has  
38 recommended an out-of-home placement, the secretary may not return the  
39 juvenile offender to the home from which removed without first notifying  
40 the court of the plan.

41 (b) If a juvenile is in the custody of the secretary, the secretary shall  
42 prepare and present a permanency plan at sentencing or within 30 days  
43 thereafter. If the juvenile is 14 years of age or older and the juvenile is

1 able, the secretary shall prepare the permanency plan in consultation with  
2 the juvenile. If a permanency plan is already in place under a child in need  
3 of care proceeding, the court may adopt the plan under the present  
4 proceeding. The written permanency plan shall provide for reintegration of  
5 the juvenile into such juvenile's family or, if reintegration is not a viable  
6 alternative, for other permanent placement of the juvenile. Reintegration  
7 may not be a viable alternative when: (1) The parent has been found by a  
8 court to have committed *capital murder, K.S.A. 21-3439, prior to its*  
9 *repeal, or K.S.A. 2018 Supp. 21-5401, prior to its repeal, aggravated*  
10 *murder, section 2, and amendments thereto, murder in the first degree,*  
11 *K.S.A. 21-3401, prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and*  
12 *amendments thereto, murder in the second degree, K.S.A. 21-3402, prior*  
13 *to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments thereto,*  
14 ~~*capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2018 Supp.*~~  
15 ~~*21-5401, and amendments thereto,*~~ voluntary manslaughter, K.S.A. 21-  
16 3403, prior to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments  
17 thereto, of a child or violated a law of another state ~~which~~ that prohibits  
18 such murder or manslaughter of a child;  
19 (2) the parent aided or abetted, attempted, conspired or solicited to  
20 commit such murder or voluntary manslaughter of a child;  
21 (3) the parent committed a felony battery that resulted in bodily  
22 injury to the juvenile who is the subject of this proceeding or another  
23 child;  
24 (4) the parent has subjected the juvenile who is the subject of this  
25 proceeding or another child to aggravated circumstances as defined in  
26 K.S.A. 38-1502, and amendments thereto;  
27 (5) the parental rights of the parent to another child have been  
28 terminated involuntarily; or  
29 (6) the juvenile has been in extended out-of-home placement as  
30 defined in K.S.A. 2018 Supp. 38-2202, and amendments thereto.  
31 (c) If the juvenile is placed in the custody of the secretary, the plan  
32 shall be prepared and submitted by the secretary. If the juvenile is placed  
33 in the custody of a facility or person other than the secretary, the plan shall  
34 be prepared and submitted by a court services officer. If the permanency  
35 goal is reintegration into the family, the permanency plan shall include  
36 measurable objectives and time schedules for reintegration.  
37 (d) During the time a juvenile remains in the custody of the secretary,  
38 the secretary shall submit to the court, at least every six months, a written  
39 report of the progress being made toward the goals of the permanency plan  
40 submitted pursuant to subsections (b) and (c) and the specific actions taken  
41 to achieve the goals of the permanency plan. If the juvenile is placed in  
42 foster care, the court may request the foster parent to submit to the court,  
43 at least every six months, a report in regard to the juvenile's adjustment,

1 progress and condition. Such report shall be made a part of the juvenile's  
2 court social file. The court shall review the plan submitted by the secretary  
3 and the report, if any, submitted by the foster parent and determine  
4 whether reasonable efforts and progress have been made to achieve the  
5 goals of the permanency plan. If the court determines that progress is  
6 inadequate or that the permanency plan is no longer viable, the court shall  
7 hold a hearing pursuant to subsection (e).

8 (e) When the secretary has custody of the juvenile, a permanency  
9 hearing shall be held no more than 12 months after the juvenile is first  
10 placed outside such juvenile's home and at least every 12 months  
11 thereafter. Juvenile offenders who have been in extended out-of-home  
12 placement shall be provided a permanency hearing within 30 days of a  
13 request from the secretary. The court may appoint a guardian ad litem to  
14 represent the juvenile offender at the permanency hearing. At the  
15 permanency hearing, the court shall determine whether and, if applicable,  
16 when the juvenile will be:

17 (1) Reintegrated with the juvenile's parents;

18 (2) placed for adoption;

19 (3) placed with a permanent custodian; or

20 (4) if the juvenile is 16 years of age or older and the secretary has  
21 documented compelling reasons why it would not be in the juvenile's best  
22 interests for a placement in one of the placements pursuant to paragraphs  
23 (1), (2) or (3), placed in another planned permanent arrangement.

24 (f) At each permanency hearing, the court shall:

25 (1) Make a written finding as to whether reasonable efforts have been  
26 made to accomplish the permanency goal and whether continued out-of-  
27 home placement is necessary for the juvenile's safety;

28 (2) make a written finding as to whether the reasonable and prudent  
29 parenting standard has been met and whether the juvenile has regular,  
30 ongoing opportunities to engage in age or developmentally appropriate  
31 activities. The secretary shall report to the court the steps the secretary is  
32 taking to ensure that the reasonable and prudent parenting standard is  
33 being met and that the juvenile has regular, ongoing opportunities to  
34 engage in age or developmentally appropriate activities, including  
35 consultation with the juvenile in an age-appropriate manner about the  
36 opportunities of the juvenile to participate in the activities; and

37 (3) if the juvenile is 14 years of age or older, document the efforts  
38 made by the secretary to help the juvenile prepare for the transition from  
39 custody to a successful adulthood. The secretary shall report to the court  
40 the programs and services that are being provided to the juvenile, which  
41 will help the juvenile prepare for the transition from custody to a  
42 successful adulthood.

43 (g) The requirements of this subsection shall apply only if the

1 permanency goal in place at the time of the hearing is another planned  
2 permanent arrangement as described in subsection (e)(4). At each  
3 permanency hearing held with respect to the juvenile, in addition to the  
4 requirements of subsection (f), the court shall:

5 (1) Ask the juvenile, if the juvenile is able, by attendance at the  
6 hearing or by report to the court, about the desired permanency outcome  
7 for the juvenile;

8 (2) document the intensive, ongoing and, as of the date of the hearing,  
9 unsuccessful permanency efforts made by the secretary to return the  
10 juvenile home or secure a placement for the juvenile with a fit and willing  
11 relative, a legal guardian or an adoptive parent. The secretary shall report  
12 to the court the intensive, ongoing and, as of the date of the hearing,  
13 unsuccessful efforts made by the secretary to return the juvenile home or  
14 secure a placement for the juvenile with a fit and willing relative, a legal  
15 guardian or an adoptive parent, including efforts that utilize search  
16 technology, including social media, to find biological family members of  
17 the children; and

18 (3) make a judicial determination explaining why, as of the date of  
19 the hearing, another planned permanent living arrangement is the best  
20 permanency plan for the juvenile and provide compelling reasons why it  
21 continues to not be in the best interests of the juvenile to return home, be  
22 placed for adoption, be placed with a legal guardian or be placed with a fit  
23 and willing relative.

24 (h) Whenever a hearing is required under subsection (e), the court  
25 shall notify all interested parties of the hearing date, the secretary, foster  
26 parent and preadoptive parent or relatives providing care for the juvenile  
27 and hold a hearing. If the juvenile is 14 years of age or older, the court  
28 shall require notice of the time and place of the permanency hearing be  
29 given to the juvenile. Such notice shall request the juvenile's participation  
30 in the hearing by attendance or by report to the court. Individuals receiving  
31 notice pursuant to this subsection shall not be made a party to the action  
32 solely on the basis of this notice and opportunity to be heard. After  
33 providing the persons receiving notice an opportunity to be heard, the  
34 court shall determine whether the juvenile's needs are being adequately  
35 met; whether services set out in the permanency plan necessary for the  
36 safe return of the juvenile have been made available to the parent with  
37 whom reintegration is planned; and whether reasonable efforts and  
38 progress have been made to achieve the goals of the permanency plan.

39 (i) If the court finds reintegration continues to be a viable alternative,  
40 the court shall determine whether and, if applicable, when the juvenile will  
41 be returned to the parent. The court may rescind any of its prior  
42 dispositional orders and enter any dispositional order authorized by this  
43 code or may order that a new plan for the reintegration be prepared and

1 submitted to the court. If reintegration cannot be accomplished as  
2 approved by the court, the court shall be informed and shall schedule a  
3 hearing pursuant to subsection (j). No such hearing is required when the  
4 parent voluntarily relinquishes parental rights or agrees to appointment of  
5 a permanent guardian.

6 (j) When the court finds any of the following conditions exist, the  
7 county or district attorney or the county or district attorney's designee shall  
8 file a petition alleging the juvenile to be a child in need of care and  
9 requesting termination of parental rights pursuant to the Kansas code for  
10 care of children: (1) The court determines that reintegration is not a viable  
11 alternative and either adoption or permanent guardianship might be in the  
12 best interests of the juvenile;

13 (2) the goal of the permanency plan is reintegration into the family  
14 and the court determines after 12 months from the time such plan is first  
15 submitted that progress is inadequate; or

16 (3) the juvenile has been in out-of-home placement for a cumulative  
17 total of 15 of the last 22 months, excluding trial home visits and juvenile in  
18 runaway status.

19 Nothing in this subsection shall be interpreted to prohibit termination of  
20 parental rights prior to the expiration of 12 months.

21 (k) A petition to terminate parental rights is not required to be filed if  
22 one of the following exceptions is documented to exist: (1) The juvenile is  
23 in a stable placement with relatives;

24 (2) services set out in the case plan necessary for the safe return of  
25 the juvenile have not been made available to the parent with whom  
26 reintegration is planned; or

27 (3) there are one or more documented reasons why such filing would  
28 not be in the best interests of the juvenile. Documented reasons may  
29 include, but are not limited to: The juvenile has close emotional bonds  
30 with a parent, which should not be broken; the juvenile is 14 years of age  
31 or older and, after advice and counsel, refuses to be adopted; insufficient  
32 grounds exist for termination of parental rights; the juvenile is an  
33 unaccompanied refugee minor; or there are international legal or  
34 compelling foreign policy reasons precluding termination of parental  
35 rights.

36 Sec. 25. K.S.A. 2018 Supp. 39-970 is hereby amended to read as  
37 follows: 39-970. (a) As used in this section:

38 (1) "Adult care home" means any nursing facility, nursing facility for  
39 mental health, intermediate care facility for people with intellectual  
40 disability, assisted living facility, residential health care facility, home plus,  
41 boarding care home or adult day care facility that is required to be licensed  
42 to operate by the secretary for aging and disability services.

43 (2) "Applicant" means an individual who applies for employment

1 with an adult care home or applies to work for an employment agency or  
2 as an independent contractor who provides staff to an adult care home.

3 (3) "Completion of the sentence" means the last day of the entire term  
4 of incarceration imposed by a sentence, including any term that is  
5 deferred, suspended or subject to parole, probation, diversion, community  
6 corrections, fines, fees, restitution or any other imposed sentencing  
7 requirements.

8 (4) "Department" means the Kansas department for aging and  
9 disability services.

10 (5) "Direct access" means work that involves an actual or reasonable  
11 expectation of one-on-one interaction with a consumer or a consumer's  
12 property, personally identifiable information, medical records, treatment  
13 information or financial information.

14 (6) "Direct supervision" means that a supervisor is physically present  
15 within an immediate distance to a supervisee and is available to provide  
16 constant direction, feedback and assistance to a client and the supervisee.

17 (7) "Employment agency" means an organization or entity that has a  
18 contracted relationship with an adult care home to provide staff with direct  
19 access to consumers.

20 (8) "Independent contractor" means an organization, entity, agency or  
21 individual that provides contracted workers or services to an adult care  
22 home.

23 (9) "Secretary" means the secretary for aging and disability services.

24 (b) (1) No person shall knowingly operate an adult care home if, in  
25 the adult care home, there works any person who has adverse findings on  
26 any state or national registry, as defined in rules and regulations adopted  
27 by the secretary for aging and disability services, or has been convicted of  
28 or has been adjudicated a juvenile offender because of having committed  
29 an act that if done by an adult would constitute the commission of capital  
30 murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 2018  
31 Supp. 21-5401, *prior to its repeal, aggravated murder, section 2*, and  
32 amendments thereto, first degree murder, pursuant to K.S.A. 21-3401,  
33 prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments  
34 thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its  
35 repeal, or K.S.A. 2018 Supp. 21-5403(a), and amendments thereto,  
36 voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or  
37 K.S.A. 2018 Supp. 21-5404, and amendments thereto, assisting suicide,  
38 pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-  
39 5407, and amendments thereto, mistreatment of a dependent adult or  
40 mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its  
41 repeal, or K.S.A. 2018 Supp. 21-5417, and amendments thereto, human  
42 trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 2018  
43 Supp. 21-5426(a), and amendments thereto, aggravated human trafficking,



1 pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 2018 Supp. 21-  
2 5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior  
3 to its repeal, or K.S.A. 2018 Supp. 21-5503, and amendments thereto,  
4 indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its  
5 repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto,  
6 aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504,  
7 prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and amendments  
8 thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to  
9 its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto,  
10 indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its  
11 repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments thereto,  
12 aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511,  
13 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments  
14 thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to  
15 its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto, sexual  
16 battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 2018  
17 Supp. 21-5505(a), and amendments thereto, aggravated sexual battery,  
18 pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 2018 Supp. 21-  
19 5505(b), and amendments thereto, commercial sexual exploitation of a  
20 child, pursuant to K.S.A. 2018 Supp. 21-6422, and amendments thereto, an  
21 attempt to commit any of the crimes listed in this paragraph, pursuant to  
22 K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018 Supp. 21-5301, and  
23 amendments thereto, a conspiracy to commit any of the crimes listed in  
24 this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A.  
25 2018 Supp. 21-5302, and amendments thereto, or criminal solicitation of  
26 any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303,  
27 prior to its repeal, or K.S.A. 2018 Supp. 21-5303, and amendments  
28 thereto, or similar statutes of other states or the federal government. The  
29 provisions of subsection (b)(2)(C) shall not apply to any person who is  
30 employed by an adult care home on or before July 1, 2010, and while  
31 continuously employed by the same adult care home or to any person  
32 during or upon successful completion of a diversion agreement.

33 (2) A person operating an adult care home may employ an applicant  
34 who has been convicted of any of the following if six or more years have  
35 elapsed since completion of the sentence imposed or the applicant was  
36 discharged from probation, a community correctional services program,  
37 parole, postrelease supervision, conditional release or a suspended  
38 sentence; if six or more years have elapsed since the applicant has been  
39 finally discharged from the custody of the commissioner of juvenile justice  
40 or from probation or has been adjudicated a juvenile offender, whichever  
41 time is longer; or if the applicant has been granted a waiver of such six-  
42 year disqualification: A felony conviction for a crime that is described in:  
43 (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to

1 their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated,  
2 and amendments thereto, except those crimes listed in subsection (b)(1);  
3 (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior  
4 to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes  
5 Annotated, or K.S.A. 2018 Supp. 21-6420, and amendments thereto,  
6 except those crimes listed in subsection (b)(1) and K.S.A. 21-3605, prior  
7 to its repeal, or K.S.A. 2018 Supp. 21-5606, and amendments thereto; (C)  
8 K.S.A. 21-3701, prior to its repeal, or K.S.A. 2018 Supp. 21-5801, and  
9 amendments thereto; (D) an attempt to commit any of the crimes listed in  
10 this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A.  
11 2018 Supp. 21-5301, and amendments thereto; (E) a conspiracy to commit  
12 any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302,  
13 prior to its repeal, or K.S.A. 2018 Supp. 21-5302, and amendments  
14 thereto; (F) criminal solicitation of any of the crimes listed in this  
15 paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2018  
16 Supp. 21-5303, and amendments thereto; or (G) similar statutes of other  
17 states or the federal government.

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

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

35 (i) Interference with custody of a committed person pursuant to  
36 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2018 Supp. 21-5410, and  
37 amendments thereto; mistreatment of a confined person pursuant to K.S.A.  
38 21-3425, prior to its repeal, or K.S.A. 2018 Supp. 21-5416, and  
39 amendments thereto; unlawful administration of a substance pursuant to  
40 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2018 Supp. 21-5425, and  
41 amendments thereto; violation of a protective order pursuant to K.S.A. 21-  
42 3843, prior to its repeal, or K.S.A. 2018 Supp. 21-5924, and amendments  
43 thereto; promoting obscenity or promoting obscenity to minors pursuant to

1 K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2018 Supp.  
2 21-6401, and amendments thereto; or cruelty to animals pursuant to  
3 K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 2018  
4 Supp. 21-6412, and amendments thereto; or

5 (ii) any felony conviction of: Unlawful manufacture of a controlled  
6 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or  
7 K.S.A. 2018 Supp. 21-5703, and amendments thereto; unlawful cultivation  
8 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-  
9 36a05, prior to its repeal, or K.S.A. 2018 Supp. 21-5705, and amendments  
10 thereto; unlawful manufacture, distribution, cultivation or possession of a  
11 controlled substance using a communication facility pursuant to K.S.A.  
12 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2018 Supp. 21-5707,  
13 and amendments thereto; unlawful obtainment or sale of a prescription-  
14 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or  
15 K.S.A. 2018 Supp. 21-5708, and amendments thereto; unlawful  
16 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.  
17 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2018 Supp. 21-5710,  
18 and amendments thereto; unlawful distribution or possession of a  
19 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,  
20 prior to its repeal, or K.S.A. 2018 Supp. 21-5713, and amendments  
21 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.  
22 2018 Supp. 21-5823, and amendments thereto; criminal use of a financial  
23 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2018 Supp.  
24 21-5828, and amendments thereto; any violation of the Kansas medicaid  
25 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,  
26 or K.S.A. 2018 Supp. 21-5925 et seq., and amendments thereto; making a  
27 false claim, statement or representation to the medicaid program pursuant  
28 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2018 Supp. 21-5927, and  
29 amendments thereto; unlawful acts relating to the medicaid program  
30 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2018 Supp. 21-  
31 5928, and amendments thereto; obstruction of a medicaid fraud  
32 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.  
33 2018 Supp. 21-5929, and amendments thereto; identity theft or identity  
34 fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A.  
35 2018 Supp. 21-6107, and amendments thereto; or social welfare fraud  
36 pursuant to K.S.A. 39-720, and amendments thereto.

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

41 An individual who has been disqualified for employment due to  
42 conviction or adjudication of an offense listed in this paragraph (3) may  
43 apply to the secretary for aging and disability services for a waiver of such

1 disqualification if five years have elapsed since completion of the sentence  
2 for such conviction. The secretary shall adopt rules and regulations  
3 establishing the waiver process and criteria to be considered by the  
4 secretary in evaluating any such waiver request.

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

11 (d) (1) The Kansas bureau of investigation shall release all records of  
12 adult and juvenile convictions and adjudications and adult and juvenile  
13 convictions and adjudications of any other state or country concerning  
14 persons working in an adult care home to the secretary for aging and  
15 disability services. The Kansas bureau of investigation may charge to the  
16 Kansas department for aging and disability services a reasonable fee for  
17 providing criminal history record information under this subsection.

18 (2) The department shall require an applicant to be fingerprinted and  
19 to submit to a state and national criminal history record check. The  
20 fingerprints shall be used to identify the individual and to determine  
21 whether the individual has a record of criminal history in this state or other  
22 jurisdiction. The department is authorized to submit the fingerprints to the  
23 Kansas bureau of investigation and the federal bureau of investigation for  
24 a state and national criminal history record check. The department may use  
25 the information obtained from fingerprinting and the criminal history  
26 record check for purposes of verifying the identification of the person and  
27 for making an official determination of the qualifications and fitness of the  
28 person to work in the adult care home.

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

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

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

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

43 (6) Individuals who have been disqualified for employment by reason

1 of their criminal history records and who have met the requirements of this  
2 subsection may apply for a waiver with the department within 30 days of  
3 the receipt of the notice of employment prohibition.

4 (7) The department shall adopt rules and regulations specifying the  
5 criteria and procedure for issuing a waiver of the employment prohibition.  
6 The secretary shall consider the following criteria when rendering a  
7 decision on such a waiver request: Passage of time; extenuating  
8 circumstances; demonstration of rehabilitation; and relevancy of the  
9 criminal history record information to the position for which the applicant  
10 is applying. Any employment prohibition issued shall remain in effect  
11 unless or until a waiver is granted.

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

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

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

42 (h) No person who has been continuously employed by the same  
43 adult care home since July 1, 1992, shall be subject to the provisions of

1 this section while employed by such adult care home.

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

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

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

15 (2) All moneys collected and remitted to the Kansas department for  
16 aging and disability services for fees charged for criminal history record  
17 checks conducted pursuant to this section shall be remitted to the state  
18 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.  
19 Upon receipt of each such remittance, the state treasurer shall deposit the  
20 entire amount into the state treasury to the credit of the state licensure fee  
21 fund created by K.S.A. 39-930, and amendments thereto.

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

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

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

40 Sec. 26. K.S.A. 2018 Supp. 39-2009 is hereby amended to read as  
41 follows: 39-2009. (a) As used in this section:

42 (1) "Applicant" means an individual who applies for employment  
43 with a center, facility, hospital or a provider of services or applies to work

1 for an employment agency or as an independent contractor that provides  
2 staff to a center, facility, hospital or a provider of services.

3 (2) "Completion of the sentence" means the last day of the entire term  
4 of incarceration imposed by a sentence, including any term that is  
5 deferred, suspended or subject to parole, probation, diversion, community  
6 corrections, fines, fees, restitution or any other imposed sentencing  
7 requirements.

8 (3) "Department" means the Kansas department for aging and  
9 disability services.

10 (4) "Direct access" means work that involves an actual or reasonable  
11 expectation of one-on-one interaction with a consumer or a consumer's  
12 property, personally identifiable information, medical records, treatment  
13 information or financial information.

14 (5) "Direct supervision" means that a supervisor is physically present  
15 within an immediate distance to a supervisee and is available to provide  
16 constant direction, feedback and assistance to a client and the supervisee.

17 (6) "Employment agency" means an organization or entity that has a  
18 contracted relationship with a center, hospital, facility or provider of  
19 services to provide staff with direct access to consumers.

20 (7) "Independent contractor" means an organization, entity, agency or  
21 individual that provides contracted workers or services to a center, facility,  
22 hospital or provider of services.

23 (b) (1) No licensee shall knowingly operate a center, facility, hospital  
24 or be a provider of services if any person who works in the center, facility,  
25 hospital or for a provider of services has adverse findings on any state or  
26 national registry, as defined in rules and regulations adopted by the  
27 secretary for aging and disability services, or has been convicted of or has  
28 been adjudicated a juvenile offender because of having ~~committing~~  
29 *committed* an act that if done by an adult would constitute the commission  
30 of capital murder, pursuant to K.S.A. 21-3439 or *K.S.A. 2018 Supp. 21-*  
31 *5401*, prior to ~~its~~ *their* repeal, ~~or K.S.A. 2018 Supp. 21-5401 aggravated~~  
32 *murder, pursuant to section 2*, and amendments thereto, first degree  
33 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2018  
34 Supp. 21-5402, and amendments thereto, second degree murder, pursuant  
35 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2018 Supp. 21-5403(a),  
36 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-  
37 3403, prior to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments  
38 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or  
39 K.S.A. 2018 Supp. 21-5407, and amendments thereto, mistreatment of a  
40 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-  
41 3437, prior to its repeal, or K.S.A. 2018 Supp. 21-5417, and amendments  
42 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,  
43 or K.S.A. 2018 Supp. 21-5426(a), and amendments thereto, aggravated

1 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or  
2 K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, rape, pursuant to  
3 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp. 21-5503, and  
4 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-  
5 3503, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and  
6 amendments thereto, aggravated indecent liberties with a child, pursuant to  
7 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and  
8 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-  
9 3506, prior to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and  
10 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.  
11 21-3510, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and  
12 amendments thereto, aggravated indecent solicitation of a child, pursuant  
13 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b),  
14 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.  
15 21-3516, prior to its repeal, or K.S.A. 2018 Supp. 21-5510, and  
16 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to  
17 its repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto,  
18 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,  
19 or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto, commercial  
20 sexual exploitation of a child, pursuant to K.S.A. 2018 Supp. 21-6422, and  
21 amendments thereto, an attempt to commit any of the crimes listed in this  
22 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018  
23 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of  
24 the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its  
25 repeal, or K.S.A. 2018 Supp. 21-5302, and amendments thereto, or  
26 criminal solicitation of any of the crimes listed in this paragraph, pursuant  
27 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2018 Supp. 21-5303, and  
28 amendments thereto, or similar statutes of other states or the federal  
29 government.

30 (2) A licensee operating a center, facility or hospital or as a provider  
31 of services may employ an applicant who has been convicted of any of the  
32 following if six or more years have elapsed since completion of the  
33 sentence imposed or the applicant was discharged from probation, a  
34 community correctional services program, parole, postrelease supervision,  
35 conditional release or a suspended sentence; if six or more years have  
36 elapsed since a community correctional services program, parole,  
37 postrelease supervision, conditional release or a suspended sentence; or if  
38 the applicant has been granted a waiver of such six-year disqualification: A  
39 felony conviction for a crime that is described in: (A) Article 34 of chapter  
40 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of  
41 chapter 21 of the Kansas Statutes Annotated, and amendments thereto,  
42 except those crimes listed in paragraph (1); (B) article 35 or 36 of chapter  
43 21 of the Kansas Statutes Annotated, and amendments thereto, prior to



1 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes  
2 Annotated or K.S.A. 2018 Supp. 21-6420, and amendments thereto, except  
3 those crimes listed in paragraph (1); (C) K.S.A. 21-3701, prior to its  
4 repeal, or K.S.A. 2018 Supp. 21-5801, and amendments thereto; (D) an  
5 attempt to commit any of the crimes listed in this paragraph pursuant to  
6 K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018 Supp. 21-5301, and  
7 amendments thereto; (E) a conspiracy to commit any of the crimes listed  
8 in this paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A.  
9 2018 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of  
10 any of the crimes listed in this paragraph pursuant to K.S.A. 21-3303, prior  
11 to its repeal, or K.S.A. 2018 Supp. 21-5303, and amendments thereto; or  
12 (G) similar statutes of other states or the federal government.

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

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

30 (i) Interference with custody of a committed person pursuant to  
31 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2018 Supp. 21-5410, and  
32 amendments thereto; mistreatment of a confined person pursuant to K.S.A.  
33 21-3425, prior to its repeal, or K.S.A. 2018 Supp. 21-5416, and  
34 amendments thereto; unlawful administration of a substance pursuant to  
35 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2018 Supp. 21-5425, and  
36 amendments thereto; violation of a protective order pursuant to K.S.A. 21-  
37 3843, prior to its repeal, or K.S.A. 2018 Supp. 21-5924; promoting  
38 obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or  
39 21-4301a, prior to their repeal, or K.S.A. 2018 Supp. 21-6401, and  
40 amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-  
41 4310 or 21-4311, prior to their repeal, or K.S.A. 2018 Supp. 21-6412, and  
42 amendments thereto; or

43 (ii) any felony conviction of: Unlawful manufacture of a controlled

1 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or  
2 K.S.A. 2018 Supp. 21-5703, and amendments thereto; unlawful cultivation  
3 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-  
4 36a05, prior to its repeal, or K.S.A. 2018 Supp. 21-5705, and amendments  
5 thereto; unlawful manufacture, distribution, cultivation or possession of a  
6 controlled substance using a communication facility pursuant to K.S.A.  
7 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2018 Supp. 21-5707,  
8 and amendments thereto; unlawful obtainment or sale of a prescription-  
9 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or  
10 K.S.A. 2018 Supp. 21-5708, and amendments thereto; unlawful  
11 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.  
12 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2018 Supp. 21-5710,  
13 and amendments thereto; unlawful distribution or possession of a  
14 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,  
15 prior to its repeal, or K.S.A. 2018 Supp. 21-5713, and amendments  
16 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.  
17 2018 Supp. 21-5823, and amendments thereto; criminal use of a financial  
18 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2018 Supp.  
19 21-5828, and amendments thereto; any violation of the Kansas medicaid  
20 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,  
21 or K.S.A. 2018 Supp. 21-5925 et seq., and amendments thereto; making a  
22 false claim, statement or representation to the medicaid program pursuant  
23 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2018 Supp. 21-5927, and  
24 amendments thereto; unlawful acts relating to the medicaid program  
25 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2018 Supp. 21-  
26 5928, and amendments thereto; obstruction of a medicaid fraud  
27 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.  
28 2018 Supp. 21-5929, and amendments thereto; identity theft or identity  
29 fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A.  
30 2018 Supp. 21-6107, and amendments thereto; or social welfare fraud  
31 pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this  
32 paragraph shall not apply to any person who is employed by a center,  
33 facility, hospital or provider of services on or before July 1, 2018, and is  
34 continuously employed by the same center, facility, hospital or provider of  
35 services or to any person during or upon successful completion of a  
36 diversion agreement.

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

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

8 (d) (1) The Kansas bureau of investigation shall release all records of  
9 adult and juvenile convictions and adjudications and adult and juvenile  
10 convictions and adjudications of any other state or country concerning  
11 persons working in a center, facility, hospital or for a provider of services  
12 to the secretary for aging and disability services. The Kansas bureau of  
13 investigation may charge to the Kansas department for aging and disability  
14 services a reasonable fee for providing criminal history record information  
15 under this subsection.

16 (2) The department shall require an applicant to be fingerprinted and  
17 to submit to a state and national criminal history record check. The  
18 fingerprints shall be used to identify the individual and to determine  
19 whether the individual has a record of criminal history in this state or other  
20 jurisdiction. The department is authorized to submit the fingerprints to the  
21 Kansas bureau of investigation and the federal bureau of investigation for  
22 a state and national criminal history record check. The department may use  
23 the information obtained from fingerprinting and the criminal history  
24 record check for purposes of verifying the identification of the person and  
25 for making an official determination of the qualifications and fitness of the  
26 person to work in the center, facility, hospital or for a provider of services.

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

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

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

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

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

1 the receipt of the notice of employment prohibition.

2 (7) The department shall adopt rules and regulations specifying the  
3 criteria and procedure for issuing a waiver of the employment prohibition.  
4 The secretary shall consider the following criteria when rendering a  
5 decision on such a waiver request: Passage of time; extenuating  
6 circumstances; demonstration of rehabilitation; and relevancy of the  
7 criminal history record information to the position for which the applicant  
8 is applying. Any employment prohibition issued shall remain in effect  
9 unless or until a waiver is granted.

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

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

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

43 (g) The licensee operating a center, facility, hospital or a provider of

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

8 Sec. 27. K.S.A. 65-5117 is hereby amended to read as follows: 65-  
9 5117. (a) As used in this section:

10 (1) "Applicant" means an individual who applies for employment  
11 with a home health agency or applies to work for an employment agency  
12 or as an independent contractor that provides staff to a home health  
13 agency.

14 (2) "Completion of the sentence" means the last day of the entire term  
15 of incarceration imposed by a sentence, including any term that is  
16 deferred, suspended or subject to parole, probation, diversion, community  
17 corrections, fines, fees, restitution or any other imposed sentencing  
18 requirements.

19 (3) "Department" means the Kansas department for aging and  
20 disability services.

21 (4) "Direct access" means work that involves an actual or reasonable  
22 expectation of one-on-one interaction with a consumer or a consumer's  
23 property, personally identifiable information, medical records, treatment  
24 information or financial information.

25 (5) "Direct supervision" means that a supervisor is physically present  
26 within an immediate distance to a supervisee and is available to provide  
27 constant direction, feedback and assistance to a client and the supervisee.

28 (6) "Employment agency" means an organization or entity that has a  
29 contracted relationship with a home health agency to provide staff with  
30 direct access to consumers.

31 (7) "Independent contractor" means an organization, entity, agency or  
32 individual that provides contracted workers or services to a home health  
33 agency.

34 (b) (1) No person shall knowingly operate a home health agency if,  
35 for the home health agency, there works any person who has adverse  
36 findings on any state or national registry, as defined in rules and  
37 regulations adopted by the secretary for aging and disability services, or  
38 has been convicted of or has been adjudicated a juvenile offender because  
39 of having committed an act that if done by an adult would constitute the  
40 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its  
41 repeal, or K.S.A. 2018 Supp. 21-5401, *prior to its repeal, aggravated*  
42 *murder, pursuant to section 2*, and amendments thereto, first degree  
43 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2018

1 Supp. 21-5402, and amendments thereto, second degree murder, pursuant  
2 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2018 Supp. 21-5403(a),  
3 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-  
4 3403, prior to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments  
5 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or  
6 K.S.A. 2018 Supp. 21-5407, and amendments thereto, mistreatment of a  
7 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-  
8 3437, prior to its repeal, or K.S.A. 2018 Supp. 21-5417, and amendments  
9 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,  
10 or K.S.A. 2018 Supp. 21-5426(a), and amendments thereto, aggravated  
11 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or  
12 K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, rape, pursuant to  
13 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp. 21-5503, and  
14 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-  
15 3503, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and  
16 amendments thereto, aggravated indecent liberties with a child, pursuant to  
17 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and  
18 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-  
19 3506, prior to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and  
20 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.  
21 21-3510, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and  
22 amendments thereto, aggravated indecent solicitation of a child, pursuant  
23 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b),  
24 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.  
25 21-3516, prior to its repeal, or K.S.A. 2018 Supp. 21-5510, and  
26 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to  
27 its repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto,  
28 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,  
29 or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto, commercial  
30 sexual exploitation of a child, pursuant to K.S.A. 2018 Supp. 21-6422, and  
31 amendments thereto, an attempt to commit any of the crimes listed in this  
32 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018  
33 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of  
34 the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its  
35 repeal, or K.S.A. 2018 Supp. 21-5302, and amendments thereto, or  
36 criminal solicitation of any of the crimes listed in this paragraph, pursuant  
37 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2018 Supp. 21-5303, and  
38 amendments thereto, or similar statutes of other states or the federal  
39 government. The provisions of subsection (b)(2)(C) shall not apply to any  
40 person who is employed by a home health agency on or before July 1,  
41 2010, and while continuously employed by the same home health agency  
42 or to any person during or upon successful completion of a diversion  
43 agreement.

1 (2) A person operating a home health agency may employ an  
2 applicant who has been convicted of any of the following if six or more  
3 years have elapsed since completion of the sentence imposed or the  
4 applicant was discharged from probation, a community correctional  
5 services program, parole, postrelease supervision, conditional release or a  
6 suspended sentence; if six or more years have elapsed since the applicant  
7 has been finally discharged from the custody of the commissioner of  
8 juvenile justice or from probation or has been adjudicated a juvenile  
9 offender, whichever time is longer; or if the applicant has been granted a  
10 waiver of such six-year disqualification: A felony conviction for a crime  
11 that is described in: (A) Article 34 of chapter 21 of the Kansas Statutes  
12 Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas  
13 Statutes Annotated, and amendments thereto, except those crimes listed in  
14 subsection (b)(1); (B) article 35 or 36 of chapter 21 of the Kansas Statutes  
15 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the  
16 Kansas Statutes Annotated, or K.S.A. 2018 Supp. 21-6420, and  
17 amendments thereto, except those crimes listed in subsection (b)(1) and  
18 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2018 Supp. 21-5606, and  
19 amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.  
20 2018 Supp. 21-5801, and amendments thereto; (D) an attempt to commit  
21 any of the crimes listed in this paragraph pursuant to K.S.A. 21-3301, prior  
22 to its repeal, or K.S.A. 2018 Supp. 21-5301, and amendments thereto; (E)  
23 a conspiracy to commit any of the crimes listed in this paragraph pursuant  
24 to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2018 Supp. 21-5302, and  
25 amendments thereto; (F) criminal solicitation of any of the crimes listed in  
26 this paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A.  
27 2018 Supp. 21-5303, and amendments thereto; or (G) similar statutes of  
28 other states or the federal government.

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

36 (3) A person operating a home health agency may employ an  
37 applicant who has been convicted of any of the following if six or more  
38 years have elapsed since completion of the sentence imposed or the  
39 applicant was discharged from probation, a community correctional  
40 services program, parole, postrelease supervision, conditional release or a  
41 suspended sentence; if six or more years have elapsed since the applicant  
42 has been finally discharged from the custody of the commissioner of  
43 juvenile justice or from probation or has been adjudicated a juvenile

1 offender, whichever time is longer; or if the applicant has been granted a  
2 waiver of such six-year disqualification:

3 (i) Interference with custody of a committed person pursuant to  
4 K.S.A. 21-3423, prior to its repeal, or K.S.A. 2018 Supp. 21-5410, and  
5 amendments thereto; mistreatment of a confined person pursuant to K.S.A.  
6 21-3425, prior to its repeal, or K.S.A. 2018 Supp. 21-5416, and  
7 amendments thereto; unlawful administration of a substance pursuant to  
8 K.S.A. 21-3445, prior to its repeal, or K.S.A. 2018 Supp. 21-5425, and  
9 amendments thereto; violation of a protective order pursuant to K.S.A. 21-  
10 3843, prior to its repeal, or K.S.A. 2018 Supp. 21-5924; promoting  
11 obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or  
12 21-4301a, prior to their repeal, or K.S.A. 2018 Supp. 21-6401, and  
13 amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-  
14 4310 or 21-4311, prior to their repeal, or K.S.A. 2018 Supp. 21-6412, and  
15 amendments thereto; or

16 (ii) any felony conviction of: Unlawful manufacture of a controlled  
17 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or  
18 K.S.A. 2018 Supp. 21-5703, and amendments thereto; unlawful cultivation  
19 or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-  
20 36a05, prior to its repeal, or K.S.A. 2018 Supp. 21-5705, and amendments  
21 thereto; unlawful manufacture, distribution, cultivation or possession of a  
22 controlled substance using a communication facility pursuant to K.S.A.  
23 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 2018 Supp. 21-5707,  
24 and amendments thereto; unlawful obtainment or sale of a prescription-  
25 only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or  
26 K.S.A. 2018 Supp. 21-5708, and amendments thereto; unlawful  
27 distribution of drug precursors or drug paraphernalia pursuant to K.S.A.  
28 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 2018 Supp. 21-5710,  
29 and amendments thereto; unlawful distribution or possession of a  
30 simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13,  
31 prior to its repeal, or K.S.A. 2018 Supp. 21-5713, and amendments  
32 thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A.  
33 2018 Supp. 21-5823, and amendments thereto; criminal use of a financial  
34 card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 2018 Supp.  
35 21-5828, and amendments thereto; any violation of the Kansas medicaid  
36 fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal,  
37 or K.S.A. 2018 Supp. 21-5925 et seq., and amendments thereto; making a  
38 false claim, statement or representation to the medicaid program pursuant  
39 to K.S.A. 21-3846, prior to its repeal, or K.S.A. 2018 Supp. 21-5927, and  
40 amendments thereto; unlawful acts relating to the medicaid program  
41 pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 2018 Supp. 21-  
42 5928, and amendments thereto; obstruction of a medicaid fraud  
43 investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A.



1 2018 Supp. 21-5929, and amendments thereto; identity theft or identity  
2 fraud pursuant to K.S.A. 21-4018, prior to its repeal, or K.S.A. 2018 Supp.  
3 21-6107, and amendments thereto; or social welfare fraud pursuant to  
4 K.S.A. 39-720, and amendments thereto. The provisions of this paragraph  
5 shall not apply to any person who is employed by a home health agency on  
6 or before July 1, 2018, and is continuously employed by the same home  
7 health agency or to any person during or upon successful completion of a  
8 diversion agreement.

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

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

22 (d) (1) The Kansas bureau of investigation shall release all records of  
23 adult and juvenile convictions and adjudications and adult and juvenile  
24 convictions and adjudications of any other state or country concerning  
25 persons working in a home health agency to the secretary for aging and  
26 disability services. The Kansas bureau of investigation may charge to the  
27 Kansas department for aging and disability services a reasonable fee for  
28 providing criminal history record information under this subsection.

29 (2) The department shall require an applicant to be fingerprinted and  
30 to submit to a state and national criminal history record check. The  
31 fingerprints shall be used to identify the individual and to determine  
32 whether the individual has a record of criminal history in this state or other  
33 jurisdiction. The department is authorized to submit the fingerprints to the  
34 Kansas bureau of investigation and the federal bureau of investigation for  
35 a state and national criminal history record check. The department may use  
36 the information obtained from fingerprinting and the criminal history  
37 record check for purposes of verifying the identification of the person and  
38 for making an official determination of the qualifications and fitness of the  
39 person to work in the home health agency.

40 (3) An applicant for employment in an [a] home health agency shall  
41 have 20 calendar days after receipt of authorization to submit the  
42 applicant's fingerprints through an authorized collection site in order to be  
43 eligible for provisional employment or the applicant's application shall be

1 deemed withdrawn.

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

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

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

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

15 (7) The department shall adopt rules and regulations specifying the  
16 criteria and procedure for issuing a waiver of the employment prohibition.  
17 The secretary shall consider the following criteria when rendering a  
18 decision on such a waiver request: Passage of time; extenuating  
19 circumstances; demonstration of rehabilitation; and relevancy of the  
20 criminal history record information to the position for which the applicant  
21 is applying. Any employment prohibition issued shall remain in effect  
22 unless or until a waiver is granted.

23 (e) For the purpose of complying with this section, the operator of a  
24 home health agency shall request from the Kansas department for aging  
25 and disability services an eligibility determination regarding adult and  
26 juvenile convictions and adjudications. For the purpose of complying with  
27 this section, a person who operates a home health agency may hire an  
28 applicant for provisional employment on a one-time basis of 60 calendar  
29 days pending the results from the Kansas department for aging and  
30 disability services of a request for information under this subsection. A  
31 provisional employee may only be supervised by an employee who has  
32 completed all training required by federal regulations, rules and  
33 regulations of the department and the home health agency's policies and  
34 procedures. No home health agency, the operator or employees of a home  
35 health agency or an employment agency or an independent contractor shall  
36 be liable for civil damages resulting from any decision to employ, to refuse  
37 to employ or to discharge from employment any person based on such  
38 home health agency's compliance with the provisions of this section if  
39 such home health agency or employment agency acts in good faith to  
40 comply with this section.

41 (f) The secretary for aging and disability services shall provide each  
42 operator requesting information under this section with a pass or fail  
43 determination after review of any criminal history information in writing

1 and within three working days of receipt of such information from the  
2 Kansas bureau of investigation or the federal bureau of investigation.

3 (g) A person who volunteers to assist a home health agency shall not  
4 be subject to the provisions of this section unless the volunteer performs  
5 functions equivalent to functions performed by direct access employees.

6 (h) No person who has been continuously employed by the same  
7 home health agency since July 1, 1992, shall be subject to the  
8 requirements of this section while employed by such home health agency.

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

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

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

22 (2) All moneys collected and remitted to the department for fees  
23 charged for criminal history record checks conducted pursuant to this  
24 section shall be remitted to the state treasurer in accordance with K.S.A.  
25 65-5113, and amendments thereto. Upon receipt of each such remittance,  
26 the state treasurer shall deposit the entire amount into the state treasury to  
27 the credit of the state licensure fee fund created by K.S.A. 39-930, and  
28 amendments thereto.

29 (l) The department may implement the amendments made to this  
30 section by this act in phases for different categories of employers. The  
31 department shall adopt rules and regulations establishing dates and  
32 procedures for the implementation of the criminal history record checks  
33 required by this section, and such dates may be staggered to facilitate  
34 implementation of the criminal history record checks required by this  
35 section.

36 (m) This section shall be part of and supplemental to the provisions  
37 of article 51 of chapter 65 of the Kansas Statutes Annotated, and  
38 amendments thereto.

39 Sec. 28. K.S.A. 72-2165 is hereby amended to read as follows: 72-  
40 2165. (a) The state board of education shall not knowingly issue a license  
41 to or renew the license of any person who has been convicted of:

42 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
43 2018 Supp. 21-5503, and amendments thereto;

- 1 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior  
2 to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;
- 3 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
4 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and  
5 amendments thereto;
- 6 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
7 prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and  
8 amendments thereto;
- 9 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
10 to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;
- 11 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
12 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments  
13 thereto;
- 14 (7) aggravated indecent solicitation of a child, as defined in K.S.A.  
15 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and  
16 amendments thereto;
- 17 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
18 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;
- 19 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
20 repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;
- 21 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,  
22 prior to its repeal, or K.S.A. 2018 Supp. 21-5601(b), and amendments  
23 thereto;
- 24 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,  
25 or K.S.A. 2018 Supp. 21-5602, and amendments thereto;
- 26 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
27 or K.S.A. 2018 Supp. 21-5401, *prior to its repeal*;
- 28 (13) *aggravated murder, as defined in section 2*, and amendments  
29 thereto;
- 30 ~~(13)~~(14) murder in the first degree, as defined in K.S.A. 21-3401,  
31 prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments  
32 thereto;
- 33 ~~(14)~~(15) murder in the second degree, as defined in K.S.A. 21-3402,  
34 prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments  
35 thereto;
- 36 ~~(15)~~(16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior  
37 to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;
- 38 ~~(16)~~(17) involuntary manslaughter, as defined in K.S.A. 21-3404,  
39 prior to its repeal, or K.S.A. 2018 Supp. 21-5405, and amendments  
40 thereto;
- 41 ~~(17)~~(18) involuntary manslaughter while driving under the influence  
42 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 43 ~~(18)~~(19) sexual battery, as defined in K.S.A. 21-3517, prior to its

1 repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto, when,  
2 at the time the crime was committed, the victim was less than 18 years of  
3 age or a student of the person committing such crime;

4 ~~(19)~~(20) aggravated sexual battery, as defined in K.S.A. 21-3518,  
5 prior to its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments  
6 thereto;

7 ~~(20)~~(21) commercial sexual exploitation of a child, as defined in  
8 K.S.A. 2018 Supp. 21-6422, and amendments thereto;

9 ~~(21)~~(22) human trafficking, as defined in K.S.A. 21-3446, prior to its  
10 repeal, or K.S.A. 2018 Supp. 21-5426(a), and amendments thereto;

11 ~~(22)~~(23) aggravated human trafficking, as defined in K.S.A. 21-3447,  
12 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments  
13 thereto;

14 ~~(23)~~(24) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.  
15 2018 Supp. 21-5301, and amendments thereto, to commit any act specified  
16 in this subsection;

17 ~~(24)~~(25) conspiracy under K.S.A. 21-3302, prior to its repeal, or  
18 K.S.A. 2018 Supp. 21-5302, and amendments thereto, to commit any act  
19 specified in this subsection;

20 ~~(25)~~(26) an act in another state or by the federal government that is  
21 comparable to any act described in this subsection; or

22 ~~(26)~~(27) an offense in effect at any time prior to the effective date of  
23 this act that is comparable to an offense as provided in this subsection.

24 (b) Except as provided in subsection (c), the state board of education  
25 shall not knowingly issue a license to or renew the license of any person  
26 who has been convicted of, or has entered into a criminal diversion  
27 agreement after having been charged with:

28 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,  
29 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes  
30 Annotated, and amendments thereto, or any felony violation of any  
31 provision of the uniform controlled substances act prior to July 1, 2009;

32 (2) a felony described in any section of article 34 of chapter 21 of the  
33 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21  
34 of the Kansas Statutes Annotated, or K.S.A. 2018 Supp. 21-6104, 21-6325,  
35 21-6326 or 21-6418, and amendments thereto, other than an act specified  
36 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its  
37 repeal, or K.S.A. 2018 Supp. 21-5413(a), and amendments thereto, or  
38 domestic battery, as described in K.S.A. 21-3412a, prior to its repeal, or  
39 K.S.A. 2018 Supp. 21-5414, and amendments thereto, if the victim is a  
40 minor or student;

41 (3) a felony described in any section of article 35 of chapter 21 of the  
42 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21  
43 of the Kansas Statutes Annotated, or K.S.A. 2018 Supp. 21-6419 through

- 1 21-6421, and amendments thereto, other than an act specified in  
 2 subsection (a);
- 3 (4) any act described in any section of article 36 of chapter 21 of the  
 4 Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21  
 5 of the Kansas Statutes Annotated, and amendments thereto, other than an  
 6 act specified in subsection (a);
- 7 (5) a felony described in article 37 of chapter 21 of the Kansas  
 8 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the  
 9 Kansas Statutes Annotated, or K.S.A. 2018 Supp. 21-6412(a)(6), and  
 10 amendments thereto;
- 11 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its  
 12 repeal, or K.S.A. 2018 Supp. 21-6401(a), and amendments thereto,  
 13 promoting obscenity to minors, as described in K.S.A. 21-4301a, prior to  
 14 its repeal, or K.S.A. 2018 Supp. 21-6401(b), and amendments thereto, or  
 15 promoting to minors obscenity harmful to minors, as described in K.S.A.  
 16 21-4301c, prior to its repeal, or K.S.A. 2018 Supp. 21-6402, and  
 17 amendments thereto;
- 18 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its  
 19 repeal, or K.S.A. 2018 Supp. 21-5601(a), and amendments thereto;
- 20 (8) driving under the influence of alcohol or drugs in violation of  
 21 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is  
 22 punishable as a felony;
- 23 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018  
 24 Supp. 21-5301, and amendments thereto, to commit any act specified in  
 25 this subsection;
- 26 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.  
 27 2018 Supp. 21-5302, and amendments thereto, to commit any act specified  
 28 in this subsection; or
- 29 (11) an act committed in violation of a federal law or in violation of  
 30 another state's law that is comparable to any act described in this  
 31 subsection.
- 32 (c) The state board of education may issue a license to or renew the  
 33 license of a person who has been convicted of committing an offense or  
 34 act described in subsection (b) or who has entered into a criminal diversion  
 35 agreement after having been charged with an offense or act described in  
 36 subsection (b) if the state board determines, following a hearing, that the  
 37 person has been rehabilitated for a period of at least five years from the  
 38 date of conviction of the offense or commission of the act or, in the case of  
 39 a person who has entered into a criminal diversion agreement, that the  
 40 person has satisfied the terms and conditions of the agreement. The state  
 41 board of education may consider factors including, but not limited to, the  
 42 following in determining whether to grant a license:
- 43 (1) The nature and seriousness of the offense or act;

1 (2) the conduct of the person subsequent to commission of the  
2 offense or act;

3 (3) the time elapsed since the commission of the offense or act;

4 (4) the age of the person at the time of the offense or act;

5 (5) whether the offense or act was an isolated or recurring incident;  
6 and

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

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

12 (e) The county or district attorney shall file a report with the state  
13 board of education indicating the name, address and social security  
14 number of any person who has been determined to have committed any  
15 offense or act specified in subsection (a) or (b) or to have entered into a  
16 criminal diversion agreement after having been charged with any offense  
17 or act specified in subsection (b). Such report shall be filed within 30 days  
18 of the date of the determination that the person has committed any such act  
19 or entered into any such diversion agreement.

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

23 Sec. 29. K.S.A. 2018 Supp. 75-52,148 is hereby amended to read as  
24 follows: 75-52,148. (a) The department of corrections shall be required to  
25 review and report on the following serious offenses committed by sex  
26 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while  
27 such offenders are in the custody of the secretary of corrections:

28 (1) Murder in the first degree, as defined in K.S.A. 2018 Supp. 21-  
29 5402, and amendments thereto;

30 (2) murder in the second degree, as defined in K.S.A. 2018 Supp. 21-  
31 5403, and amendments thereto;

32 ~~(3) capital murder, as defined in K.S.A. 2018 Supp. 21-5401~~  
33 ~~aggravated murder as defined in section 2, and amendments thereto;~~

34 (4) rape, as defined in K.S.A. 2018 Supp. 21-5503, and amendments  
35 thereto;

36 (5) aggravated criminal sodomy, as defined in K.S.A. 2018 Supp. 21-  
37 5504(b), and amendments thereto;

38 (6) sexual exploitation of a child, as defined in K.S.A. 2018 Supp. 21-  
39 5510, and amendments thereto;

40 (7) kidnapping, as defined in K.S.A. 2018 Supp. 21-5408(a), and  
41 amendments thereto;

42 (8) aggravated kidnapping, as defined in K.S.A. 2018 Supp. 21-  
43 5408(b), and amendments thereto;

- 1 (9) criminal restraint, as defined in K.S.A. 2018 Supp. 21-5411, and  
2 amendments thereto;
  - 3 (10) indecent solicitation of a child, as defined in K.S.A. 2018 Supp.  
4 21-5508(a), and amendments thereto;
  - 5 (11) aggravated indecent solicitation of a child, as defined in K.S.A.  
6 2018 Supp. 21-5508(b), and amendments thereto;
  - 7 (12) indecent liberties with a child, as defined in K.S.A. 2018 Supp.  
8 21-5506(a), and amendments thereto;
  - 9 (13) aggravated indecent liberties with a child, as defined in K.S.A.  
10 2018 Supp. 21-5506(b), and amendments thereto;
  - 11 (14) criminal sodomy, as defined in K.S.A. 2018 Supp. 21-5504(a),  
12 and amendments thereto;
  - 13 (15) child abuse, as defined in K.S.A. 2018 Supp. 21-5602, and  
14 amendments thereto;
  - 15 (16) aggravated robbery, as defined in K.S.A. 2018 Supp. 21-5420(b),  
16 and amendments thereto;
  - 17 (17) burglary, as defined in K.S.A. 2018 Supp. 21-5807(a), and  
18 amendments thereto;
  - 19 (18) aggravated burglary, as defined in K.S.A. 2018 Supp. 21-  
20 5807(b), and amendments thereto;
  - 21 (19) theft, as defined in K.S.A. 2018 Supp. 21-5801, and amendments  
22 thereto;
  - 23 (20) vehicular homicide, as defined in K.S.A. 2018 Supp. 21-5406,  
24 and amendments thereto;
  - 25 (21) involuntary manslaughter while driving under the influence, as  
26 defined in K.S.A. 2018 Supp. 21-5405(a)(3) or (a)(5), and amendments  
27 thereto; or
  - 28 (22) stalking, as defined in K.S.A. 2018 Supp. 21-5427, and  
29 amendments thereto.
  - 30 (b) The secretary of corrections shall submit such report to the  
31 speaker of the house of representatives and the president of the senate  
32 annually, beginning January 1, 2007.
- 33 Sec. 30. K.S.A. 65-5117 and 72-2165 and K.S.A. 2018 Supp. 21-  
34 5301, 21-5401, 21-5402, 21-5419, 21-6328, 21-6614, 21-6617, 21-6618,  
35 21-6619, 21-6620, 21-6622, 21-6628, 21-6629, 21-6806, 22-2512, 22-  
36 3717, 22-4902, 22-4906, 23-3222, 38-2255, 38-2271, 38-2303, 38-2312,  
37 38-2365, 39-970, 39-2009 and 75-52,148 are hereby repealed.
- 38 Sec. 31. This act shall take effect and be in force from and after its  
39 publication in the statute book.